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Department of **Environment Regulation**

GUIDELINE

Guide to management of noise from sporting, cultural and entertainment venues

Environmental Protection (Noise) Regulations 1997

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Purpose

The *Environmental Protection (Noise) Regulations 1997* (the Regulations) were amended in 2013 to introduce, among other things, specific management provisions for motor sport, shooting and major concert venues, and waste collection and other works. The proposed amendment regulations went through a substantial public consultation in 2011, and have benefited from the input of local governments, key industry stakeholders and community members.

This document forms part of a series of guidelines prepared by the Department of Environment Regulation (DER) to assist users of the Regulations to implement them effectively.

These particular guidelines deal with Division 7 of the Regulations – sporting, cultural and entertainment events.

Regulations 18 and 19A provide an approval process for a sporting, cultural or entertainment event that would otherwise lose its character or usefulness if it had to comply with the assigned levels in the Regulations. The approval allows noise emissions for an event to exceed the assigned noise levels provided the event is carried out in accordance with the conditions of the approval. This regulation is most commonly utilised for one-off events.

Regulation 19B provides an approval process for major venues that allows noise emissions to exceed the assigned noise levels in the Regulations, provided events are carried out in accordance with the venue's approval.

In the vast majority of cases, both types of approvals – event approvals and venue approvals – are to be granted by local government chief executive officers acting under delegation, the intention being that these decisions will be made at the local level. The Regulations set up robust approval processes designed to ensure transparency and accountability in the decision-making.

These guidelines on sporting, cultural and entertainment venues are intended for use by major venues, local governments and community members to aid in understanding the regulatory provisions; and to assist a venue in working through the approvals and appeals processes.

Introduction

These guidelines have been prepared for use by local governments, sporting, cultural and entertainment venues and the community in the implementation of Division 7 – Sporting, Cultural and Entertainment Events, of the *Environmental Protection (Noise) Regulations 1997* (the Regulations).

The Regulations set assigned (allowable) noise levels for various types of premises that receive noise from other premises. Those levels are set to provide a good level of protection for the noise receiver. However, many activities in the community cannot reasonably and practicably meet the assigned levels, but retain a degree of acceptance, either because of the temporary nature of the activity or the perceived community benefit.

The Regulations make special provision for such activities, including construction noise, motor sports, recreational shooting, outdoor events and others.

Regulation 18 events

In the case of a sporting, cultural and entertainment event, the noise emissions from an approved event are permitted to exceed the assigned levels in the Regulations provided that the occupier or applicant complies with the event's conditions of approval.

An event would be approved by the 'delegate chief executive officer (CEO)' – this means either the CEO of the Department of Environment Regulation (DER CEO), or the CEO of the local government (LG CEO) acting under delegated authority from the DER CEO. This delegation of authority was gazetted on 20 December 2013.

The delegate CEO can approve an event if satisfied that its noise emissions would exceed the assigned levels and it would lose its character and usefulness if it had to meet the assigned levels. The delegate CEO can approve up to two events per year at one venue, and additional events if satisfied the majority of the affected residents have no objection to the holding of the extra events.

Regulation 19B venues

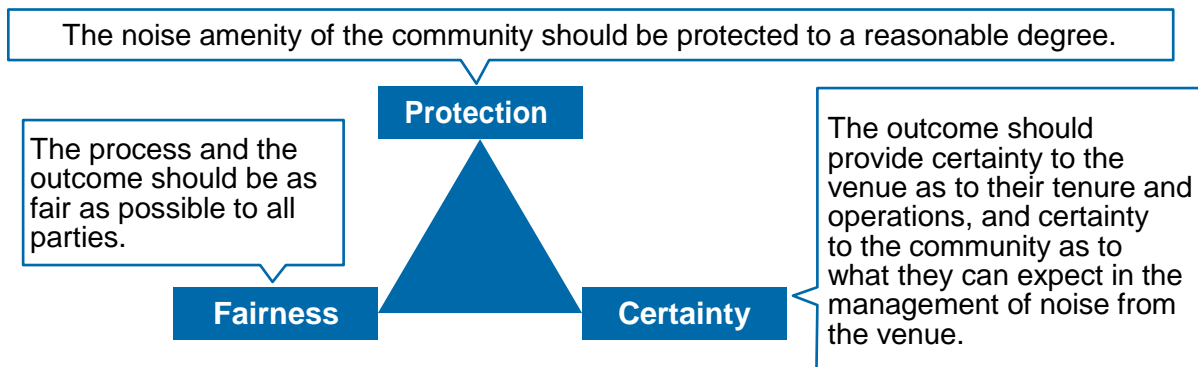
In the case of a sporting, cultural and entertainment venue, the noise emissions from notifiable events held at the venue are permitted to exceed the assigned levels in the Regulations provided the venue operates in accordance with a venue approval.

The occupier of a venue can apply to the delegate CEO for approval to hold a given number of notifiable events per year.

In general it is expected that applications under both regulations 18 and 19B would be made to the LG CEO, in order that the decision be made at the local level. Where an issue is of state significance the decision may be made by the DER CEO; however, such a decision would be made in consultation with the LG CEO. In this guideline, the term 'delegate CEO' will be used to refer to either the DER CEO or his or her delegate, the LG CEO, on the expectation that most issues will be dealt with by the LG CEO.

Division 7 contains several regulations within it that establish the process by which the approval is given, and the appeal provisions that allow for review of the delegate CEO's decisions. These guidelines explain the various provisions within Division 7 and provide practical guidance on the implementation of the process. The guidelines are not mandatory, but are intended to provide an effective approach to the process.

One possible framework for consideration when working through the approval process is as follows:



1. Regulation 18 and regulation 19B

1.1 Background

Regulation 18 has existed as a 'special case' regulation since the gazettal of the Regulations in 1997. Prior to gazettal of regulation 19B in 2013, it was the only avenue for a delegate CEO to approve a sporting, cultural or entertainment event that exceeded assigned noise levels.

This process has worked well for one-off approvals of events; however, a significant increase in the number of events held in WA recently has meant that the regulation 18 approval process has become onerous for both local government and venue occupiers that want to hold events at a venue regularly, as regulation 18 requires a separate approval for each event.

Providing certainty to both the noise impacted community and the venue occupier was also a main driver in the creation of a new 'venue approval' regulation (19B). Previously, when operating under regulation 18, neither the venue nor the community could be sure as to how many or the type of events that may be held at a venue each year.

1.2 Which regulation applies?

Regulations 18 and 19A cover the approval process for an event.

The delegate CEO can approve an event if satisfied that the associated noise emissions would exceed the assigned levels and that the event would lose its character and usefulness if it had to meet the assigned levels.

The regulation underwent some minor amendments in 2013 and will continue to be utilised for one-off events at a wide range of venues. Primarily, this process will apply to events at locations that do not have a venue approval – for example a cultural event to be held in a park.

Regulation 19B is an approval process for a major venue that holds events regularly.

The new regulation provides for major venues to apply to the delegate CEO for approval as a venue at which a number of notifiable events may be held over a given period (per year for example). The venue approval sets out the allowed numbers of events, time limitations, noise limits and so on, thus providing certainty to the venue and the community as to the level of activity that the venue can sustain. Each event is to be notified to the delegate CEO and will not require individual approval, thus streamlining the process.

A regulation 18 event approval may also be granted for an event at an approved venue where the event falls outside of a venue's existing approval and so the event is not able to be considered as a notifiable event.

2. Approved sporting, cultural and entertainment events

Regulation 18(3)

Where the CEO is satisfied that a proposed sporting, cultural or entertainment event that is to be open to the public —

- (a) is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7; and
- (b) would lose its character or usefulness if it were required to comply with that standard,

the CEO may approve the event, subject to such conditions as the CEO thinks fit, for the purposes of this regulation.

2.1 How regulation 18(3) works

Regulation 18(3) provides an approval process for a sporting, cultural or entertainment event that falls outside the community noise provisions of regulation 16.

The assigned levels do not apply to noise emitted from an approved event. While the event can be any sporting, cultural or entertainment event that is open to the public, in most cases the regulation is used for outdoor concerts. This approval process cannot be utilised for private functions (i.e. not open to the public).

The delegate CEO can approve a proposed sporting, cultural or entertainment event that is open to the public if satisfied that:

- its noise emissions would exceed the assigned levels; and
- it would lose its character or usefulness if it had to meet the assigned levels.

The types of conditions that the delegate CEO may impose on an event are listed in regulation 18(7) (see [2.3.1. Approval may be granted subject to conditions](#)). The delegate CEO can also designate a condition of the approval as an ancillary condition (see [2.3.2 Event approval ancillary conditions](#)). These are conditions that do not directly influence the level, duration or time of day of a noise emission.

See [Appendix 1](#) for the full text of regulations 18 and 19A.

2.2 Applying for approval of an event

2.2.1 Who may apply?

An application for an approval of an event may be made by either the venue occupier or by a promoter of an event.

2.2.2 Who does an applicant apply to?

The application is made to the delegate CEO of the municipality in which the venue is located. The delegate CEO has the authority to approve or refuse the application.

2.2.3 Making an application

The Regulations do not require the application to be made on a specific form, and applicants should discuss specific requirements of their application with the local government. It is likely that local governments will request a covering letter that provides details of the request for approval attached to any other information that supports the request for approval (e.g. results of community surveys, results of modelled noise emissions and/or results of previous noise monitoring, where available).

When submitting an application for an event approval, it is important that the venue occupier/promoter gives particular consideration to regulation 18(7) – detailing some of the conditions that may be imposed. As a minimum, applicants should provide enough supporting information for a delegate CEO to formulate these conditions of approval, if applicable.

2.2.4 Timeframes for applications and fees

Regulation 18(6), (7A) and (7B)

- (6) An application for approval under subregulation (3) is to be —
 - (a) made not later than 60 days before the event to which the application relates is proposed to commence; and
 - (b) accompanied by an application fee of \$1 000.
- (7A) Despite subregulation (6)(a), an application may be made between 59 and 21 days before the event to which the application relates is proposed to commence if, in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.
- (7B) Despite subregulation (6)(a), an application may be made less than 21 days before the event to which the application relates is proposed to commence if —
 - (a) the CEO is satisfied that there are exceptional circumstances for the application not being made earlier than within that period; and
 - (b) in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.

An application for approval is to be made at least 60 days before the event and be accompanied by a fee of \$1,000.

An application for approval may be made between 59 and 21 days of the event if the application is accompanied by the application fee of \$1,000 in addition to a late fee, equal to one quarter of the application fee. An application may be made less than 21 days before the event if, in addition to receiving the application fee and late fee, the delegate CEO is satisfied that there are exceptional circumstances for the application not being made earlier.

Notwithstanding the above, the delegate CEO may, in his or her discretion, waive or reduce the application fee. If a late fee is applicable to the circumstances, the late fee remains equal to a quarter of the application fee. For example, if a delegate CEO decides to reduce the application fee for a community event to \$100 and a late fee is applicable, the late fee will be \$25.

2.3 Processing and determining the application

Regulation 18(11)

The CEO is not to approve the holding of more than 2 approved events in or at a particular venue in any period of 12 consecutive months unless the CEO is satisfied that the majority of occupiers on whom the noise emissions will impact have no objection to the holding of the additional events.

The delegate CEO is not to approve more than two events at one venue in any 12-month period unless satisfied that the majority of the affected occupiers have no objection to the holding of the extra events. In such circumstances, consideration could be given to whether it is more appropriate for the venue to operate under a venue approval (see [3. Approved venues for sporting, cultural or entertainment events](#)).

In the case where the delegate CEO decides to issue an event approval, the applicant should be provided with a written copy of the approval and conditions of approval. Likewise, an applicant should be advised in writing when an application for approval under regulation 18 has been refused by the delegate CEO.

2.3.1. Approval may be granted subject to conditions

Regulation 18(7)

Conditions imposed under subregulation (3) may —

- (a) limit the duration of practice and rehearsal sessions, sound system tests and the event; and
- (b) specify starting and completion times for practice and rehearsal sessions, sound system tests and the event; and
- (c) specify times when facilities such as stages, temporary seating and lighting towers can be erected and dismantled; and
- (d) specify any other requirements, including maximum allowable noise levels, considered necessary to maintain the impact of noise emissions on other premises at an acceptable level.

The conditions should aim to preserve the ‘character and usefulness’ of the event, while minimising noise impacts through effective noise management. The delegate CEO is not limited to only the above conditions and may set others; however, conditions must always relate to the management of noise from the event. Non-noise-related conditions cannot be included in the approval. For example, the approval cannot contain conditions that require a certain number of toilets to be provided at the event. In some instances, it may be appropriate for the delegate CEO to seek legal advice on conditions of approval.

Although a formal consultation process is not required when setting conditions for an event approval, comments may be sought from stakeholders. It is common practice for the applicant and the applicant’s acoustic consultant to view the draft conditions of approval to provide comment on the proposed conditions. This ensures they are aware of the conditions proposed and are able to plan and implement accordingly.

2.3.2. Event approval ancillary conditions (regulation 19A)

Regulation 19A(1) and (2)

- (1) If an approval under regulation 18(3) is made subject to a condition, the CEO may, by written notice given to the person who applied for approval of the event, designate the condition as an ancillary condition if the condition does not directly influence the level, duration or time of day of a noise emission.
- (2) A person who holds an approved event at a venue must ensure that any ancillary condition relating to the event is implemented.

Penalty: a fine of \$5 000.

The delegate CEO may use the event approval to designate a condition of approval as an ‘ancillary condition’ if the condition does not directly influence the level, duration or time of day of the noise emission.

Examples of possible ancillary conditions could include the distribution of flyers advising of the date and times for the upcoming event and the operation of a complaints line – these measures do not influence the noise emission itself but are important in the management of the event.

If the delegate CEO has designated a condition as an ‘ancillary condition’, a person who holds an approved event at a venue must ensure that the condition is implemented.

Written notice of ancillary conditions must be provided to the applicant.

A sample event approval with conditions of approval is at [Appendix 2](#).

2.3.3. Consultation with other affected local governments

Regulation 18(12) and (13)

- (12) An approval must not be granted unless —
- (a) the chief executive officer of the local government (the **local government CEO**) of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 has no objection to the proposed conditions applicable to the approval; or
 - (b) if there is such an objection, the objection has been resolved under subregulation (13).
- (13) An objection of a local government CEO may be resolved by —
- (a) the CEO and the local government CEO agreeing on the conditions applicable to the approval; or
 - (b) if an agreement cannot be reached, the Minister determining the conditions after receiving the advice of the CEO.

If there are noise-receivers affected in more than one local government area, then the delegate CEO must consult those LG CEOs to determine if they have any objection to the proposed conditions of approval for the event. An objection can be resolved by the CEOs agreeing on the conditions for the event.

If agreement between the delegate CEO and other LG CEOs cannot be reached, the Minister determines the conditions after receiving advice from DER's CEO [regulation 18(13)(b) – this subregulation is not delegated to LG CEOs]. In this case, the delegate CEO is still the person who issues the approval, but with the Minister's conditions attached.

It is advisable to allow adequate time in the approvals process for this consultation to occur.

2.4 Appeals

There are no provisions for appeals under regulations 18 or 19A. This recognises the relatively short time frame for the approval and the event itself. Where an event causes particular noise issues, the delegate CEO may wish to review the event approval process and the conditions for future events.

2.5 Compliance with the event approval

Regulation 18(4)

If a condition, other than an ancillary condition, imposed on an approved event under subregulation (3) or (8) is breached —

- (a) the event ceases to be an approved event; and
- (b) regulation 7 has effect in relation to that event.

If the conditions of the event approval are not met, the approval ceases to have effect. This means that the noise from the event has no approval to exceed the assigned levels, and exposes the promoter to the possibility of enforcement actions related to exceedence of the assigned levels.

Ancillary conditions, however, differ from the other conditions of approval. A breach of an ancillary condition does not remove the ‘exemption’ provided by the event approval, but may instead result in a direct penalty (see [2.3.2. Event approval ancillary conditions](#)).

It is therefore critical that the promoter has the procedures in place to ensure that the event is conducted in accordance with the conditions of approval.

2.6 Regulation 18 approval for an event at a regulation 19B approved venue

Ideally, events held at an approved venue should fit within the conditions of the venue approval, but it is recognised that from time to time a proposed event may not be able to meet the requirements of the venue approval.

In this case, a venue occupier or a promoter can apply for approval of an event under regulation 18; this approval would be outside of the venue approval.

In this situation, a delegate CEO would have two different options. He/she could:

- refuse to approve the application for approval under regulation 18; or
- approve the additional event.

Approving an additional event, outside a venue approval, could be done in lieu of a notifiable event (or events) that would have come under the venue approval.

Such an arrangement could be made a condition of the venue approval, where the venue must forego other notifiable events within the venue approval (perhaps two smaller events) in lieu of a regulation 18 event.

The discretion to approve regulation 18 events at approved venues should be exercised with caution so as not to undermine the integrity of the venue approval process or the community’s expectation with regard to the management of noise from the venue.

3. Approved venues for sporting, cultural or entertainment events (regulations 19B to 19G)

3.1 Applying for approval of a venue

Regulation 19B(2)

The occupier of a venue may apply to the CEO for —

- (a) approval of the venue at which a number of notifiable events may be held during a period specified in the approval; or
- (b) an amendment of a venue approval (other than an amendment of the period of the approval).

Regulation 19B(2)(a) provides that an occupier may apply to have a venue approved as one at which a number of notifiable events may be held.

See [Appendix 1](#) for the full text of regulations 19B to 19G.

3.1.1 Who may apply?

Application for venue approval is open to the occupier of any sporting, cultural or entertainment venue across WA that seeks to manage their noise emissions through the holding of notifiable events (see [3.5. Notifiable Events](#)). A venue can be any premises or public place (see section 3(1) of the *Environmental Protection Act 1986* for further definitions of a premises and public place).

As a notifiable event must be an event that is open to the public, a venue could not use this regulation in relation to private functions. Similarly, a venue whose noise emissions were classed as community noise under regulation 16 would not be able to be approved under regulation 19B for those types of noise emissions.

A venue occupier would be likely to apply if they would like to hold large events regularly and believe a venue approval will provide certainty as to the types and number of events that they can hold per year.

A venue that only occasionally holds events may wish to seek approval for individual events under regulation 18 (see [2. Approved sporting, cultural and entertainment events](#)), bearing in mind that regulation 18 will generally only allow for two events per year without significant community consultation.

While not excluded from applying under this regulation, it is not generally envisaged to be used for small venues such as hotels, bars and pubs.

3.1.2 Is a venue occupier required to apply?

No, the regulation states that a venue occupier may apply, so it is the venue's choice whether or not to avail themselves of this provision.

3.1.3 Who does a venue apply to?

The application is made to the delegate CEO of the municipality where the venue is located; this person has delegated power to approve or refuse the application.

3.1.4 Making an application

The application must be made by the venue occupier.

The Regulations do not require the application to be made on a specific form and proponents should discuss specific application requirements with the relevant local government. It is likely that local governments will request a covering letter that provides details of the occupier's request for approval attached to other information that supports the request for approval (e.g. results of community surveys, results of modelled noise emissions and/or results of previous noise monitoring, where available).

When submitting an application for a venue approval it is important that the venue occupier gives particular consideration to regulation 19B(12) – detailing conditions of approval that must be imposed by a delegate CEO on a venue approval. As a minimum, applicants should provide enough supporting information for the delegate CEO to formulate the required conditions of approval.

Regulation 19B(6)

The CEO may require an applicant to carry out such surveys and provide such other information as the CEO may specify in writing to the applicant before the CEO makes a decision under subregulation (7).

Before a delegate CEO makes a decision on an application for a venue approval, the applicant may be required to carry out surveys and provide other information. This request for information should be related to the impact of noise on the environment only and should not include any non-noise-related requests for information. The request by the delegate CEO must be made in writing to the applicant and should be done prior to the consultation process (see [3.2. Consulting on the application](#)).

A requirement of information sample letter is at [Appendix 3](#).

3.1.5. Is there an application fee?

Regulation 19B(3), (4) and (5)

- (3) After the application is made, the CEO is to estimate the cost of assessing and processing the application.
- (4) The fee payable for assessing and processing the application is —
 - (a) an amount equal to the cost estimated under subregulation (3);
or
 - (b) if that amount exceeds \$15 000, \$15 000.
- (5) the fee for assessing and processing the application must be paid by the applicant before assessment of the application commences.

There is no fee payable on application; however, after the application is received the delegate CEO is required to determine the fee payable for assessing and processing the application [regulation 19B(3)].

This fee cannot exceed the estimated cost of assessing and processing the application and is capped at \$15,000. The fee is to be paid by the applicant before the application is assessed and processed.

3.1.6. How is the cost of assessing and processing the application estimated?

The fee estimate should be based on recovery of the likely costs to the local government of assessing and processing the application. It should be based on hourly rates for officers' time and may include related on-costs; it may also include direct cost recovery for hosting a community meeting (for example). However, the fee estimate should not include external costs such as for preparation of noise predictions by an acoustic consultant – these costs should be borne by the applicant [as noted above, the delegate CEO may require an applicant to carry out surveys and provide information under regulation 19B(6)].

The fee estimate will depend on the complexity of the application and its sensitivity within the community. A relatively simple application may involve a venue where events have been held successfully over some years, noise levels are well known and there is community acceptance of the events. In such a case the assessing and processing tasks carried out by the local government may (for example) involve:

- meeting with the applicant to discuss the application;
- requesting and reviewing historical information on the venue and its events;
- advertising and consulting on the application with the parties listed in regulation 19B(8);

- seeking submissions from other agencies, e.g. DER;
- collating submissions and developing an approval strategy;
- preparing a draft approval notice and consulting on conditions with the applicant;
- preparing a council briefing paper seeking endorsement of the CEO's proposed strategy; and/or
- preparing and issuing a final approval notice and related documents.

A more complex assessment process may be expected in a case where there is limited information available and a level of community concern regarding the venue and its events. This assessment may involve tasks additional to those outlined above in relation to requiring the applicant to conduct further studies, e.g. briefing a consultant, supervising their work and reviewing the report, in order to be able to incorporate the findings into an approval strategy. Further, the consultation and negotiation processes are likely to require a greater resource input from the local government in this instance.

A sample letter advising of a fee determination, including an estimate of fees for assessing and processing an application, is at [Appendix 3](#).

3.2 Consulting on the application

Regulation 19B(8)

Before making a decision under subregulation (7) the CEO —

- (a) must give the following a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made —
 - (i) the Executive Director, Public Health;
 - (ii) the Director of Liquor Licensing;
 - (iii) the occupier of any noise sensitive premises within 1 km of the venue;
 - (iv) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;

and

- (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made.

The delegate CEO must give the various parties ‘a reasonable opportunity to make a submission on whether the venue should be approved’; these parties are listed in regulation 19B(8)(a). The delegate CEO may also consult other parties he or she ‘considers appropriate in the circumstances’.

3.2.1 Executive Director, Public Health and Director of Liquor Licensing

While the power to grant venue approvals is delegated to LG CEOs, the State Government will retain a strategic role through the consultation process that the delegate CEO is required to undertake before granting a venue approval. This ensures that the types of venues being approved and approval conditions are appropriate.

3.2.2 Noise sensitive premises within one kilometre must be consulted

The delegate CEO is required to consult ‘the occupier of any noise sensitive premises within one kilometre of the venue’ – the list of premises that are classed as noise sensitive premises is contained within Schedule 1 of the Regulations, and includes rural properties, residences, hospitals with fewer than 150 beds, educational premises, etc.

One way to ensure that all relevant occupiers are consulted would be to draw a map with a line at one kilometre from the boundary of the venue premises; the occupiers of noise sensitive premises with land within the line would need to be consulted.

3.2.3 Affected neighbouring local governments must be consulted

The delegate CEO is required to consult ‘the local government of each district in which noise emissions from the venue are likely to fail to comply’ – this means that neighbouring local governments are to be consulted if the noise from the venue is likely to impact on their ratepayers. If previous events have been held at the venue, noise monitoring results may be used to identify whether or not a neighbouring local government is affected; however, if it is a new venue, or noise monitoring results are not available, the neighbouring local government could be consulted to gauge whether the noise from the venue is clearly audible in the neighbouring shire. If unsure, it is sensible to err on the side of caution and consult.

3.2.4 The CEO may consult others as appropriate

Consultation with the occupiers of noise sensitive premises within one kilometre can be considered to be a minimum, and it is open to the delegate CEO to consult a wider group of interested persons. This wider group may include the owners and the occupiers of any commercial or industrial premises within the one-kilometre line, and interested community members beyond.

It is also advisable that the LG CEO consult his or her own Council and with the CEO of DER who has oversight of the department’s noise regulation function. The intent here is to utilise the department’s noise expertise to ensure consistency of decisions and to assist in resolving difficult issues with the approval. The delegate CEO should also give some thought as to whether there are others who should be consulted.

3.2.5 What form of consultation might be appropriate?

While regulation 19B(8)(a) requires the delegate CEO to seek submissions on ‘whether or not the venue should be approved’, this may be seen as a minimum standard; therefore, consideration may be given to extending the consultation beyond the minimum, in order to provide an open process through which the community can have meaningful input into the approval process.

This open type of process is important in ensuring that issues are identified and articulated before a decision is made. These issues should be addressed at the local level, and indeed this is the clear intent of this regulatory system. Where the issues can be addressed in the approval conditions, the outcomes are likely to be more positive than where the issues are put aside to be addressed through the appeals process.

3.2.6 Doing the consultation

It is common practice that the parties required to be consulted (see [3.2. Consulting on the application](#)), and others with a known interest, are contacted in writing. The consultation could also be advertised in a local newspaper and

the information placed on the local government's website and made available at their offices.

The delegate CEO could consider providing, or making available, a copy of the draft venue approval and draft conditions of approval and relevant supporting information such as an area map, summary of noise monitoring results, modelled noise levels, summary of community surveys and so on.

It is advisable that both the delegate CEO and the applicant agree to the draft approval and draft conditions of approval prior to consultation. (It would be pointless to consult others when the delegate CEO or the venue occupier considers the approval unworkable.)

The various parties must be given 'a reasonable opportunity' to prepare their submissions. This may typically involve a period of at least four weeks (some local governments may need additional time in order to allow for council meeting dates).

The delegate CEO would be expected to consider all submissions carefully; a summary of submissions and responses could be prepared in order to provide feedback to submitters. It may also be appropriate to hold meetings with concerned submitters in order to resolve issues and if necessary negotiate changes to the venue approval conditions of approval that are workable for the venue occupier. It may even be appropriate to send out a revised venue approval and conditions of approval for further comment.

It is also important to document the steps in the consultation process, the issues addressed and any changes to the venue approval and conditions of approval.

3.3 Determining the application

Regulation 19B(7)

The CEO may, in writing —

- (a) if the application is for the approval of a venue — approve, or refuse to approve the venue;
- (b) if the application is for an amendment of a venue approval — make, or refuse to make, the amendment.

The delegate CEO has the power to approve or refuse to approve an application for venue approval. The approval or refusal must be in writing.

3.3.1. Approval granted is subject to conditions

Regulation 19B(9)

A venue approval —

- (a) is subject to such conditions as the CEO thinks fit or is required to impose under subregulation (12) and sets out in the approval; and
- (b) subject to subregulation (11) and regulation 19E, has effect for the period specified in the approval.

A venue approval is subject to such conditions as the delegate CEO thinks fit or is required to impose under regulation 19B(12). When drafting the venue approval and conditions, the delegate CEO may give consideration to the requests and requirements of the applicant, the community and others consulted during the application process.

Regulation 19B(12)

The CEO must not approve a venue under subregulation (7) unless the conditions imposed on the approval —

- (a) specify the maximum number and type of notifiable events that may be held at the venue during a period specified in the approval; and
- (b) specify the earliest time at which a notifiable event held at the venue may begin and the latest time at which a notifiable event may end; and
- (c) specify the maximum duration of a notifiable event held at the venue; and
- (d) specify the maximum allowable noise level of a notifiable event held at the venue; and
- (e) specify the manner in which occupiers affected by noise emissions from a notifiable event at the venue are to be advised that the event is to be held at the venue; and
- (f) specify the manner in which complaints from members of the public about noise emissions from a notifiable event at the venue are to be managed; and
- (g) provide for the manner in which community consultation is to be conducted by the applicant for approval of the venue.

3.3.2. Length of approval

The venue approval must specify the period for which the approval has effect [regulation 19B(9)(b)]. In setting this period, the delegate CEO could give consideration to setting a period that is long enough to provide certainty to the venue as to its tenure and operations, and certainty as to what the community can expect in the management of noise from the venue, but not so long that the approval becomes obsolete.

By way of general guidance, it may be appropriate that the approval period be not less than three years and not more than five years. In the case of a venue's first approval a period towards the shorter end of the range is suggested, thereby triggering a review of the venue approval after a shorter initial period of operation.

3.3.3 Ancillary conditions for a venue approval

Regulation 19C(1), (2) and (3)

- (1) The CEO may in a venue approval designate a condition imposed on the venue approval under regulation 19B(12)(e), (f) or (g) as an ancillary condition.
- (2) In the case of a condition imposed on a venue approval under regulation 19B(12)(e) or (f) and designated as an ancillary condition under subregulation (1), each of the following must ensure the condition is implemented —
 - (a) the occupier of the venue;
 - (b) a person who holds an event at the venue.Penalty: a fine of \$5 000.
- (3) In the case of a condition imposed on a venue approval under regulation 19B(12)(g) and designated as an ancillary condition under subregulation (1), the occupier of the venue must ensure the condition is implemented.
Penalty: a fine of \$5 000.

The delegate CEO may use the venue approval to designate a condition in the conditions of venue approval as an 'ancillary condition' if the condition has been imposed on the venue approval under regulation 19B(12)(e), (f) or (g).

Examples of possible ancillary conditions could include generic requirements for the distribution of flyers advising of the details of notifiable events (e), the operation of a complaints line (f), and a requirement to host a community consultation forum (g) – these measures would not influence the noise emission itself but would be important in the management of the noise emissions.

If the delegate CEO has used the venue approval to designate a condition related to advising the community about events or managing complaints about events as an ‘ancillary condition’ [regulation 19B(12)(e) or (f)], both the venue occupier and a person who holds an event at the venue must ensure that the condition is implemented.

However, if an ancillary condition requires that (for example) the occupier conducts further community consultation to test the community’s satisfaction after one year of operation [regulation 19B(12)(g)], it is the occupier who must ensure that the consultation is done by that date. This is clearly the type of condition that the venue occupier would be responsible for, as opposed to the person who holds an event at the venue.

Ancillary conditions differ from the other conditions of approval in the venue approval. A breach of an ancillary condition may result in a direct penalty, but does not remove the ‘exemption’ provided by the venue approval.

On the other hand, a breach of a condition of approval that relates directly to the noise emission, i.e. a condition imposed under regulation 19B(12)(a) to (d), removes the exemption provided by regulation 19D(7) and allows the application of enforcement actions related to exceedence of the assigned levels (see [3.4. Compliance with the venue approval](#)).

The delegate CEO may consider determining which conditions are to act as ancillary conditions, if any, and identify them in the approval. The compulsory conditions [regulation 19B(12) (e), (f) and (g)] will only be ancillary conditions when identified and designated as ancillary conditions in the venue approval.

Ancillary conditions relating to notifiable events are discussed in [3.5.4 Ancillary conditions for notifiable events](#).

A sample venue approval and conditions of approval is at [Appendix 4](#).

3.3.4 Renewal of a venue approval

Regulation 19B(11)

If the occupier of a venue for which a venue approval (the **current approval**) has effect applies for a new approval of the venue not later than 3 months before the current approval would, apart from this regulation, cease to have effect (the **expiry day**), the current approval is taken to continue in effect from the expiry day until —

- (a) if the CEO grants a new approval — the day on which the new approval has effect; or
- (b) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 19G, no appeal has been lodged,
the day after that period ends; or
- (c) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) an appeal is lodged under regulation 19G against the decision to refuse to grant a new approval,
the day the appeal is concluded.

Regulation 19B(11) provides that the period of approval can extend beyond the date set in the original approval, if the venue applies for a new approval not later than three months before the current venue approval ceases. In this case the approval will continue in effect until a decision is made on the new venue approval, thus providing continuity.

Venue occupiers who wish to apply for a new venue approval may therefore note this date and ensure that the application for a further approval is made in good time.

3.3.5 Giving notice of approval or refusal

Regulation 19F(1) and (2)

- (1) In this regulation —
appellable decision has the meaning given in regulation 19G.
- (2) The CEO —
 - (a) must give a written notice of an appellable decision to the occupier of the relevant venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

Many of the delegate CEO's decisions are open to appeal – these are called 'appellable decisions'. The delegate CEO is required to give written notice of these decisions.

Written notice must be given to the occupier of the venue and to other such persons as the delegate CEO thinks fit. These persons could include those who made submissions on the venue approval as part of the consultation process.

Particulars of the appellable decision must also be published in the *WA Government Gazette* – this sets the date for the start of the appeals period.

A sample *Gazette* notice advising of an appellable decision is in [Appendix 5](#).

Further guidance on appeals is presented under [3.8. Appeals](#).

3.4 Compliance with the venue approval

Regulation 19D(7)

If, at an approved venue during a notifiable event in respect of which notice has been given under this regulation, a condition imposed on the approval of the venue under regulation 19B(9)(a) (other than a condition designated as an ancillary condition under regulation 19C(1)) is breached —

- (a) subregulation (6)(c) ceases to apply in relation to noise resulting from the event at the venue; and
- (b) regulation 7 has effect in relation to that event.

When the venue is operated in accordance with a venue approval, the normal assigned noise levels in the Regulations do not apply to the noise emission. Thus the venue approval provides a form of exemption from the requirement to comply with the normal assigned levels.

If, however, the venue approval is not being complied with – for example if an event goes over the finishing time specified in the venue approval – the exemption would cease to have effect and the assigned levels would apply. The venue occupier would then be open to possible enforcement action for causing noise emissions that exceed the assigned levels.

It is therefore critical that the venue has the procedures in place to ensure that events are conducted in accordance with the venue approval.

3.5 Notifiable events

3.5.1 What is a notifiable event?

Regulation 19B(1)

In this regulation —

notifiable event means a sporting, cultural or entertainment event that —

- (a) is open to the public; and
- (b) is likely to result in noise emissions, other than community noise, that do not comply with the standard prescribed under regulation 7; and
- (c) is not an approved event or an event for which application for approval under regulation 18 has been made.

3.5.2 Giving notice

Regulation 19D(1) and (2)

- (1) A person who proposes to hold an event at an approved venue that is a notifiable event of a type specified in the conditions of approval of the venue under regulation 19B(12)(a) must give the CEO notice of the event in accordance with this regulation.

Penalty: a fine of \$5 000.

- (2) A notice under subregulation (1) must —
- (a) be in a form approved by the CEO; and
 - (b) be given not later than 60 days before the event is proposed to commence; and
 - (c) give details of the event including the date, starting time and ending time of the event.

It is a requirement that a person who proposes to hold a notifiable event at an approved venue, gives notice to the delegate CEO.

A notice must be in a form approved by the delegate CEO; be given not later than 60 days before the event is proposed to commence; and give details of the event including the date, starting time and ending time.

Where a calendar of events is known ahead of time, it is possible to notify of multiple events at one time. Keeping accurate records of the events held and proposed is important for both the venue and the local government to ensure the venue does not inadvertently breach its approval.

A sample notice of a notifiable event form is at [Appendix 6](#).

3.5.3. Time frames for notification and fees

Regulation 19D(3) and (4)

- (3) Despite subregulation (2)(b), a notice may be given between 59 days and 21 days before the event to which the notice relates is proposed to commence if the notice is accompanied by a late fee of \$500.
- (4) Despite subregulation (2)(b), notice may be given less than 21 days before the event to which the notice relates is proposed to commence if —
 - (a) the CEO is satisfied that there are exceptional circumstances for the notice not being given earlier than within that period; and
 - (b) the notice is accompanied by a late fee of \$500.

If the notification is received more than 60 days before the event is proposed to commence, then there is no fee payable. If the notification is received within the 60 days before the event is proposed to commence, the notification is to be accompanied by a \$500 late fee.

If a notification is given less than 21 days before the event the delegate CEO must also be satisfied that there are exceptional circumstances for the notice not being given earlier.

Exceptional circumstances may for example include an unavoidable late change of venue. If the delegate CEO is not satisfied that there are exceptional circumstances, the person is deemed to have not given notice.

3.5.4. Ancillary conditions for notifiable events

Regulation 19D(5)

The CEO may, by written notice given to a person who gives notice under subregulation (1), impose in relation to the notifiable event an ancillary condition that does not directly influence the level, duration or time of day of a noise emission.

An example of a possible ancillary condition imposed on a notifiable event would be a requirement to conduct noise monitoring and report on the results.

Regulation 19D(10)

A person who gives the CEO notice of a notifiable event under subregulation (1) must ensure that an ancillary condition imposed under subregulation (5) in relation to the event is implemented.

Penalty for an offence under subregulation (10): a fine of \$5 000.

A person who gives notice of the notifiable event must ensure that any ancillary conditions imposed on the notifiable event are implemented. As with ancillary conditions for a venue approval, a breach of an ancillary condition for a notifiable event may result in a direct penalty.

A sample local government covering letter and notice of ancillary conditions for a notifiable event is at [Appendix 7](#).

3.5.5. What conditions of approval must the holder of a notifiable event comply with?

The holder of a notifiable event held at the approved venue will need to comply with the following types of conditions:

- (a) conditions imposed on the venue approval [regulation 19B(12)(a) to (d)] (other than the ancillary conditions). When these conditions are complied with, regulation 7 does not apply to noise resulting from the event.
- (b) ancillary conditions imposed on the venue approval [regulation 19B(12)(e) and (f)] – that is, conditions related to advising the community about events or managing complaints about events.
- (c) ancillary conditions imposed by the delegate CEO on the notifiable event itself [regulation 19D(5)].

The person holding the event should ensure adequate systems are in place to manage the event such that these conditions are complied with.

3.6 Amendment of a venue approval

Regulation 19E(1)

The CEO may, on his or her own initiative, amend a venue approval if the CEO is satisfied that there is reasonable cause for the amendment.

The delegate CEO can amend a venue approval if satisfied that there is reasonable cause for the amendment.

By way of guidance, 'reasonable cause' may include experience gained in the operation of the approval.

Example:

A venue approval has been granted to a company that occupies a stadium. The approval sets noise limits for notifiable events based on A-weighted – dB(A) – values. However, experience with the first few events shows that additional limits are needed to control low frequency (“bass”) sound. The delegate CEO determines appropriate C-weighted noise level limits in consultation with stakeholders and issues an amended approval including the additional limits.

3.6.1 How can an occupier have the venue approval amended?

Regulation 19B(2)

The occupier of a venue may apply to the CEO for —

- (a) approval of the venue as a venue at which a number of notifiable events may be held during a period specified in the approval; or
- (b) an amendment of a venue approval (other than an amendment of the period of the approval).

Where a venue approval has been in place for some time, there may be a need for amendments to reflect changes in the venue's activities, and in this case the venue occupier may apply for an amendment of a venue approval. Before applying for an amendment, the venue occupier could consult the local government and relevant stakeholders to seek their support for the amendment.

This application is essentially the same as for approval of a venue and is therefore subject to an assessment and processing fee (see [3.1.5. Is there an application fee?](#)).

Before approving the amendment the delegate CEO must consult in the same manner as for a new venue (see [3.2. Consulting on the application](#)).

Regulation 19B(7)

The CEO may, in writing —

- (a) if the application is for the approval of a venue — approve, or refuse to approve, the venue;
- (b) if the application is for an amendment of a venue approval — make, or refuse to make, the amendment.

The delegate CEO has the power to make or refuse to make an amendment of a venue approval upon application from the venue occupier. This must be done in writing.

Any person who disagrees with the delegate CEO's decision to make or refuse to make an amendment to the venue approval can appeal, and the existing approval remains in force while the appeals are being determined (see [3.8. Appeals](#)).

3.7 Revocation of a venue approval

Regulation 19E(2)

The CEO may, on his or her own initiative, revoke a venue approval if the CEO is satisfied that —

- (a) there has been a breach of a condition imposed by the CEO under regulation 19B(9)(a); or
- (b) information contained in or supporting the application for approval of the venue was false or misleading in a material respect.

The delegate CEO who has approved a venue also has the power to revoke the venue approval.

Before starting a revocation process the delegate CEO must be satisfied that at least one of the grounds for revocation are met.

Regulation 19E(4) and (5)

- (4) The CEO, before exercising the power of amendment under subregulation (1) or revocation under subregulation (2), must —
 - (a) give the occupier of the venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 19B(8)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.
- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that subregulation not less than 90 days before the day on which the CEO exercises the power in question.

Essentially the process requires that the delegate CEO gives notice of his or her intent to revoke, thus initiating a 90-day consultation period. The delegate CEO must consult the venue occupier and the parties he or she was required to consult in the original venue approval process (see [‘3.2. Consulting on the application’](#), p16). The intent is to allow time for negotiations to ensue to resolve issues, and to allow the venue occupier and residents time to prepare submissions. At the end of the 90-day period, if the delegate CEO decides to pursue revocation, this is done by issuing a written notice to the venue occupier.

A decision to revoke a venue approval can be appealed, and the existing approval remains in force while the appeals are being determined (see [3.8. Appeals](#)).

It is recommended that revocation be used as a last resort, and that the approval preferably be allowed to run for the period specified in the original approval.

3.8 Appeals

Regulation 19G(1)

A person aggrieved by any of the following decisions (an **appellable decision**) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —

- (a) the approval of a venue under regulation 19B(7)(a);
- (b) the refusal to approve a venue under regulation 19B(7)(a);
- (c) the imposition of a condition on an approval under regulation 19B(9)(a);
- (d) the specification under regulation 19B(9)(b) of a period as the period for which the approval has effect;
- (e) the amendment of an approval under regulation 19B(7)(b);
- (f) the refusal to amend an approval under regulation 19B(7)(b);
- (g) the amendment of an approval under regulation 19E(1);
- (h) the revocation of an approval under regulation 19E(2).

An 'appellable decision' is a decision of the delegate CEO that can be appealed. Appeals under these regulations are dealt with by the Appeals Convenor (see the *Environmental Protection Act 1986*) with the decision being made by the Minister for Environment.

3.8.1 Can I appeal the delegate CEO's decisions?

Any person who is aggrieved by an appellable decision may lodge an appeal; that is, the venue occupier, an interested agency or any member of the community. Most of the decisions made by the delegate CEO under these regulations are appellable. Four decisions of the delegate CEO are not appellable under this regulation:

- the fee set for assessing and processing the application under regulation 19B(3);
- the fee set for noise monitoring of a notifiable event under regulation 19D(8);
- the decision to designate a condition in a venue approval as an 'ancillary condition' under regulation 19C(1); or
- the decision to impose an 'ancillary condition' on a notifiable event under regulation 19D(5).

3.8.1 How will I know when an appeal can be lodged?

Regulation 19F(1) and (2)

- (1) In this regulation —
appellable decision has the meaning given in regulation 19G.
- (2) The CEO —
 - (a) must give a written notice of an appellable decision to the occupier of the relevant venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

The delegate CEO must give adequate notice of the appellable decision. He or she must give written notice to the venue occupier, and may give notice to other persons as he or she sees fit (possibly those who have made a submission in relation to the approval). The delegate CEO must also publish notice of the decision in the *Government Gazette*. This publication date starts the 21-day appeal period, and appeals must be lodged within 21 days of the gazettal date.

If you have an interest in the delegate CEO's decision it is recommended that you contact the local government concerned and ask to be notified of the gazettal of the decision.

3.8.2 How do I lodge an appeal?

Appeals are to be addressed to the Minister for Environment and lodged with –

**Appeals Convenor for the Environmental Protection Act
Level 22, Forrest Centre
221 St Georges Terrace
Perth WA 6000**

Appeals can also be lodged by hand delivery, by email to admin@appealsconvenor.wa.gov.au or by fax to (08) 6467 5199.

The grounds for the appeal must be clearly stated. The appeal must be accompanied by a \$50 fee.

For further information about appeals, see 'Types of appeal, Noise Regulations' on the Appeals Convenor's website www.appealsconvenor.wa.gov.au or phone (08) 6467 5190.

3.8.3 What happens to the delegate CEO's decision while under appeal?

Regulation 19G(3) and (4)

- (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b), (c) or (d), the decision against which that appeal is lodged continues to have effect.
- (4) Pending the determination of an appeal lodged under subregulation (1)(e), (f), (g) or (h) the decision is to be taken not to have been made.

Decisions to approve or refuse a venue approval, imposition of a condition of approval and to set the period of approval remain in force while the appeals are being determined. For example, if the delegate CEO has decided to grant a venue approval, the approval remains in force while any appeals are being determined.

3.8.4 How is the appeal decision made?

In considering appeals, the Appeals Convenor follows the procedures given under Part VII of the *Environmental Protection Act 1986*. The Appeals Convenor must consult the delegate CEO, but may also consult other persons, and in doing so can consider any or all of the information that the delegate CEO's decision was based upon. The Appeals Convenor's advice on the appeal is sent to the Minister for Environment, who makes the final decision about whether to allow the appeal.

Appendix 1

Environmental Protection (Noise) Regulations 1997 Division 7 – Sporting, cultural and entertainment events

Note: The following is not an official reprint of the legislation.

Division 7 — Sporting, cultural and entertainment events *[Heading inserted in Gazette 5 Dec 2013 p. 5700.]*

18J. Terms used

In this Division —

approved event means an event approved under regulation 18(3);

approved venue means a venue approved under regulation 19B(7);

venue means any premises or public place;

venue approval means an approval granted under regulation 19B(7), as amended from time to time, that has effect.

[Regulation 18J inserted in Gazette 5 Dec 2013 p. 5700.]

18. Approved sporting, cultural and entertainment events

(1) In this regulation —

ancillary condition means a condition designated as an ancillary condition under regulation 19A(1);

noise means noise associated directly with an approved event and does not include noise normally emitted from a venue (such as noise from plant, pumps and machinery) when it is not being used for the purposes of an approved event.

(2) Despite any other regulation in this Part —

(a) an approval under subregulation (3) has effect according to its terms; and

(b) except to the extent that the regulation is applied as a condition under subregulation (3), regulation 7 does not apply to noise resulting from an approved event.

(3) Where the CEO is satisfied that a proposed sporting, cultural or entertainment event that is to be open to the public —

(a) is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7; and

(b) would lose its character or usefulness if it were required to comply with that standard, the CEO may approve the event, subject to such conditions as the CEO thinks fit, for the purposes of this regulation.

- (4) If a condition, other than an ancillary condition, imposed on an approved event under subregulation (3) or (8) is breached —
 - (a) the event ceases to be an approved event; and
 - (b) regulation 7 has effect in relation to that event.
- (5) An approval under subregulation (3) may extend to a practice or rehearsal or sound system test relating to an event even though the practice, rehearsal or sound system test is not open to the public.
- (6) An application for approval under subregulation (3) is to be —
 - (a) made not later than 60 days before the event to which the application relates is proposed to commence; and
 - (b) accompanied by an application fee of \$1 000.
- (7A) Despite subregulation (6)(a), an application may be made between 59 and 21 days before the event to which the application relates is proposed to commence if, in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.
- (7B) Despite subregulation (6)(a), an application may be made less than 21 days before the event to which the application relates is proposed to commence if —
 - (a) the CEO is satisfied that there are exceptional circumstances for the application not being made earlier than within that period; and
 - (b) in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.
- (7) Conditions imposed under subregulation (3) may —
 - (a) limit the duration of practice and rehearsal sessions, sound system tests and the event; and
 - (b) specify starting and completion times for practice and rehearsal sessions, sound system tests and the event; and
 - (c) specify times when facilities such as stages, temporary seating and lighting towers can be erected and dismantled; and
 - (d) specify any other requirements, including maximum allowable noise levels, considered necessary to maintain the impact of noise emissions on other premises at an acceptable level.
- (8) It is a condition imposed on the conduct of an approved event that, if the CEO determines that noise received as a result of the event —
 - (a) at any noise sensitive premises is likely to exceed 65 dB LA Slow between 0700 hours and 1900 hours on any day or 60 dB LA Slow between 1900 hours on any day and 0700 hours on the following day; or
 - (b) at any other premises is likely to exceed 75 dB LA Slow at any time, the person to whom the approval is granted is to pay to the CEO, within the time specified by the CEO, a noise monitoring fee specified by the CEO.

- (9) The CEO may amend any condition to which an approved event is subject, but must before doing so —
- (a) give to the person responsible for the conduct of the event at least 14 days' notice of the proposed amendment to enable the person to make written representations on the proposal; and
 - (b) where the condition was determined under subregulation (13), obtain the approval of the Minister.
- (10) A person to whom notice of a proposal is given under subregulation (9)(a) may by written agreement accept the proposal and waive the period of notice.
- (11) The CEO is not to approve the holding of more than 2 approved events in or at a particular venue in any period of 12 consecutive months unless the CEO is satisfied that the majority of occupiers on whom the noise emissions will impact have no objection to the holding of the additional events.
- (12) An approval must not be granted unless —
- (a) the chief executive officer of the local government (the **local government CEO**) of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 has no objection to the proposed conditions applicable to the approval; or
 - (b) if there is such an objection, the objection has been resolved under subregulation (13).
- (13) An objection of a local government CEO may be resolved by —
- (a) the CEO and the local government CEO agreeing on the conditions applicable to the approval; or
 - (b) if an agreement cannot be reached, the Minister determining the conditions after receiving the advice of the CEO.
- (14) The CEO may, if satisfied that the noise from approved events held at any 2 or more venues affects generally the same noise sensitive premises, determine that those venues are to be treated as a single venue for the purposes of subregulation (3) in which case subregulation (11) applies to those venues as if they were one venue.
- (15) Despite subregulation (6)(b), the CEO may, in his or her discretion, waive or reduce the application fee payable under subregulation (6).

[Regulation 18 amended in Gazette 5 Dec 2013 p. 5700-4.]

19A. Ancillary conditions: approved events

- (1) If an approval under regulation 18(3) is made subject to a condition, the CEO may, by written notice given to the person who applied for approval of the event, designate the condition as an ancillary condition if the condition does not directly influence the level, duration or time of day of a noise emission.
- (2) A person who holds an approved event at a venue must ensure that any ancillary condition relating to the event is implemented.

Penalty: a fine of \$5 000.

[Regulation 19A inserted in Gazette 5 Dec 2013 p. 5704.]

19B. Approved venues for sporting, cultural or entertainment events

- (1) In this regulation —
notifiable event means a sporting, cultural or entertainment event that —
 - (a) is open to the public; and
 - (b) is likely to result in noise emissions, other than community noise, that do not comply with the standard prescribed under regulation 7; and
 - (c) is not an approved event or an event for which application for approval under regulation 18 has been made.
- (2) The occupier of a venue may apply to the CEO for —
 - (a) approval of the venue as a venue at which a number of notifiable events may be held during a period specified in the approval; or
 - (b) an amendment of a venue approval (other than an amendment of the period of the approval).
- (3) After the application is made, the CEO is to estimate the cost of assessing and processing the application.
- (4) The fee payable for assessing and processing the application is —
 - (a) an amount equal to the cost estimated under subregulation (3); or
 - (b) if that amount exceeds \$15 000, \$15 000.
- (5) The fee for assessing and processing the application must be paid by the applicant before assessment of the application commences.
- (6) The CEO may require an applicant to carry out such surveys and provide such other information as the CEO may specify in writing to the applicant before the CEO makes a decision under subregulation (7).
- (7) The CEO may, in writing —
 - (a) if the application is for the approval of a venue — approve, or refuse to approve, the venue;

- (b) if the application is for an amendment of a venue approval — make, or refuse to make, the amendment.
- (8) Before making a decision under subregulation (7) the CEO —
- (a) must give the following a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made —
 - (i) the Executive Director, Public Health;
 - (ii) the Director of Liquor Licensing;
 - (iii) the occupier of any noise sensitive premises within 1 km of the venue;
 - (iv) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;
 - and
 - (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made.
- (9) A venue approval —
- (a) is subject to such conditions as the CEO thinks fit or is required to impose under subregulation (12) and sets out in the approval; and
 - (b) subject to subregulation (11) and regulation 19E, has effect for the period specified in the approval.
- (10) Without limiting subregulation (7), an amendment may vary a condition of a venue approval or impose a new condition on a venue approval.
- (11) If the occupier of a venue for which a venue approval (the **current approval**) has effect applies for a new approval of the venue not later than 3 months before the current approval would, apart from this regulation, cease to have effect (the **expiry day**), the current approval is taken to continue in effect from the expiry day until —
- (a) if the CEO grants a new approval — the day on which the new approval has effect; or
 - (b) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 19G, no appeal has been lodged, the day after that period ends; or
 - (c) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) an appeal is lodged under regulation 19G against the decision to refuse to grant a new approval,

the day the appeal is concluded.

- (12) The CEO must not approve a venue under subregulation (7) unless the conditions imposed on the approval —
- (a) specify the maximum number and type of notifiable events that may be held at the venue during a period specified in the approval; and
 - (b) specify the earliest time at which a notifiable event held at the venue may begin and the latest time at which a notifiable event may end; and
 - (c) specify the maximum duration of a notifiable event held at the venue; and
 - (d) specify the maximum allowable noise level of a notifiable event held at the venue; and
 - (e) specify the manner in which occupiers affected by noise emissions from a notifiable event at the venue are to be advised that the event is to be held at the venue; and
 - (f) specify the manner in which complaints from members of the public about noise emissions from a notifiable event at the venue are to be managed; and
 - (g) provide for the manner in which community consultation is to be conducted by the applicant for approval of the venue.

[Regulation 19B inserted in Gazette 5 Dec 2013 p. 5704-8.]

19C. Ancillary conditions: venue approval

- (1) The CEO may in a venue approval designate a condition imposed on the venue approval under regulation 19B(12)(e), (f) or (g) as an ancillary condition.
- (2) In the case of a condition imposed on a venue approval under regulation 19B(12)(e) or (f) and designated as an ancillary condition under subregulation (1), each of the following must ensure the condition is implemented —
- (a) the occupier of the venue;
 - (b) a person who holds an event at the venue.

Penalty: a fine of \$5 000.

- (3) In the case of a condition imposed on a venue approval under regulation 19B(12)(g) and designated as an ancillary condition under subregulation (1), the occupier of the venue must ensure the condition is implemented.

Penalty: a fine of \$5 000.

[Regulation 19C inserted in Gazette 5 Dec 2013 p. 5708-9.]

19D. Notifiable event at approved venue

- (1) A person who proposes to hold an event at an approved venue that is a notifiable event of a type specified in the conditions of approval of the venue under regulation 19B(12)(a) must give the CEO notice of the event in accordance with this regulation.

Penalty: a fine of \$5 000.
- (2) A notice under subregulation (1) must —
 - (a) be in a form approved by the CEO; and
 - (b) be given not later than 60 days before the event is proposed to commence; and
 - (c) give details of the event including the date, starting time and ending time of the event.
- (3) Despite subregulation (2)(b), a notice may be given between 59 days and 21 days before the event to which the notice relates is proposed to commence if the notice is accompanied by a late fee of \$500.
- (4) Despite subregulation (2)(b), notice may be given less than 21 days before the event to which the notice relates is proposed to commence if —
 - (a) the CEO is satisfied that there are exceptional circumstances for the notice not being given earlier than within that period; and
 - (b) the notice is accompanied by a late fee of \$500.
- (5) The CEO may, by written notice given to a person who gives notice under subregulation (1), impose in relation to the notifiable event an ancillary condition that does not directly influence the level, duration or time of day of a noise emission.
- (6) If a notifiable event in respect of which notice has been given under subregulation (1) is held at an approved venue —
 - (a) the event is subject to the conditions imposed under regulation 19B(9)(a) that apply to a notifiable event held at the venue; and
 - (b) the event is subject to the ancillary conditions imposed under subregulation (5); and
 - (c) regulation 7 does not apply to noise resulting from the event at the venue.
- (7) If, at an approved venue during a notifiable event in respect of which notice has been given under this regulation, a condition imposed on the approval of the venue under regulation 19B(9)(a) (other than a condition designated as an ancillary condition under regulation 19C(1)) is breached —
 - (a) subregulation (6)(c) ceases to apply in relation to noise resulting from the event at the venue; and

- (b) regulation 7 has effect in relation to that event.
- (8) A person who gives the CEO a notice of a notifiable event under subregulation (1) must pay to the CEO, within the time specified by the CEO, any noise monitoring fee specified by the CEO for that event.
- (9) If a fee is not paid under subregulation (8) before the day on which the notifiable event is to be held at the venue, the venue is not an approved venue for the purpose of that event.
- (10) A person who gives the CEO notice of a notifiable event under subregulation (1) must ensure that an ancillary condition imposed under subregulation (5) in relation to the event is implemented.

Penalty for an offence under subregulation (10): a fine of \$5 000.

[Regulation 19D inserted in Gazette 5 Dec 2013 p. 5709-11.]

19E. Amendment or revocation of venue approval

- (1) The CEO may, on his or her own initiative, amend a venue approval if the CEO is satisfied that there is reasonable cause for the amendment.
- (2) The CEO may, on his or her own initiative, revoke a venue approval if the CEO is satisfied that —
 - (a) there has been a breach of a condition imposed by the CEO under regulation 19B(9)(a); or
 - (b) information contained in or supporting the application for approval of the venue was false or misleading in a material respect.
- (3) A venue approval ceases to have effect if it is revoked under this regulation.
- (4) The CEO, before exercising the power of amendment under subregulation (1) or revocation under subregulation (2), must —
 - (a) give the occupier of the venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 19B(8)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.
- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that subregulation not less than 90 days before the day on which the CEO exercises the power in question.

[Regulation 19E inserted in Gazette 5 Dec 2013 p. 5711-12.]

19F. Notice of appellable decision

- (1) In this regulation —
appellable decision has the meaning given in regulation 19G.
- (2) The CEO —
 - (a) must give a written notice of an appellable decision to the occupier of the relevant venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

[Regulation 19F inserted in Gazette 5 Dec 2013 p. 5712.]

19G. Appeals against decisions under this Division

- (1) A person aggrieved by any of the following decisions (an **appellable decision**) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —
 - (a) the approval of a venue under regulation 19B(7)(a);
 - (b) the refusal to approve a venue under regulation 19B(7)(a);
 - (c) the imposition of a condition on an approval under regulation 19B(9)(a);
 - (d) the specification under regulation 19B(9)(b) of a period as the period for which the approval has effect;
 - (e) the amendment of an approval under regulation 19B(7)(b);
 - (f) the refusal to amend an approval under regulation 19B(7)(b);
 - (g) the amendment of an approval under regulation 19E(1);
 - (h) the revocation of an approval under regulation 19E(2).
- (2) The appeal must be lodged within 21 days of publication of notice of the decision under regulation 19F(2)(c).
- (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b), (c) or (d), the decision against which that appeal is lodged continues to have effect.
- (4) Pending the determination of an appeal lodged under subregulation (1)(e), (f), (g) or (h) the decision is to be taken not to have been made.
- (5) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1) as if that appeal were an appeal referred to in section 102(1) of the Act.

[Regulation 19G inserted in Gazette 5 Dec 2013 p. 5712-13.]

Appendix 2

Sample event approval (including ancillary conditions)

LOCAL GOVERNMENT A
ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997

APPROVED EVENT

1. WHEREAS I AM SATISFIED THAT:
 - (a) Event Promoter A, proposes to hold an entertainment event that is open to the public, namely 'Event AA', to be held at Venue A (full address of Venue A) on Saturday 14 December 2013 (EVENT);
 - (b) the EVENT is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7 of the *Environmental Protection (Noise) Regulations 1997* (REGULATIONS);
 - (c) the EVENT would lose its character or usefulness if it were required to comply with that standard;
 - (d) the Chief Executive Officer of Local Government B being a local government district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 of the REGULATIONS, has no objection to the proposed conditions contained in the Schedule to this approval;

NOW I HEREBY APPROVE the EVENT, subject to the conditions contained in the Schedule to this approval, for the purposes of regulation 18 of the REGULATIONS.

2. The following conditions in the Schedule to this approval are HEREBY DESIGNATED AS ANCILLARY CONDITIONS for the purposes of regulation 19A of the REGULATIONS:
 - (a) Conditions 8, 9, 10, 11, 12 and 13 – Monitoring of sound levels
 - (b) Condition 14 – Control of sound levels
 - (c) Condition 15 - Complaint response service
 - (d) Condition 16 – Noise management plan
 - (e) Condition 17 – Monitoring and compliance reporting
 - (f) Condition 18 – Noise monitoring fee.

Dated the XX day of XXXXXX 20XX

(Signed)

CHIEF EXECUTIVE OFFICER

Local Government A

(Person delegated under section 20 of the *Environmental Protection Act 1986*)

Environmental Protection (Noise) Regulations 1997
Regulation 18

SCHEDULE

(This schedule comprises five (5) pages and one map)

In this Schedule –

approval means the approval issued under regulation 18 of the *Environmental Protection (Noise) Regulations 1997* to Event Promoter A for ‘Event AA’, to be held at Venue A, full address of Venue A, on Saturday 14 December 2013; and related sound system testing for the ‘Event AA’ (at the same location) on Friday 13 December 2013 and Saturday 14 December 2013;

CEO means the Chief Executive Officer of Local Government A;

event means ‘Event AA’ to be held at Venue A, full address of Venue A, on Saturday 14 December 2013; and the sound system testing conducted at the same location on 13 and 14 December 2013;

inspector(s) means an inspector as defined by the *Environmental Protection Act 1986*;

noise sensitive premises means a noise sensitive premises as defined by regulation 2(1) of the *Environmental Protection (Noise) Regulations 1997*;

performance(s) means an activity at the event, excluding related sound system testing, that is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7 of the *Environmental Protection (Noise) Regulations 1997*; and

unexpected incident means an incident, resulting in a substantial disruption to the event, the occurrence of which is beyond the immediate control of Event Promoter A. This means an accident or emergency, a breakdown of essential plant or equipment or the like; which directly results in the delay of a performance.

The APPROVAL is subject to the following conditions:

Starting and finishing times

1. The starting time for PERFORMANCES at the EVENT shall not be earlier than 11.00 am on 14 December 2013 and the completion time for performances shall not be later than 11.00 pm on 14 December 2013.
2. Subject to Condition 6, the finishing time for PERFORMANCES on the two main stages shall not be later than 10.30 pm on 14 December 2013.
3. The duration of the sound system tests shall not exceed one hour on 13 December 2013 and one hour on 14 December 2013.

4. The sound system tests shall be held between 2.00 pm and 4.00 pm on 13 December 2013 and not before 9.00 am on 14 December 2013.

Sound level limits

5. (i) Subject to Condition 5 (ii) the sound level at any NOISE SENSITIVE PREMISES between 11.00 am and 11.00 pm on 14 December 2013 resulting from PERFORMANCES at the EVENT, shall not exceed –

$L_{Aeq, 1min}$ level of 75dB(A); or
 $L_{Ceq, 1min}$ level of 89dB(C),

where $L_{Aeq, 1min}$ and $L_{Ceq, 1min}$ are average values taken over 1 minute, whose level contains the same energy as the fluctuating noise during that period.

- (ii) The sound levels specified in Condition 5 (i) above may be exceeded for up to 10% of the one-minute periods between 11.00 am and 11.00 pm, but shall not be exceeded by more than 3dB(A) or 3dB(C).

Unexpected incident

6. The finishing time specified in Condition 2 may be extended to not later than 10.40 pm on 14 December 2013, provided that -
 - (a) it is not reasonable and practicable to comply with the finishing time because an UNEXPECTED INCIDENT occurs during the EVENT;
 - (b) an INSPECTOR from Local Government A is advised of the UNEXPECTED INCIDENT as soon as is practicable after Event Promoter A becomes aware of the occurrence of the UNEXPECTED INCIDENT; and
 - (c) the CEO is notified in writing of the circumstances surrounding the UNEXPECTED INCIDENT within 7 days of the EVENT.

Installation of Main Stage public address system

7. (i) The public address system for the two main stages at the EVENT shall be located at the north-east side of the oval, with the public address system facing south-west.
 - (ii) The front-of-house loudspeakers of the public address system for the two main stages shall be installed so as to direct sound downwards towards the audience.

Monitoring of sound levels

- 8.* Event Promoter A shall engage acoustic consultant/s, whose qualifications and experience qualifies them for membership of the Australian Acoustical Society, for the purposes of monitoring sound levels.
- 9.* Monitoring of sound levels shall be undertaken at three (3) locations external to the venue for the duration of the EVENT.

- 10.* In addition to Condition 9, at least one (1) person referred to under Condition 8 shall be available for the duration of the EVENT to conduct roving sound level monitoring outside of the EVENT venue.
- 11.* (i) Monitoring of sound levels shall be undertaken at the mixing desk position for all stages where PERFORMANCES are scheduled to occur.
- (ii) Monitoring of sound levels at the mixing desk position for all stages where a PERFORMANCE occurs shall commence 15 minutes prior to the first scheduled commencement time of a PERFORMANCE on each stage and shall continue uninterrupted until after the completion of the last PERFORMANCE on each stage.
- 12.* For the purposes of Conditions 9, 10 and 11, the monitoring of sound levels shall be carried out using monitoring equipment that complies with regulation 22 of the *Environmental Protection (Noise) Regulations 1997*.
- 13.* For the purposes of Condition 5, the readings of sound levels recorded by the monitoring equipment shall be taken to the nearest 0.1dB, and shall be taken to have exceeded the sound levels referred to in Condition 5 if those levels are exceeded.

Control of sound levels

- 14.* Event Promoter A shall provide the names and contact telephone numbers of two persons who represent Event Promoter A and who shall be present and contactable during the course of the EVENT by Local Government A if required. The names and contact telephone numbers of those persons shall be provided to the CEO by not later than 5pm on Thursday 12 December 2013.

Complaint response service

- 15.* (i) Event Promoter A shall provide a complaint response service for persons who wish to lodge complaints regarding noise from activities associated with the EVENT.
- (ii) The complaint response service shall comprise a telephone service with at least two lines that can always be answered in person by an operator. An answering machine response is not acceptable.
- (iii) The complaint response service shall be attended at all times during the EVENT.
- (iv) Event Promoter A shall ensure that where a noise related complaint is received via the complaint line that the person as described in Condition 10 is immediately notified.
- (v) Event Promoter A shall compile and forward a report detailing all calls received by the complaint response service to the CEO by no later than 5pm on Monday 23 December 2013. The report should contain the caller's full name, address, telephone number (where those details are provided by the caller) the specific nature of the complaint and date and time of the call.

- (vi) Notice of the starting and completion times for the EVENT and the establishment of the complaint response service, its telephone number(s) and the times of operation, shall be publicised not later than Wednesday 11 December 2013 by means of a flyer distributed to all NOISE SENSITIVE PREMISES in the area shown shaded on the attached map.
- (vii) Notice of the starting and completion times for the EVENT and the establishment of the complaint response service, its telephone number(s) and the times of operation, shall be publicised –
 - a. in the edition of the 'Local Community Newspaper' immediately prior to the EVENT.

Noise management plan

- 16.* Event Promoter A shall submit a detailed Noise Management Plan to the CEO by not later than 5pm on Thursday 12 December 2013. The Noise Management Plan shall include but is not limited to the following:
- (a) the procedure on how the approval holder intends to manage the EVENT to comply with the sound levels limits listed in Condition 5 (i) and (ii) of this approval;
 - (b) the arrangements for the monitoring of sound levels in accordance with Conditions 8, 9, 10 and 11;
 - (c) the procedure for the person/s referred to in Condition 8 communicating the monitored sound levels with Event Promoter A and with the Local Government A INSPECTORS while the EVENT is underway;
 - (d) the target sound level limit at the mixing desk for each stage;
 - (e) the procedures for dealing with exceedances of the sound level limits specified in Condition 5 (i) and (ii) while the EVENT is underway;
 - (f) the procedures for dealing with noise related complaints made to the complaint response service;
 - (g) the venue layout in a suitable plan; and
 - (h) the arrangements for minimising noise disturbances by patrons following the EVENT.

Monitoring and compliance reporting

- 17.* Event Promoter A is to provide a report of the full results of the monitoring, required by Conditions 9, 10 and 11(i) in addition to copies of calibration certificates for all monitoring equipment utilised for the EVENT. The report, to be prepared by a person referred to under Condition 8, shall be delivered to the CEO by not later than 5.00 pm on Monday 23 December 2013.

Noise monitoring fee

- 18.* Whereas the CEO has determined that the noise received as a result of the EVENT at a NOISE SENSITIVE PREMISES is likely to exceed 65 dB $L_{A,Slow}$

between 0700 hours and 1900 hours or 60 dB $L_{A\text{ Slow}}$ between 1900 hours and 2200 hours on Saturday 14 December 2013, Event Promoter A is to pay the CEO a noise monitoring fee of \$1,500. The CEO specifies that the noise monitoring fee be received by not later than 5.00pm on Thursday 12 December 2013.

Dated the 2nd day of December 2013

NOTE: Conditions denoted * have been designated in this schedule as ancillary conditions for the purposes of regulation 19A of the *Environmental Protection (Noise) Regulations 1997*.

Appendix 3

Sample letter of requirement of information – venue approval and determination of assessment and processing fee

Your ref
Our ref
Phone
Fax
Email

Venue Occupier X
Street address
SUBURB WA XXXX

Dear Sir/Madam

APPLICATION FOR VENUE APPROVAL

Thank you for your application dated 12 March 2014 for approval of 'Venue Z' under regulation 19B of the *Environmental Protection (Noise) Regulations 1997* ('the Application').

Pursuant to regulation 19B(6) I require the following information to be provided to me before I can make a decision on the Application:

1. A report on a community survey carried out by a competent and independent consultant assessing community attitudes towards the types of events, numbers and times of events as proposed in the application; the survey to be a telephone survey encompassing a representative sample of occupiers of noise-sensitive premises within one kilometre of the venue.
2. A report by a competent acoustical consultant containing predictions of noise emissions from typical events of each type identified in the application, expressed as noise contours over at least the area within one kilometre of the venue.

Pursuant to regulation 19B(3) I have determined that the fee for assessing and processing the application is \$10,230. This fee is intended to enable reasonable recovery of the costs involved in the assessment and processing of the Application; it is based on the fee estimate in the attachment to this letter, as required by regulation 19B(4).

Should you wish to discuss any of the above further please contact the Manager Environmental Health.

Yours sincerely

(Signed)

CHIEF EXECUTIVE OFFICER

(Person delegated under section 20 of the *Environmental Protection Act 1986*)

24 March 2014

Att: Fee estimate for assessing and processing the application

ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997
REGULATION 19B(3)

FEE ESTIMATE FOR ASSESSING AND PROCESSING THE APPLICATION
VENUE Z

Task	Officer	Hours	Estimated Fee (\$)
Meet with applicant, initiate assessment	MEH	2	240
	SEHO	3	270
Review consultant briefs, reports	SEHO	16	1440
Administer fee provisions	SEHO	2	180
Advertise application, seek submissions	SEHO	20	1800
	MEH	2	240
	DDS	1	150
Consult DER	SEHO	4	360
	MEH	1	120
Collate submissions, formulate strategy, consult applicant	SEHO	20	1800
	MEH	4	480
	DDS	2	300
Prepare council briefing report and brief council	SEHO	8	720
	MEH	2	240
	DDS	2	300
	CEO	2	400
Prepare final notices for CEO sign-off	SEHO	8	720
	MEH	1	120
	DDS	1	150
	CEO	1	200
TOTAL ESTIMATED FEE			10 230

Notes:

- 1) CEO = Chief Executive Officer (\$200 per hour including on-costs and GST)
- 2) DDS = Director Development Services (\$150 per hour including on-costs and GST)
- 3) MEH = Manager Environmental Health (\$120 per hour including on-costs and GST)
- 4) SEHO = Senior Environmental Health Officer (\$90 per hour including on-costs and GST)

Appendix 4

Sample venue approval

**ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997
REGULATION 19B**

Approval No. 06/2014

NOTICE OF VENUE APPROVAL – VENUE Z

1. WHEREAS I AM SATISFIED THAT:
 - a) Venue Occupier X is the occupier of the venue known as Venue Z, (full address of Venue Z) ('the VENUE');
 - b) Venue Occupier X has applied for a venue approval in accordance with regulation 19B(2) of the *Environmental Protection (Noise) Regulations 1997* ('the REGULATIONS');
 - c) the VENUE is a venue at which a number of notifiable events may be held for the purposes of regulation 19B(1) of the REGULATIONS;
 - d) the persons specified in regulation 19B(8) of the REGULATIONS have been given a reasonable opportunity to make a submission on whether or not the VENUE should be approved,

NOW I HEREBY APPROVE the VENUE, subject to the conditions contained in the Schedule to this approval, for the purposes of regulation 19B of the REGULATIONS ('VENUE APPROVAL').

2. The VENUE APPROVAL has effect for a period of three (3) years from the date of publication in the *Gazette*.
3. The following conditions in the Schedule to this approval are HEREBY DESIGNATED AS ANCILLARY CONDITIONS for the purposes of regulation 19C of the REGULATIONS:
 - i. Condition 4. Complaint response service
 - ii. Condition 5. Advice to residents
 - iii. Condition 6. Community consultation
 - iv. Condition 8. Control of sound levels.

Dated the 14th day of July 2014

(Signed)

CHIEF EXECUTIVE OFFICER

Local Government A

(Person delegated under section 20 of the *Environmental Protection Act 1986*)

Environmental Protection (Noise) Regulations 1997
Regulation 19B SCHEDULE

(This schedule comprises six (6) pages and one map)

In this schedule –

CEO means the Chief Executive Officer of Local Government A;

condition/s means a condition of the venue approval contained within this Schedule;

financial year means the period of twelve months ending on 30 June;

inspector means an inspector as defined by the *Environmental Protection Act 1986*;

major event means a notifiable event that meets the requirements of conditions 9, 10 and 11;

minor event means a notifiable event that meets requirements of conditions 17, 18 and 19;

moderate event means a notifiable event that meets the requirements of conditions 13, 14 and 15;

notifiable event/s means a notifiable event as defined by regulation 19B(1) of the regulations;

noise sensitive premises means a noise sensitive premises as defined by the regulations;

notice of ancillary conditions means a notice issued under regulation 19D(5) of the regulations;

performance(s) means an activity at a notifiable event that is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7 of the *Environmental Protection (Noise) Regulations 1997*;

regulations means the *Environmental Protection (Noise) Regulations 1997*;

unexpected incident means an incident, resulting in a substantial disruption to an event, the occurrence of which is beyond the immediate control of Venue Occupier X and/or a person who holds a notifiable event at the venue. This means an accident or emergency, a breakdown of essential plant or equipment or the like; which directly results in the delay of a performance; and

venue approval means an approval issued under regulation 19B of the *Environmental Protection (Noise) Regulations 1997* to Venue Occupier X as occupiers of Venue Z.

The VENUE APPROVAL is subject to the following conditions:

Sound system testing

1. The duration of the sound system tests shall not exceed one hour on the day before a NOTIFIABLE EVENT and one hour on the day of a NOTIFIABLE EVENT.
2. The sound system tests shall be held between 2.00 pm and 4.00 pm on the day before a NOTIFIABLE EVENT and not before 9.00 am on the day of a NOTIFIABLE EVENT.

Unexpected incident

3. The finishing time specified in conditions 10, 11, 14, 15, 18 and 19 may be extended to not later than ten (10) minutes past the required finishing time on the day of a NOTIFIABLE EVENT, provided that -
 - (a) it is not reasonable and practicable to comply with the finishing time because an UNEXPECTED INCIDENT occurs during a NOTIFIABLE EVENT;
 - (b) an INSPECTOR from the Local Government A is advised of the UNEXPECTED INCIDENT as soon as is practicable after Venue Occupier X becomes aware of the occurrence of an UNEXPECTED INCIDENT; and
 - (b) the CEO is notified in writing of the circumstances surrounding the UNEXPECTED INCIDENT within 7 days of the NOTIFIABLE EVENT.

Complaint response service

- 4.*
 - (i) Venue Occupier X or the person making notification of a NOTIFIABLE EVENT shall provide a complaint response service for persons who wish to lodge complaints regarding noise from activities associated with a NOTIFIABLE EVENT.
 - (ii) The complaint response service shall comprise a telephone service with at least two lines that can always be answered in person by an operator. An answering machine response is not acceptable.
 - (iii) The complaint response service shall be attended at all times during a NOTIFIABLE EVENT.
 - (iv) Venue Occupier X or the person making notification of a NOTIFIABLE EVENT shall compile and forward a report detailing all calls received by the complaint response service to the CEO by no later than five (5) working days after a NOTIFIABLE EVENT. The report should contain the caller's full name, address, telephone number (where those details are provided by the caller) the specific nature of the complaint and date and time of the call.

Advice to residents

- 5 * Notice of the starting and completion times for a NOTIFIABLE EVENT and the establishment of the complaint response service, its telephone number(s) and the times of operation, shall be publicised by Venue Occupier X or the person making notification of an event, not later than four (4) days prior to the date of a scheduled NOTIFIABLE EVENT -
- (a) in the 'Local Community Newspaper'; and
 - (b) by means of a flyer distributed to all NOISE SENSITIVE PREMISES in the area shown shaded on the attached map.

Community consultation

- 6.*
- (i) Venue Occupier X is to conduct a community survey to assess community attitudes to NOTIFIABLE EVENTS, to be conducted once every two years after commencement of the VENUE APPROVAL, between 1 May and 30 June in the survey year.
 - (ii) The survey respondents shall be contacted by a recognised community survey agency and shall be based on telephone contact with a representative sample of occupiers of all NOISE SENSITIVE PREMISES within one kilometre of the venue.
 - (iii) A report on the survey is to be forwarded to the CEO by not later than 5.00 pm on 31 August in the survey year.

Event approval under regulation 18

7. Where the CEO approves an additional event under regulation 18 of the REGULATIONS that is outside this schedule of conditions of the VENUE APPROVAL in any given FINANCIAL YEAR, and which would otherwise be similar in nature to a MAJOR EVENT under this schedule of conditions; no more than two (2) MODERATE EVENTS are to be held in that same FINANCIAL YEAR.

Control of sound levels

- 8.* Venue Occupier X shall provide the names and contact telephone numbers of two persons who represent Venue Occupier X and who shall be present and contactable during the course of any NOTIFIABLE EVENT by the Local Government A if required. The names and contact telephone numbers of those persons shall be provided to the CEO by 5pm on the Friday prior to the date of any NOTIFIABLE EVENT.

MAJOR EVENT

Maximum duration of major events

9. The maximum duration for PERFORMANCES and/or music associated with a MAJOR EVENT is no longer than twelve (12) hours.

Starting and finishing times

10. The starting time for PERFORMANCES at any MAJOR EVENT shall not be earlier than 10.00 am and the completion time for PERFORMANCES at any MAJOR EVENT shall not be later than 11.00 pm on the same day.

Sound level limits

11. (i) Subject to condition 3 and 11(ii), the sound level received at any NOISE SENSITIVE PREMISES resulting from music associated with a MAJOR EVENT, shall not exceed –

$L_{Aeq, 1min}$ level of 75dB(A);

$L_{Ceq, 1min}$ level of 89dB(C);

where $L_{Aeq, 1min}$ and $L_{Ceq, 1min}$ are average values taken over one minute, whose level contains the same energy as the fluctuating noise during that period.

- (ii) The sound levels specified in condition 11(i) above may be exceeded for up to 10% of the one-minute periods between 10.00 am and 11.00 pm, but shall not be exceeded by more than 3dB(A) and 3dB(C).
- (iii) Where monitoring of sound levels is required by a NOTICE OF ANCILLARY CONDITIONS for a NOTIFIABLE EVENT, it shall be carried out using monitoring equipment that complies with regulation 22 of the REGULATIONS. For the purposes of condition 11(i) the readings of sound levels recorded by the monitoring equipment shall be taken to the nearest 0.1dB, and shall be taken to have exceeded the sound levels referred to in condition 11(i) if those levels are exceeded by more than 0.2dB.

Maximum number of major events

12. No more than two (2) MAJOR EVENTS are to be held per FINANCIAL YEAR.

MODERATE EVENT

Maximum duration of moderate events

13. The maximum duration for PERFORMANCES and/or music associated with a MODERATE EVENT is no longer than five (5) hours.

Starting and finishing times

14. The starting time for PERFORMANCES at any MODERATE EVENT shall not be earlier than 10.00 am and the completion time for PERFORMANCES at any MODERATE EVENT shall not be later than 11.00 pm on the same day.

Sound level limits

15. (i) Subject to condition 3 and 15(ii), the sound level received at any NOISE SENSITIVE PREMISES resulting from music associated with a MODERATE EVENT shall not exceed –

$L_{Aeq, 1min}$ level of 75dB(A);
 $L_{Ceq, 1min}$ level of 89dB(C);

where $L_{Aeq, 1min}$ and $L_{Ceq, 1min}$ are average values taken over one minute, whose level contains the same energy as the fluctuating noise during that period.

- (ii) The sound levels specified in condition 15(i) above may be exceeded for up to 10% of the one-minute periods between 10.00 am and 11.00 pm, but shall not be exceeded by more than 3dB(A) and dB(C).
- (iii) Where monitoring of sound levels is required by a NOTICE OF ANCILLARY CONDITIONS for a NOTIFIABLE EVENT, it shall be carried out using monitoring equipment that complies with regulation 22 of the REGULATIONS. For the purposes of condition 15(i) the readings of sound levels recorded by the monitoring equipment shall be taken to the nearest 0.1dB, and shall be taken to have exceeded the sound levels referred to in condition 15(i) if those levels are exceeded by more than 0.2dB.

Maximum number of moderate events

- 16. Subject to condition 6, no more than four (4) MODERATE EVENTS are to be held per FINANCIAL YEAR.

MINOR EVENT

Maximum duration of minor events

- 17. The maximum duration for PERFORMANCES and/or music associated with a MINOR EVENT is no longer than four (4) hours.

Starting and finishing times

- 18. The starting time for PERFORMANCES at any MINOR EVENT shall not be earlier than 10.00 am and the completion time for PERFORMANCES at any MINOR EVENT shall not be later than 9.00 pm on the same day.

Sound level limits

- 19. (i) Subject to conditions 3 and 19(ii), the sound level received at any NOISE SENSITIVE PREMISES resulting from music associated with a MINOR EVENT, shall not exceed –

$L_{Aeq, 1min}$ level of 72 dB(A);
 $L_{Ceq, 1min}$ level of 86 dB(C);

where $L_{Aeq, 1min}$ and $L_{Ceq, 1min}$ are average values taken over one minute, whose level contains the same energy as the fluctuating noise during that period.

- (ii) The sound levels specified in condition 19(i) above may be exceeded for up to 10% of the one-minute periods between 10.00 am and

9.00 pm, but shall not be exceeded by more than 3 dB(A) and 3 dB(C).

- (iii) Where monitoring of sound levels is required by a NOTICE OF ANCILLARY CONDITIONS for a NOTIFIABLE EVENT, it shall be carried out using monitoring equipment that complies with regulation 22 of the REGULATIONS. For the purposes of condition 19(i) the readings of sound levels recorded by the monitoring equipment shall be taken to the nearest 0.1dB, and shall be taken to have exceeded the sound levels referred to in condition 19(i) if those levels are exceeded by more than 0.2dB.

Maximum number of minor events

20. No more than eight (8) MINOR EVENTS are to be held per FINANCIAL YEAR.

NOTE: Conditions denoted * have been designated in this schedule as ancillary conditions for the purposes of regulation 19C of the *Environmental Protection (Noise) Regulations 1997*.

Dated the 14th day of July 2014

Appendix 5

Sample gazettal notice of an appellable decision

**ENVIRONMENTAL PROTECTION ACT 1986
NOTICE OF APPELLABLE DECISION**

It is hereby notified for public information that the Chief Executive Officer of Local Government A, acting under delegation from the CEO under the *Environmental Protection Act 1986*, has made the following appellable decisions pursuant to Division 7 of the *Environmental Protection (Noise) Regulations 1997*, in relation to an application for approval of a sporting, cultural or entertainment venue, namely the 'Notice of Venue Approval – Venue Z' dated 14 July 2014:

- (a) approval of the venue;
- (b) the imposition of conditions on the approval of the venue; and
- (c) the specification of the period of three (3) years as the period for which the approval has effect.

Copies of the approval notice, including the conditions of the approval, are available from Local Government A's offices at full address of Local Government A, or from Local Government A's website: www.localgovernmenta.wa.gov.au.

Any person who is aggrieved by any of the above decisions may lodge an appeal.

An appeal must be lodged within 21 days from the date of publication of this notice in the *Gazette*. The grounds for the appeal must be clearly stated.

Appeals are to be addressed to the Minister for the Environment and lodged with –

**Appeals Convenor for the Environmental Protection Act
Level 22, Forrest Centre
221 St Georges Terrace
PERTH WA 6000**

Appeals can also be lodged by hand delivery, by email to admin@appealsconvenor.wa.gov.au or by fax to (08) 6467 5199.

The appeal must be accompanied by a \$50 fee. For further information about appeals, see 'Types of appeal, Noise Regulations' on the Appeals Convenor's website www.appealsconvenor.wa.gov.au or phone (08) 6467 5190.

Dated the 21st day of July 2014

(Name)

CHIEF EXECUTIVE OFFICER
Local Government A

Appendix 6

Sample notice of a notifiable event

INDIVIDUAL PERSON/COMPANY MAKING THE NOTIFICATION

CONTACT NAME:	Contact Name		
COMPANY:	Event Promoter B	ABN:	XXX XXX XXX
POSITION:	Position		
ADDRESS:	Address		
CONTACT NUMBER:	(XX) XXX XXXX		
EMAIL:	XXX@XXXX.XXXX.XX		

APPROVED VENUE DETAILS

VENUE NAME:	Venue Z
VENUE ADDRESS:	Venue Z address in full

NOTIFIABLE EVENT

NAME OF EVENT	Event ZZ		
TYPE OF EVENT (AS DEFINED BY VENUE APPROVAL):	Minor event		
DATE OF EVENT:	Saturday 18 October 2014		
STARTING TIME:	5.00 pm	ENDING TIME:	9.00 pm
EXPECTED PATRONAGE:	5,000		
GENERAL DESCRIPTION OF THE EVENT:	e.g. number of stages, type of music		
	Event ZZ is a short duration event featuring two bands, using a single stage. There is a headline act for the event and one support band. This event has been previously held at Venue A.		

NOTIFICATION

DATE OF NOTIFICATION:	Friday 1 August 2014
NOTIFICATION IS BEING GIVEN: (please tick the relevant response)	
<input checked="" type="checkbox"/> NOT LATER THAN 60 DAYS BEFORE THE EVENT;	
<input type="checkbox"/> BETWEEN 59 DAYS AND 21 DAYS BEFORE THE EVENT*; OR	
<input type="checkbox"/> LESS THAN 21 DAYS BEFORE THE EVENT**	
* IF NOTIFICATION IS GIVEN LESS THAN 60 DAYS BEFORE THE EVENT, THEN THIS NOTIFICATION MUST BE ACCOMPANIED BY A LATE FEE OF \$500.	
** NOTIFICATION GIVEN LESS THAN 21 DAYS BEFORE THE EVENT MUST DETAIL EXCEPTIONAL CIRCUMSTANCES FOR THE NOTICE NOT BEING GIVEN EARLIER THAN THAT PERIOD AND BE ACCOMPANIED BY A LATE FEE OF \$500. ACCEPTANCE OF THE NOTIFICATION IS AT THE CEO'S DISCRETION.	

CONDITIONS OF VENUE APPROVAL

A notifiable event is subject to the conditions imposed under regulation 19B(9)(a) of the *Environmental Protection (Noise) Regulations 1997*, that apply to a notifiable event held at the venue (the conditions of the venue approval).

I have received a copy and understand the conditions of the venue approval: YES NO

The notifiable event may also be subject to a noise monitoring fee and ancillary conditions imposed under regulation 19D(5). In this case, the CEO will provide written notice of the ancillary conditions to the person making the notification prior to the event, in addition to a tax invoice for the cost of noise monitoring.

Event Promoter B Signed _____

NAME AND POSITION OF PERSON AUTHORISED TO MAKE THE NOTIFICATION ON BEHALF OF THE COMPANY (IF APPLICABLE)

Appendix 7

Sample covering letter and notice of ancillary conditions for a notifiable event

Your ref
Our ref
Phone
Fax
Email

Event Promoter B
Street address
SUBURB WA XXXX

Dear Sir/Madam

NOTICE OF ANCILLARY CONDITIONS FOR A NOTIFIABLE EVENT

Thank you for your notice of a notifiable event dated 1 August 2014.

Please find attached a notice of ancillary conditions that apply to the notifiable event; 'Event ZZ' to be held at Venue Z (full address of Venue Z) on Saturday 18 October 2014 (the notifiable event).

The notifiable event is also subject to the conditions of venue approval granted to the occupier of Venue Z, Venue Occupier X, under regulation 19B of the *Environmental Protection (Noise) Regulations 1997* (the Regulations). Please ensure all conditions are strictly adhered to.

Regulation 19D(8) of the Regulations requires payment of a noise monitoring fee specified by the Chief Executive Officer, prior to the event. As such, please find attached an invoice in the amount of \$1,500 (based on preparation, travel, monitoring and collating of results by two officers over a total of 10 hours at \$150.00 per hour) which must be paid by 5.00 pm Friday 17 October 2014. This fee reflects the costs incurred by Local Government A to monitor this event's noise emissions.

Yours sincerely

(Signed)

CHIEF EXECUTIVE OFFICER

(Person delegated under section 20 of the *Environmental Protection Act 1986*)

8 August 2014

Att: Notice of ancillary conditions

Att: Invoice for Noise Monitoring Fee

**ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997
REGULATION 19D(5)**

Notice No. 01/2014

**NOTICE OF ANCILLARY CONDITIONS FOR A MINOR EVENT
'EVENT ZZ' – VENUE Z**

WHEREAS I AM SATISFIED THAT:

Event Promoter B, (full address of Event Promoter B), has given notice of an event, at a venue approved under regulation 19B of the *Environmental Protection (Noise) Regulations 1997* (the Regulations), that is a notifiable event of a type specified in the conditions of approval of the venue; namely Event ZZ, to be held at Venue Z on Saturday 18 October 2014 (the notifiable event),

NOW I HEREBY GIVE NOTICE THAT the conditions in the Schedule to this notice are IMPOSED AS ANCILLARY CONDITIONS for the purposes of regulation 19D(5) of the Regulations.

Dated the 8th day of August 2014

(Signed)

CHIEF EXECUTIVE OFFICER

Local Government A

(Person delegated under section 20 of the *Environmental Protection Act 1986*)

Environmental Protection (Noise) Regulations 1997
Regulation 19D(5) SCHEDULE

(This schedule comprises two (2) pages)

In this schedule –

ancillary condition/s means ancillary conditions for the purposes of regulation 19D(5) of the *Environmental Protection (Noise) Regulations 1997*;

CEO means the Chief Executive Officer of Local Government A;

inspector/s means an inspector as defined by the *Environmental Protection Act 1986*;

notice of ancillary conditions means a notice issued under regulation 19D(5) of the *Environmental Protection (Noise) Regulations 1997*;

notifiable event means ‘Event ZZ’ to be held at Venue Z on Saturday 18 October 2014; and the sound system testing conducted at the same location on Friday 17 October 2014;

performance(s) means an activity at a notifiable event that is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7 of the *Environmental Protection (Noise) Regulations 1997*;

Regulations means *Environmental Protection (Noise) Regulations 1997*; and

venue approval means the approval issued under regulation 19B of the Regulations to Venue Occupier X as occupiers of Venue Z.

The NOTICE imposes the following ANCILLARY CONDITIONS:

Monitoring of sound levels

1. Event Promoter B shall engage acoustic consultant/s, whose qualifications and experience qualifies them for membership of the Australian Acoustical Society, for the purposes of monitoring sound levels.
2. Monitoring of sound levels shall be undertaken at three (3) locations external to the venue for the duration of the NOTIFIABLE EVENT.
3. In addition to Condition 2, at least one (1) person referred to under Condition 1 shall be available for the duration of the NOTIFIABLE EVENT to conduct roving sound level monitoring outside of the NOTIFIABLE EVENT venue.
4.
 - (i) Monitoring of sound levels shall be undertaken at the mixing desk position for all stages where PERFORMANCES are scheduled to occur.
 - (ii) Monitoring of sound levels at the mixing desk position for all stages where a PERFORMANCE occurs shall commence 15 minutes prior the first scheduled commencement time of a PERFORMANCE on each stage and shall continue uninterrupted until after the completion of the last PERFORMANCE on each stage.

Noise management plan

5. Event Promoter B shall submit a detailed Noise Management Plan to the CEO by not later than 5.00 pm on Wednesday 15 October 2014. The Noise Management Plan shall include but is not limited to the following:
 - (a) the procedure on how Event Promoter B intends to manage the NOTIFIABLE EVENT to comply with the sound levels limits required by Condition 19(i) of the VENUE APPROVAL;
 - (b) the arrangements for the monitoring of sound levels in accordance with Conditions 1, 2, 3 and 4;
 - (c) the procedure for the person/s referred to in Condition 1 communicating the monitored sound levels with Event Promoter B and with Local Government A's INSPECTORS while the NOTIFIABLE EVENT is underway;
 - (d) the target sound level limit at the mixing desk for the stage;
 - (e) the procedures for dealing with exceedances of the sound level limits specified in Condition 19(ii) of the VENUE APPROVAL while the NOTIFIABLE EVENT is underway;
 - (f) the procedures for dealing with noise related complaints made to the complaint response service as required by Condition 4 the VENUE APPROVAL;
 - (g) the venue layout in a suitable plan; and
 - (h) the arrangements for minimising noise disturbances by patrons following the NOTIFIABLE EVENT.

Monitoring and compliance reporting

6. Event Promoter B is to provide a report of the full results of the monitoring, required by Conditions 2, 3 and 4(i) in addition to copies of calibration certificates for all monitoring equipment utilised for the NOTIFIABLE EVENT. The report, to be prepared by a person referred to under Condition 1, shall be delivered to the CEO by not later than 5.00 pm on Friday 24 October 2014.

Control of sound levels

7. Event Promoter B shall provide the names and contact telephone numbers of two persons who represent Event Promoter B and who shall be present and contactable during the course of the NOTIFIABLE EVENT by Local Government A if required. The names and contact telephone numbers of those persons shall be provided to the CEO by not later than 5.00 pm on Wednesday 15 October 2014.