



City of Perth

**Special Council Meeting
Minutes**

**4 December 2019
4.00pm**

**Council Chamber
Level 9
Council House**

APPROVED FOR RELEASE

**MURRAY JORGENSEN
CHIEF EXECUTIVE OFFICER**



City of Perth

**Special Council Meeting
Minutes**

**4 December 2019
4.00pm**

**Council Chamber
Level 9
Council House**

Present

Chair Commissioner Andrew Hammond
Commissioner Gaye McMath
Commissioner Len Kosova

Minutes to be confirmed at the next Ordinary Council meeting.

**THESE MINUTES ARE HEREBY CERTIFIED AS
CONFIRMED**

PRESIDING MEMBER'S SIGNATURE

DATE:-----

Minutes of the Special Ordinary Meeting of the Council of the City of Perth held in the Council Chamber, Ninth Floor, Council House, 27 St Georges Terrace, Perth, on Wednesday, 4 December 2019.

Presiding: **Chair Commissioner, Andrew Hammond**

Commissioners in Attendance:

Commissioner Gaye McMath
Commissioner Len Kosova

Officers in Attendance:

Mr Jorgensen	Chief Executive Officer
Mr Parker	General Manager Corporate Services
Ms Banks-McAllister	General Manager Community Development
Mr Kopec	General Manager Infrastructure and Operations
Mr Miragliotta	General Manager Planning and Economic Development
Mr Farley	Alliance Manager City Planning
Mr Ridgwell	Alliance Manager Governance
Mr Teymant	Coordinator Environmental Health
Ms Phillips	Governance Officer

Observers:

10 members of the public
5 members of staff
0 members of the media

1. Prayer / Acknowledgment of Country

The Chief Executive Officer read the prayer.

The Chair Commissioner read the Acknowledgement of Country.

2. Declaration of Opening

4.04pm The Chair Commissioner declared the meeting open.

3. Apologies

Nil

4. Question Time for the Public and Notification of Deputations

4.1 Question Time for the Public

Nil

4.2 Notification of Deputations

Item 7.1 - Initiation of Amendment No. 41 to City Planning Scheme No. 2 to Introduce a Northbridge Special Entertainment Precinct

The Presiding Member approved deputations from:

- Tim Brown (CM 312493/19)
- Marcus Canning (CM 312896/19)
- Peter Whitehead (CM 312500/19)
- Eric Marshall (CM 312496/19)
- Ghislaine Naceur (CM 312500/19)
- David Kibble (CM 312495/19)

5. Disclosures of Members' Interests

A disclosure of interest was received from Commissioner McMath in relation to Item 7.1 – Initiation of Amendment No. 41 to City Planning Scheme No. 2 to Introduce a Northbridge Special Entertainment Precinct.

Commissioner/Officer	Item No. and Title	Nature/Extent of Interest
Commissioner Gaye McMath	Item 7.1 – Initiation of Amendment No. 41 to City Planning Scheme No. 2 to Introduce a Northbridge Special Entertainment Precinct	Nature: Impartiality Interest Extent: Insignificant – Commissioner McMath sits on the Perth Cultural Centre Task Force. The Perth Cultural Centre sits within the frame area referred to in Item 7.1.

6. Matters for which the Meeting may be Closed

Nil

7. Reports

Item 7.1 Initiation of Amendment No. 41 to City Planning Scheme No. 2 to Introduce a Northbridge Special Entertainment Precinct

FILE REFERENCE: P1034633#02
 REPORTING OFFICER: Siobhan Linehan, Senior Urban Planner
 REPORTING UNIT: City Planning
 RESPONSIBLE ALLIANCE: Planning and Development
 REPORT AUTHOR DISCLOSURE OF INTEREST: Nil
 DATE: 28 November 2019
 ATTACHMENT/S: Attachment 7.1A – Further Information Provided to Commissioners
 Attachment 7.1B – Proposed Scheme Amendment
 Attachment 7.1C – Map of the Special Control Area - Key elements
 Attachment 7.1D – Regulatory flow chart

Council Role:

- Advocacy *When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative *Includes adopting local laws, town planning schemes and policies*
- Quasi-Judicial *When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (e.g. Proposed Northbridge under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*
- Information *For the Committee to note.*

Legislation / Strategic Plan / Policy:

Legislation

*Environmental Protection Act 1986
 Environmental Protection (Noise) Regulations 1997
 Planning and Development Act 2005
 Planning and Development (Local Planning Schemes) Regulations 2015
 City of Perth City Planning Scheme No. 2
 City of Perth Local Planning Scheme No. 26 (Normalised Redevelopment Areas)
 Metropolitan Redevelopment Scheme Central Perth Redevelopment Scheme 2012*

City of Perth Act 2016**Objects of the City of Perth**

8(1)(f) - to promote environmentally sustainable development, while ensuring Perth's role as a thriving business, cultural and entertainment centre, considering the flow-on impact to the Perth metropolitan area

Integrated Planning and Reporting Framework Implications

Strategic Community Plan

Strategic Priority - Place

Policy

Policy No and Name:

City of Perth:

Precinct Plan No. 1 – Northbridge

Precinct Plan No. 3 – Stirling

William Street Heritage Area Design Guidelines

Northbridge Area 36 – Lake Street Design Guidelines

Northbridge Area 35 – Russell Square Design Guidelines

Metropolitan Redevelopment Authority:

Central Perth Development Policy 3 – Sound and Vibration Attenuation

1. Purpose

The purpose of the proposed amendment to the City of Perth's City Planning Scheme No. 2 (CPS2) is to introduce a Special Control Area (SCA) to establish a Northbridge Special Entertainment Precinct.

2. Summary

Northbridge is the State's premier entertainment precinct. The growth of noise sensitive premises (such as residential and short stay accommodation) in Northbridge has resulted in uncertainty for entertainment venue operators, due to the potential impact noise complaints can have on the on-going operation of the venues.

The SCA will establish nominal external amplified music noise levels upon which noise attenuation requirements for new and existing entertainment venues and new noise sensitive premises will be based.

The proposed Scheme Amendment forms part of a broader package of noise management reforms the City has been preparing in collaboration with the Department of Planning, Lands and Heritage (DPLH) and the Department of Water and Environmental Regulations (DWER).

At its meeting held on **29 October 2019**, Council deferred initiation of Amendment No. 41 to City Planning Scheme No. 2 to enable further information to be provided to Commissioners. The full resolution and additional information is set out in Attachment 7.1A to this report.

In considering the further information requested by the Commissioners as well as the concerns raised by venue operators, the City's Administration reconsidered aspects of the previously

proposed Scheme Amendment, particularly the proposed nominal external amplified music noise levels required for existing entertainment venues situated within the Frame Entertainment Area as outlined further in the report.

At its meeting held on **26 November 2019**, Council resolved to endorse the key elements for the proposed Northbridge Special Entertainment Precinct to inform the preparation of a revised Amendment No. 41 to the City Planning Scheme No. 2. These key elements involved:

- a) Defining the boundary and Core and Frame Entertainment Areas of the Special Entertainment Precinct;
- b) An external amplified music noise level of **95 dB** in the 63 Hz octave band within the Core Entertainment Area and **79 dB** in the 63 Hz octave band within the Frame Entertainment Area; and
- c) Existing entertainment venues situated within the proposed Frame Entertainment Area, that existed at the time of gazettal of the proposed Special Control Area, shall have an external amplified music noise level of up to **90 dB** in the 63 Hz octave band.

Based on the above key elements, proposed Amendment No. 41 is presented with a recommendation to initiate the planning scheme amendment.

3. Proposed Planning Scheme Amendment - Summary

Details of the proposed revised Scheme Amendment are provided in Attachment 7.1B and are summarised below.

3.1 Purpose

The purpose of the proposed Scheme Amendment is to establish a Northbridge Special Entertainment Precinct, in recognition of its significance as the State's premier entertainment area, by supporting entertainment venues and associated high external amplified music noise levels and thereby facilitating an active night time economy.

In addition, a number of objectives are sought to achieve the following:

- a) To provide entertainment venues with greater operational certainty and to support the continued operation of existing entertainment venues;
- b) To provide a Core Entertainment Area where the highest concentration of entertainment venues and the highest external amplified music noise levels are supported;
- c) To provide a Frame Entertainment Area, which acts as a transitional area between the Core Entertainment Area and the area outside of the Special Control Area, and provide for a greater mix of land uses in the Frame, including noise sensitive premises; and
- d) To reduce potential land use conflicts between noise sensitive uses and entertainment venues by ensuring the design and construction of buildings incorporate appropriate noise attenuation measures.

3.2 Special Entertainment Precinct – Core and Frame Entertainment Areas

The Special Entertainment Precinct/SCA extends over the land bounded primarily by Newcastle, Stirling, Fitzgerald and Wellington Streets, and comprises a Core Entertainment Area and Frame Entertainment Area as shown in Attachment 7.1C. It should be noted that it will not apply to those areas under the planning control of the Development WA (formally known as Metropolitan Redevelopment Authority).

3.3 Noise Attenuation Levels

The Scheme Amendment proposes a **nominal external amplified music noise level** of:

- **95 dB** in the 63 Hz octave band and **86 dB** in the 125 Hz octave band within the Core Entertainment Area; and
- **79 dB** in the 63 Hz octave band and **70 dB** in the 125 Hz octave band within the Frame Entertainment Area.

3.3.1 New Entertainment Venues

New entertainment venues located in the Core Entertainment Area are to be designed and constructed to incorporate noise attenuation measures to ensure that a level of **95 dB** in the 63 Hz octave band is not exceeded outside of the entertainment venue.

New entertainment venues located in the Frame Entertainment Area are to be designed and constructed to incorporate noise attenuation measures to ensure that a level of **79 dB** in the 63 Hz octave band is not exceeded outside of the entertainment venue.

3.3.2 Existing Entertainment Venues in Frame Entertainment Area

Noise attenuation requirements for entertainment venues located in the Frame Entertainment Area, that existed at the time of gazettal of the proposed SCA, are to be based on a nominal external amplified music noise level of up to **90 dB** in the 63 Hz octave band. This provision will provide certainty to existing entertainment venues in the Frame Entertainment Area.

3.3.3 New Noise Sensitive Premises

New noise sensitive premises in both the Core Entertainment Area and Frame Entertainment Area are to be designed and constructed to achieve a maximum internal level of **47 dB** in the 63 Hz octave band.

New noise sensitive premises shall also have notifications placed on Certificates of Title/ Strata Titles to inform prospective owners of the likelihood of elevated noise levels from entertainment venues within the precinct.

3.4 Building Extensions/Additions

In the case of applications for development approval involving an extension or addition, the applicable noise attenuation requirements shall only apply to the new or substantially modified

component of an entertainment venue or noise sensitive premise. Under the previously proposed Scheme Amendment this provision only applied to noise sensitive premises.

3.5 Land Use Permissibilities

The Scheme Amendment proposes to reclassify Special Residential uses (i.e. short stay accommodation) from 'Preferred Uses' to 'Contemplated Uses' within the Core Entertainment Area and the part of the Frame Entertainment Area situated between Beaufort and Stirling Streets.

This will result in the following land use permissibilities across the Special Entertainment Precinct/SCA:

CPS2 Provisions (where it applies)	Entertainment Use	Residential Use	Special Residential Use
Core	Preferred	Contemplated	Contemplated
Frame:			
<ul style="list-style-type: none"> • Between Beaufort St and Stirling St 	Contemplated	Contemplated	Contemplated
<ul style="list-style-type: none"> • Remainder of frame 	Contemplated	Preferred	Preferred

It should be noted that no changes are currently proposed to the land use permissibilities under the City's Local Planning Scheme No. 26 (Normalised Redevelopment Areas) which apply to the land on the northern side of Aberdeen Street.

4. Future Supporting Documents

Separate to the Scheme Amendment, the City will prepare a number of supporting documents including:

- a) A Local Planning Policy - Noise Attenuation – this will apply to the whole of the city and aims to clarify and consolidate current provisions, as well as incorporate additional provisions for the Special Entertainment Precinct/SCA. This will be prepared subsequent to the initiation of the Scheme Amendment.
- b) A City Policy – this will address the compliance and enforcement matters associated with noise management within the city and provide guidance around the issuing of Venue Approvals within the Special Entertainment Precinct/SCA. This will be prepared once the City has visibility of the proposed Amendment to the Noise Regulations.

5. Proposed Amendments to the Environmental Protection (Noise) Regulations

On Friday, 22 November 2019, a paper titled '*Managing amplified music noise in entertainment precinct*' was released by DWER for public comment, with the submission period closing on the 14

February 2020. The paper outlines reform options for the management of amplified music noise in entertainment precincts.

There is concern about DWER's reference in its consultation paper to capping the external amplified music noise levels to those specified in the local planning scheme. As detailed in Attachment 7.1A, it may be appropriate in some instances for existing entertainment venues to be granted approval (on a temporary basis) to operate at a higher external amplified music noise level where it can be demonstrated that the proposed level will not create a greater impact on existing noise sensitive uses than the specified nominal levels.

Whilst a separate report on the DWER consultation paper will be presented to Council in February 2020, it is considered prudent at this stage to recommend that the proposed amendments to the Noise Regulations provide the CEO of the local government with the discretion to modify the assigned nominal external amplified music noise levels established for a Special Entertainment Precinct.

6. Stakeholder Engagement

Following initiation of a complex Scheme Amendment, the local government is required to refer the proposed Scheme Amendment to the:

- Environmental Protection Authority (EPA) to determine whether it needs to be assessed, with the EPA having 28 days to make this determination; and
- Western Australian Planning Commission (WAPC) to consider whether the amendment is suitable for advertisement, with the WAPC having 60 days to make this determination.

Once the EPA has considered the Scheme Amendment and the WAPC has provided its consent, the local government is required to advertise the Scheme Amendment for public comment for a period of 60 days. Advertising notices are required to be placed in the newspaper, noticeboard and on the website of the local government. Advertising notices are also required to be provided to each public authority that the local government considers is likely to be affected by the Scheme Amendment. The Scheme Amendment is also to be advertised as directed by the WAPC and in any other way that the local government considers appropriate.

In addition to the above requirements, it is anticipated that correspondence will be sent to all landowners and occupiers within the precinct as well as members of the Perth Liquor Accord.

The City also intends to present information on the proposed Scheme Amendment at the State Government organised information sessions proposed in early January and early February 2020 on the draft WAPC Position Statement and DWER's consultation paper. It should be noted however that the City cannot formally advertise the Scheme Amendment until such time as EPA and WAPC clearance has been obtained.

7. Proposed Transfer of Planning Authority – Development WA/MRA Precincts

Development WA has advised that it is intending to transfer planning authority back to the WAPC and the City over the Perth Cultural Centre and the Museum Street Precinct by 30 June 2020. These precincts fall within the proposed Northbridge Special Entertainment Precinct.

To avoid the need post normalisation for the City to undertake a separate amendment to its local planning scheme, it is considered critical that the MRA undertake an amendment to its local planning framework to incorporate planning provisions for the Northbridge Special Entertainment Precinct, similar to that proposed by the City, prior to normalisation of the above precincts.

8. Financial Implications:

ACCOUNT NO:	106070150
BUDGET ITEM:	Planning Schemes and Policies
BUDGETED AMOUNT:	\$463,200
AMOUNT SPENT TO DATE:	\$0
PROPOSED COST:	\$9,500
BALANCE REMAINING:	\$453,700
ANNUAL MAINTENANCE:	N/A
ESTIMATED WHOLE LIFE COST:	N/A

All figures quoted in this report are exclusive of GST.

9. Comments:

The primary purpose of the Scheme Amendment is to establish a Northbridge Special Entertainment Precinct, in recognition of its significance as the State’s premier entertainment area, by supporting entertainment venues and associated high external amplified music noise levels and thereby facilitating an active night time economy.

The Scheme Amendment forms part of a broader package of noise management reforms which the City has been working on with the State Government for entertainment precincts. It seeks to ensure that the Northbridge Special Entertainment Precinct continues to thrive as the State’s premier entertainment area whilst providing an acceptable level of acoustic amenity for noise sensitive premises.

The revised Scheme Amendment aligns with the direction and key elements endorsed by Council at its meeting held on **26 November 2019**.

In view of the above, it is recommended that Council initiates the revised Amendment No. 41 to CPS2 and forwards a copy of the document to the WAPC and the EPA for their consideration, prior to advertising in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

COUNCIL RESOLUTION

Moved Commissioner Kosova, seconded Commissioner McMath

That Council:

- 1. pursuant to section 75 of the Planning and Development Act 2005, RESOLVES to initiate Amendment No. 41 to the City Planning Scheme No. 2, as detailed in Attachment 7.1B Proposed Scheme Amendment No. 41;*
- 2. pursuant to regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, RESOLVES that Amendment No. 41 to the City Planning Scheme No. 2 is a complex amendment pursuant to regulation 34 of the Regulations as it will have an impact that is significant relative to development in the locality;*
- 3. pursuant to section 81 of the Planning and Development Act 2005, RESOLVES to refer Amendment No. 41 to the City Planning Scheme No. 2 to the Environmental Protection Authority;*
- 4. pursuant to regulation 37(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, RESOLVES to refer Amendment No. 41 to the City Planning Scheme No. 2 to the Western Australian Planning Commission;*
- 5. pursuant to section 84 of the Planning and Development Act 2005, RESOLVES to advertise Amendment No. 41 to the City Planning Scheme No. 2 for public inspection in accordance with regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015;*
- 6. REQUESTS Development WA to amend the Metropolitan Redevelopment Authority's Central Perth Redevelopment Scheme to incorporate planning provisions (in accordance with those proposed as part of Amendment No. 41 to the City Planning Scheme No. 2) for those areas of the Northridge Special Entertainment Precinct currently under its planning control, and for this amendment to be gazetted prior to normalisation of these areas;*
- 7. REQUESTS the Department of Planning, Lands and Heritage to ensure that planning provisions (in accordance with those proposed as part of Amendment No. 41 to the City Planning Scheme No. 2) are applied to any land within the Northridge Special Entertainment Precinct which is reserved under the Metropolitan Region Scheme; and*

(Cont'd)

8. ***REQUESTS*** that the Department of Water and Environmental Regulation incorporate in its drafting instructions for the proposed amendments to the Environmental Protection (Noise) Regulations 1997 (as amended), the provision for a head of power to provide the CEO of the Local Government with the discretion to modify the assigned nominal external amplified music noise levels established for a Special Entertainment Precinct through a Venue Approval.

The motion was put and carried

The votes were recorded as follows:

For: Commissioners Hammond, McMath and Kosova

Against: Nil

8. Closure

4.55pm The Chair Commissioner declared the meeting closed.