



Australian Hotels Association  
WESTERN AUSTRALIA

38 Parliament Place West Perth WA 6005  
PO Box 660 West Perth Western Australia 6872  
T: 08 9321 7701 F: 08 9321 7730 W: www.ahawa.asn.au

7 December 2018

Planning for Entertainment Noise  
Department of Planning, Lands and Heritage  
Locked Bag 2506  
PERTH WA 6001

Via email: <http://consultation.dplh.wa.gov.au>

### **AHA SUBMISSION PLANNING FOR ENTERTAINMENT NOISE IN THE NORTHBRIDGE AREA**

The Australian Hotels Association WA (AHA) welcomes the opportunity to provide a submission to the Government's discussion paper – Planning for Entertainment Noise in the Northbridge Area.

As the peak industry body representing the commercial interests of tourism, accommodation hotel, licensed pubs, taverns, restaurants and small bar operators, the threat outdated noise regulations pose to the commercial viability to our members has been a priority concern for more than a decade.

The AHA would like to state its strong support for the planning and noise reforms proposed in the discussion paper, which recognise the importance of protecting the unique character and contribution of Northbridge to the State's night-time economy. These initial changes will provide greater protection for venues, and clear and consistent development guidelines for new developments in the Northbridge precinct.

We are pleased to see that the proposed reforms are being considered for broader adoption as they provide an opportunity to review and improve the applicable noise regulatory framework for the proposed Northbridge Entertainment Precinct. In this vein, the AHA has made a number of recommendations to guide further discussion around noise reform which include:

- The introduction of higher noise levels for the Northbridge Entertainment Precinct
- Defence for venues where ambient noise levels are higher than assigned levels
- Removal of the music penalty
- Introduction of a buffer zone
- Extension of Regulation 19B to permanent venues

Should you wish to meet to expand on any of these matters, please do not hesitate to contact me on 9321 7701.

In closing, we appreciate the progress that is being made in introducing long-overdue reforms and look forward to the release of the WAPC Position Paper.

Yours sincerely

**Victoria Jackson**  
**GOVERNMENT RELATIONS MANAGER**

## DISCUSSION PAPER SURVEY RESPONSE

### 1 Do you support the introduction of the 'agent of change' principle in the Northbridge Entertainment Area? What are the advantages and disadvantages?

The AHA strongly supports the 'agent of change' principle being introduced to the proposed Northbridge Entertainment Precinct to protect its unique character as Perth's premier night-time entertainment destination.

The principle responds directly to hospitality and entertainment business frustrations at spending considerable time, money and resources responding to often vexatious noise complaints from nearby residents. With venues out-dated noise regulations favouring residents, many venues' commercial operations have been affected by actions arising out of noise complaints. These include bans on live or amplified music, utilising alfresco areas, restrictions on operating hours, reduction in patron numbers and the installation of expensive noise monitoring equipment and attenuation measures.

It is also critical however, that proposed reforms are accompanied by changes to the Environmental Noise Regulations to ensure existing hospitality venues are able to comply with new indoor noise levels. These concerns were outlined in a previous noise study of Northbridge that found:

- A-weighted noise levels were ineffective in measuring low frequency entertainment noise;
- Noise levels at receivers premises are variable and were difficult to determine compliance; and
- Ambient noise levels exceed assigned levels most of the time.

The designation of a Northbridge precinct under the Town Planning Scheme provides an opportunity to introduce regulations that appropriately reflect the higher noise emissions and patterns of visitor activity within a highly concentrated entertainment precinct.

It is noted that this measure will not be retrospective which may result in continued conflict between existing residents due to different residential construction standards and capacities to attenuate entertainment noise.

### 2 Do you support the requirement for Notifications on Titles within the Northbridge Entertainment Area, as a mechanism to communicate to prospective buyers/developers that the area is and will continue to be noisy?

Notifications on Titles (Memorials) are strongly supported. They will ensure new residents, buying or developing properties are alerted to the potential for entertainment noise to adversely impact on their use or enjoyment of the property or land.

Consideration should also be given to identifying a suitable mechanism to inform renters and guests at short and long-stay accommodation properties.

These measures should be applied to residents within the precinct, but also within a designated 'buffer area' surrounding the precinct.

**3 Do you think ‘agent of change’ planning principles should be investigated for broader adoption? What are some of the benefits and challenges of the broader adoption of agent of change?**

Hospitality precincts play an important role in the development of stronger local communities by providing hubs for social interaction and offer tourism opportunities which can boost economic, social and environmental returns to the state.

Broader adoption of the ‘agent of change’ principle in other precincts will assist in extending existing businesses with similar protections from the encroachment of new residential developments. It also has the potential to help communities attract a greater variety of commerce, arts, culture, tourism and events which are vital to regenerating and activating urban spaces, and delivering more vibrant, healthy and economically robust communities.

Some precincts that should be considered as a priority have been identified in the Tourism WA’s Perth Entertainment Precincts<sup>1</sup> Report and include - Perth CBD, Fremantle, Elizabeth Quay, Subiaco, Leederville, Beaufort Street, Victoria Park and Scarborough.

The greatest challenge to implementing agent of change will be in securing support from local councils and residents.

**4 How do you see the proposed reforms will impact on the building and construction industry, particularly with regard to compliance issues?**

The discussion paper identifies that noise complaints from residents of new noise sensitive developments has required investigations into the compliance of both the noise emitter and construction standards in Victoria, following the introduction of the ‘agent of change’.

The AHA looks forward to considering submissions from the building and construction industry.

**5 How do you see the proposed reforms will impact on the live music and entertainment industries, particularly with regard to compliance issues?**

Proposed reforms are in keeping with the spirit of changes adopted in other cities to protect vibrant night-time entertainment precincts and promote live music performance in Sydney, Melbourne and Fortitude Valley, Brisbane.

The evidence from these jurisdictions about the impact on live music and entertainment industries has been positive.

**6 Do you see any advantages or disadvantages in only applying protections for noise-sensitive premises to indoor areas?**

Removal of existing protections on outdoor amenity is strongly supported and has no perceived disadvantage as the current situation holds existing hospitality venues responsible for noise levels outside of a residential building. The current regulations which allow for outdoor amenity is anomalous and inconsistent with current construction and building standards that only require developers seeking development approvals to attenuate interior spaces to comply with noise regulations.

---

<sup>1</sup> Tourism WA, [Tourism WA, Perth Entertainment Precincts Report](#) Report

**7 Do you think the overall approach to amending the Noise Regulations is reasonable to balance the needs of residents and the entertainment industry in Northbridge?**

Noise and the threat of an increasing and encroaching residential population have placed on the entertainment industry have been recognised for more than 15 years. Previous reviews and studies have confirmed that there has been regulatory failure, and numerous reviews and recommendations on noise have failed to be implemented or addressed the issue to date.

The proposed reforms collectively represent significant progress and are strongly supported by the AHA. The reform will introduce better balance and certainty for industry and residents.

**8 Are there other approaches to regulating noise in the Northbridge entertainment precinct which should be considered?**

Whilst there is a strong case for broader regulatory review of the Environmental Noise Regulations. The AHA makes the following recommendations for noises reforms which better reflect modern consumer expectations and patterns of visitation of Northbridge.

**HIGHER ASSIGNED LEVELS**

Current noise levels are outdated and bear no relationship to the demand for hospitality and entertainment within the Northbridge precinct and require urgent reform.

Venues are forced to reduce noise levels from 55 to 50 db from 7pm, the peak dinner-time rush period for many businesses offering food and beverage. They are then forced to comply with a further reduction of 45 db at 10pm when patrons are often continuing to other nearby bars, clubs and entertainment venues and taking advantage of the later-night trading.

However, venues ability to comply is made more complex by high ambient or background noise levels that exceed the assigned levels. While venues performing any type of music are also penalised under the regulations with “Music Penalty” that reduces the allowable noise level by between 10 – 15 db.

Collectively, these factors contribute to assigned levels that are impossible to achieve and is verified by noise mapping studies showing levels consistently 10 – 20 db above the assigned levels between 7pm and 2am.

Recommendation

Regulate unique assigned noise levels for the Northbridge Entertainment Precinct

- Bring night-time noise levels into line with the day-time assigned level of no more than 55 db (for no more than 1 per cent of the assessment);
- Provision venues with a defence against noise complaints where the ambient noise level is greater than the assigned level; and
- Removal of the music penalty.

**DESIGNATED BUFFER ZONE**

The boundary of the proposed Northbridge precinct includes residential areas with a population of existing residents. This will increase over the coming years with nine additional high-rise residential towers currently under construction and development.

Location	Occupancy	DA Approval	Status
89-91 and 95 Stirling St, Perth	571	13 October 2016	Due to open early 2019
108 Stirling St, Perth	157	11 Feb 2017	Under Construction
319-335 Wellington St, Perth (student accommodation)	373	5 December 2017	Under Construction
133-141 Murray St	205	5 January 2017	Under Construction
74 and 78 Stirling St, Perth	136	20 December 2016	Under Construction
105 and 111 Stirling St, Perth	130	20 August 2015	Under Construction
374-396 Murray St, Perth	401	4 June 2015	Committed
108, 114 and 120 Beaufort St, Perth	184	6 August 2015	Under Consideration
Murray and Milligan St, Perth	359	23 June 2016	Under Consideration
	<b>2,516</b>		

Allowable noise levels in strict accordance with the existing regulations continues to place venues, particularly those on the boundaries, at risk of attracting noise complaints outside of the proposed Precinct.

#### Recommendation

The AHA seeks that a “buffer” area be established around the precinct, providing for higher noise levels to be received.

#### **EXPANSION OF REGULATION 19B**

Amendments to the Noise Regulations were gazetted in 2013 to improve the management of noise from entertainment venues. The amendments allow venues to apply to the CEO under Regulation 19B for approval to hold a given number of “notifiable events” per year that exceed the assigned levels.

Under regulation 19B, a venue occupier can apply for a venue approval, which (if granted) will set out the numbers and types of events, latest finishing times, maximum durations and noise levels, together with how the community is to be consulted.

Regulation 19B provisions were intended to provide certainty for approved venues to exceed assigned levels in specific circumstances, in relation to defined events. While the discussion paper states that this is only intended to apply to large event venues such as the Claremont Showground. and provide an avenue for pubs, clubs and bars to emit noise in excess of assigned levels in the course of ordinary, day-to-day operations – this is not reflected in legislation.

A more liberal interpretation or change in policy allowing for the expansion of regulation 19B would provide:

- An allowable noise level inside, or at the façade of the venue (anticipated to include both an A weighted and C weighted level so that the low frequency content of the venue can be accounted for with a single number for simplicity).
- These levels would then be the “legal” level or the “assigned” level for the venue.
- The setting of these levels would need to be based on what is considered reasonable at the nearest noise sensitive premises.

Entertainment venues would be able to apply for a ‘licence’ to operate at an established level at set, allowing for a legal breach of standard noise level limits.

## Recommendation

The AHA seeks the expansion of Regulation 19B to provide an avenue for pubs, clubs and bars to emit noise to specified plan in excess of assigned levels in the course of ordinary, day-to-day operations.

**9 Do you support the application of the new indoor levels on all nights of the week? Is there a case for setting different levels on different days of the week or times of the day in Northbridge?**

For Northbridge to become a premier night-time entertainment precinct there should be no differentiation between days of week, which would promote the development of a night-time economy beyond the weekend. This could be achieved through assigned noise levels being brought into line with the day-time noise level of 55db.

If there is no appetite to take a uniform approach to increased noise level, AHA would be receptive to the establishment of higher levels around peak hospitality days. This could mirror the approach taken in Brisbane's Fortitude Valley which permits higher noise levels up to 80db from Thursday to Saturday between 10am and 1am.

This approach would balance the interests of impacted residents who are already familiar with the noise and activity associated with the busy weekend period.

**10 How can uncertainties associated with indoor noise measurement and acoustic assessment be addressed?**

We look forward to considering submissions from acoustic consultants on this matter.

**11 Are there alternatives to measurement of noise indoors which could provide an equivalent level of protection for indoor areas?**

There remain concerns about the appropriateness of the current 'A' weighting and its ability to mitigate against some of the more intrusive elements emitted from venues. Further investigation should be undertaken into the introduction of an alternative weighting.

**12 Are there any additional measures available to venues to ameliorate/attenuate environmental noise received at noise-sensitive premises?**

There are a range of options available to venues needing to reduce the level of noise leaking from their venues. These often include structural improvements, sound-proofing or installation of new technology which are prohibitively expensive. While some businesses have been able to absorb costs, others have been forced to reduce noise, resulting in the loss of live or amplified music.

**13 What are the impacts on live music and entertainment venues, businesses and home owners associated with the outlined noise management options?**

The benefits of increasing allowable noise levels, introducing agent of change and other measures are addressed in response to other questions.

**14 What are the limitations for venues or noise-sensitive premises in relation to attenuating music noise?**

Limiting factors on a venue's ability to attenuate for entertainment noise can include the building being heritage listed, structural limitations, air-conditioning / mechanical

ventilation requirements, and fire safety requirements.

Dependent on the ownership of the building, its age, and the extent of works required, it may not be commercially viable to attenuate some buildings. This may force some businesses to close which may not be a desirable outcome for the economy, vibrancy, tourism and the hospitality industry.

**15 Can you foresee any issues with the management of noise complaints or enforcement of assigned levels as a result of the proposed reforms?**

As outlined in response to previous questions, there will be issues in enforcement of noise levels with which venues cannot currently comply. In the next year to 18 months, it is hoped that further investigation will be undertaken to review current noise regulations. This will assist local government (City of Perth and Vincent) environmental health officers and the Department of Racing, Gaming and Liquor in enforcing assigned levels.

**16 What other mechanisms are available to help enhance certainty for entertainment venues in relation to noise levels?**

An alternative to the expansion of regulation 19B would be to implement the proposed Fortitude Valley where venues are issued with an "Amplified Music Venue Permit". The permit sets out the venues allowable internal noise level to within a 1 meter perimeter of the venue. Noise attenuation to the set limits which can be as high as 90 db is the responsibility of the venue, who is responsible for demonstrating compliance.

This approach provides greater certainty for venues in the measurement of noise at the perimeter of a venue rather than the variable measurements at the façade of a nearby residence.

**17 Are there approaches adopted in other jurisdictions which could be contemplated here? If so, what?**

Suggested approaches have been addressed in response to previous questions