



Brisbane City Council

**AMPLIFIED MUSIC VENUES
LOCAL LAW 2006**



Brisbane City Council

AMPLIFIED MUSIC VENUES LOCAL LAW 2006

made under the
Local Government Act 1993

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Part 1 Preliminary

1 Short title

This local law may be cited as the *Amplified Music Venues Local Law 2006*.

2 Object

The object of this local law is to regulate noise from amplified music in core areas of special entertainment precincts of the City.

3 Definitions

The dictionary in Schedule 3 defines particular words used in this local law.

4 Application

This local law—

- (a) applies to noise from amplified music at premises in a core area of a special entertainment precinct; and
- (b) is in addition to and not in derogation of any other law.¹

5 Amplified music venues

An *amplified music venue* is —

- (a) premises that are relevant licensed premises under section 956G(6) of the *Local Government Act 1993*, to which section 112B(1)(a) of the *Liquor Act 1992* applies; or
- (b) if (a) does not apply, premises for which playing amplified music is a principal element of a core business conducted at the premises; and
- (c) which are situated in a core area of a special entertainment precinct.

¹ Noise levels within amplified music venues may be regulated by other legislation, the administration of which may impose requirements other than those under this local law. *Example – Workplace Health and Safety Act 1995.*

Part 2 Control of amplified music venues

Division 1 Permits

6 Requirement for permit

- (1) After 90 days from the commencement date of this local law, a person must not operate an amplified music venue unless that person holds a current Amplified Music Venue Permit.

Maximum penalty—500 penalty units.

- (2) A person who is the holder of, or is acting under, an Amplified Music Venue Permit must produce that permit together with the permit conditions upon request by an authorised person.

Maximum penalty—25 penalty units.

- (3) Subsection (4) applies in a core area of a special entertainment precinct to—

- (a) the occupier of non-residential premises; and
- (b) any person who manages premises open to the public; and
- (c) any person who keeps premises open to the public;

who is not required to hold an Amplified Music Venue Permit.

- (4) A person mentioned in subsection (3) must not cause or permit noise from amplified music to be emitted from the premises at a level in excess of LCEq 65dB.

Maximum penalty: for a first offence—50 penalty units

for a second or subsequent offence—500 penalty units.

7 Application for permit

- (1) A person may apply for an Amplified Music Venue Permit by lodging all of the following with Council—

- (a) an application made in the approved form;
- (b) a detailed statement of the nature of the entertainment to be provided at the amplified music venue and the dates and hours when the amplified music venue is to be open to the public;
- (c) if the applicant is not the registered proprietor of the land upon which the amplified music venue is situated, the written consent of the registered proprietor;
- (d) if the venue is licensed premises, a copy of the licence together with the licence conditions;

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- (e) if the venue has a current Amplified Music Venue Permit, a copy of the permit together with the permit conditions;
 - (f) evidence of the suitability of the permit holder to operate the venue;
 - (g) if the permit holder is not a person mentioned in sub-paragraph (i) or (ii)—
 - (i) the person who keeps the amplified music venue open to the public; and
 - (ii) any person who manages the amplified music venue;evidence of the suitability of each of the persons performing those functions at the venue, to do so;
 - (h) the prescribed fees.
- (2) Before deciding the application, Council may give the applicant an information request requiring the applicant to provide any further information or documents that Council reasonably requires to decide the application.
- (3) Without limiting the generality of subsection 2, an information request may require the applicant to provide any or all of the following —
- (a) details and drawings of buildings and other structural elements of the amplified music venue;
 - (b) details and drawings of the layout, design, and internal appearance of the amplified music venue and the positioning of any sound amplification equipment or device;
 - (c) an acoustic report prepared by a suitably qualified person calculating the maximum internal levels of amplified music which can be played at the venue in order to satisfy the criteria for external noise set out in Schedule 1.
- (4) An information request must state a reasonable period of at least 28 days for the applicant to provide the further information or documents.
- (5) The applicant is taken to have withdrawn the application, if the applicant does not comply with an information request within the stated period.
- (6) An application for a permit is not properly made until the applicant has complied with all the requirements of this section.
- (7) An applicant who provides information of a false or misleading nature with their application commits an offence against this local law.
- Maximum penalty for subsection (7)—100 penalty units.

8 Criteria for approval of application of Amplified Music Venue Permit

- (1) Council must consider every application having regard to—
 - (a) whether the amplified music venue may be lawfully used for the purpose specified in the application; and

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- (b) whether it is reasonably practicable to set permit conditions for internal levels of noise from amplified music played at the venue so that the criteria for external noise emissions prescribed in Schedule 1 will be satisfied; and
 - (c) whether the permit holder is a suitable person to perform their function at the amplified music venue; and
 - (d) if the permit holder is not a person mentioned in sub-paragraph (i) or (ii)—
 - (i) the person who keeps the amplified music venue open to the public; and
 - (ii) any person who manages the amplified music venue;whether each of the persons performing those functions are suitable to perform their functions at the amplified music venue.
- (2) In deciding whether a person is suitable, Council may have regard to the following matters—
- (a) whether the person, or if the person is a corporation, an executive officer of the corporation, has a conviction for a relevant offence, other than a spent conviction; and
 - (b) whether the person, or if the person is a corporation, an executive officer of the corporation—
 - (i) held a permit under this local law, or a licence or registration or permit under a related law, that was suspended or cancelled; or
 - (ii) has been refused a permit under this local law or a licence or registration or permit under a related law.
- (3) In deciding whether internal levels of noise from amplified music played at the venue can be conditioned so that the criteria for external emissions of noise from amplified music prescribed in Schedule 1 will be satisfied, Council may have regard to how the internal levels of noise will be attenuated by—
- (a) the design and construction of the buildings and structural elements of the amplified music venue; and
 - (b) the layout, and internal design, of the amplified music venue; and
 - (c) the positioning of any sound amplification equipment or device at the amplified music venue.
- (4) In considering an application, Council must also have regard to any or all of the following —
- (a) if the venue is licensed premises, the conditions of the licence;
 - (b) whether special restrictions are occasioned by public holidays (e.g. Easter, Anzac Day, Christmas Day);
 - (c) any valid complaints previously made about noise emissions from the venue;
 - (d) the characteristics of the amplified music being emitted from the venue (e.g. repetitive low frequency bass beat);

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- (e) any relevant Council plans, standards, agreements or requirements.

9 Determination of application

- (1) Council may—
 - (a) approve the application; or
 - (b) approve the application subject to conditions; or
 - (c) require the applicant to submit a noise management plan for approval by Council before further considering the application; or
 - (d) refuse the application.
- (2) If Council approves the application, it must issue a permit.
- (3) If Council refuses the application, it must advise the applicant in writing of the grounds for refusal.

10 Noise management plans

- (1) A noise management plan permits an amplified music venue to play amplified music at internal levels that may not satisfy the criteria for external noise emissions prescribed in Schedule 1.
- (2) A noise management plan must —
 - (a) list actions which the applicant will take to minimise the emission of noise from amplified music at the venue during the period of the plan; and
 - (c) state a timetable for carrying out the actions; and
 - (d) make provision for monitoring and recording compliance with the plan.
- (3) Without limiting the generality of subsection (2), a noise management plan may address matters such as—
 - (a) the location and height of a stage; and
 - (b) the location and height of the speakers; and
 - (c) the direction of the speakers; and
 - (d) the closure of doors and windows; and
 - (e) details of the sound system; and
 - (f) measurement procedures; and
 - (g) hours of operation.
- (4) A noise management plan commences and terminates on the same dates as the Amplified Music Venue Permit for the venue commences and terminates.

11 Term of permit

A permit commences and terminates on the dates stated in the permit.

12 Permit conditions

Without limiting the power to impose conditions that Council has under this local law, permit conditions may do any or all of the following—

- (a) set internal levels² of noise from amplified music³ played at the amplified music venue;
- (b) identify features of the internal layout and design of the amplified music venue which may not be altered without Council's consent when amplified music is being played;
- (c) require the permit holder to install and operate noise limiting devices;
- (d) require the permit holder to carry out and record noise monitoring;
- (e) require the permit holder to provide noise monitoring records upon request by an authorised person;
- (f) require the permit holder to develop and implement a noise management plan.

13 Variation of conditions of permit by application

- (1) The holder of an Amplified Music Venue Permit may at any time apply to Council to amend a condition of the permit.
- (2) An amendment application must be—
 - (a) made in the approved form; and
 - (b) supported by enough information to allow Council to decide the application; and
 - (c) accompanied by the prescribed fee.
- (3) Before deciding the application, Council may give the applicant an information request requiring the applicant to provide any further information or documents that Council reasonably requires to decide the application.
- (4) An information request must state a reasonable period of at least 28 days for the applicant to provide the further information or documents.

² In accordance with sections 8(1)(b) and 8(3), these levels will be determined by an assessment of the capacity of the venue to meet the criteria for external emissions prescribed in Schedule 1.

³ Noise levels within amplified music venues may be regulated by other legislation, the administration of which may impose requirements other than those under this local law. *Example – Workplace Health and Safety Act 1995.*

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- (5) The applicant is taken to have withdrawn the application, if the applicant does not comply with an information request within the stated period.
 - (6) In deciding whether to grant or refuse the application, Council may have regard to—
 - (a) the permit holder's ability to comply with the conditions of the permit; and
 - (b) the criteria for approval set out in section 8(3) and (4) of this local law.
 - (7) Council may—
 - (a) grant the application; or
 - (b) refuse the application.
 - (8) If Council decides to grant the application it must give the permit holder a new permit showing changed conditions.
 - (9) If Council decides to refuse the application it must advise the permit holder of the reasons for the refusal.

14 Variation of conditions of permit by Council

- (1) Council may by notice⁴ in writing to the permit holder, add, vary or revoke a permit condition whenever Council considers it necessary or appropriate.
- (2) When giving a notice under subsection (1), Council must allow the permit holder a period stated in the notice to make written representations to Council about the proposed variation of permit condition.
- (3) Upon consideration of the representations made under subsection (2), Council may decide to add, vary or revoke a permit condition as appropriate by notice to the permit holder.
- (4) An addition, variation or revocation takes effect from the time specified in the notice.

15 Compliance with conditions of permit

- (1) This section applies to a person who is the holder of, or is acting under, an Amplified Music Venue Permit.

⁴ See *Acts Interpretation Act 1954*: section 39 - Service of Documents; and section 39A - Meaning of Service by Post etc.

- (2) The person must not contravene a condition of the permit.

Maximum penalty—50 penalty units.

16 Ensuring conditions complied with

- (1) The holder of an Amplified Music Venue Permit must ensure everyone acting under the permit complies with the conditions of the permit.

- (2) If a person acting under the permit commits an offence against section 15, the permit holder also commits an offence, namely, the offence of failing to ensure the other person complies with the conditions.

Maximum penalty—50 penalty units.

- (3) Evidence that the other person has been convicted of an offence against section 15 while acting under the permit is evidence that the permit holder committed the offence of failing to ensure the other person complies with the conditions.

- (4) It is a defence for the permit holder to prove that—

- (a) the permit holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the conditions; and
- (b) the offence was committed without the permit holder's knowledge; and
- (c) the permit holder could not, by the exercise of reasonable diligence, have stopped the commission of the offence.

- (5) In this section, “**convicted of an offence**” includes paying a prescribed infringement notice penalty for the offence.

17 Renewal of noise management plan

- (1) The holder of an Amplified Music Venue Permit may apply to have a Noise Management Plan for the venue renewed at the same time as the application to renew the permit is made.

- (2) In deciding whether to renew a Noise Management Plan Council may have regard to any valid complaints made about noise from amplified music played at the venue during the term of the Noise Management Plan.

- (3) Council may—

- (a) renew the noise management plan; or
- (b) vary the noise management plan; or
- (c) refuse to renew the noise management plan.

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- (4) If Council varies the noise management plan or refuses to renew the Noise Management Plan it must advise the applicant in writing of the reasons for the variation or refusal.

18 Notification of operators and managers

The permit holder must notify Council in writing within 7 days if there is any change in the identity of—

- (a) the person who keeps the amplified music venue open to the public; and
- (b) any person who manages the amplified music venue.

Maximum penalty—25 penalty units.

19 Renewal of permit

- (1) The holder of an Amplified Music Venue Permit must apply to have that permit renewed for a further term from one day after the date of expiry of the current permit.
- (2) Renewal will not be granted unless the approved application form and the prescribed fee are lodged with Council at least 21 working days prior to expiry of the current permit.

20 Surrender of permit

- (1) A permit holder may at any time surrender the permit by written notice to Council in the approved form.
- (2) The surrender of the permit will take effect—
 - (a) on the day in which the notice is given; or
 - (b) if a later date is specified in the notice - on the later date.

Division 2 Noise measurement

21 Measurement of noise emissions

- (1) In Schedule 1—
 - (a) LC_{eqT} is the C-weighted equivalent continuous sound pressure level during measurement time T, where T equals 3 minutes; and
 - (b) LL_{eqT} is the un-weighted equivalent continuous sound pressure level during measurement time T, where T equals 3 minutes.
- (2) Compliance with a noise level specified in a permit condition will be determined by noise measurements carried out by an authorised person inside the amplified

music venue at the measurement point specified in the permit.

Division 3 Enforcement

22 Oral compliance direction

- (1) If, in the opinion of an authorised person, a person is engaging in conduct that is, or is preparatory to, a contravention of a requirement of this local law, the authorised person may orally direct that person to do any one or more of the following—
 - (a) stop the conduct;
 - (b) take specified action to remedy the contravention.
- (2) The authorised person may also give the oral direction to—
 - (a) the permit holder; and
 - (b) the person who keeps the amplified music venue open to the public; and
 - (c) any person who manages the amplified music venue.
- (3) Unless the person has a reasonable excuse, the person must comply with the direction immediately.
Maximum penalty—50 penalty units.
- (4) A direction may be given under this section in addition to any other action prescribed by any Act, local law, or other statutory instrument.

23 Compliance notice

- (1) If, in the opinion of an authorised person, a person has contravened, or is contravening, a requirement of this local law, an authorised person may give to any one or more of the persons named in subsection (3) a written notice (a “**compliance notice**”) under this section.
- (2) A compliance notice may—
 - (a) if the contravention is of a continuing or recurrent nature, require the person to stop the contravention within a time specified in the notice.
 - (b) whether or not the contravention is of a continuing or recurrent nature, require the person to take specified action, within a time or times specified in the notice, to remedy the contravention.
- (3) A compliance notice may be given to—
 - (a) the permit holder; and
 - (b) the person who keeps the amplified music venue open to the public; and

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- (c) any person who manages the amplified music venue; and
 - (d) a person who does not comply with an oral direction.
- (4) A notice may be given under this section in addition to any other action prescribed by any Act, local law, or other statutory instrument.
- (5) A compliance notice may be served personally or by post⁵.
- (6) A person must comply with a notice under this section.
Maximum penalty—500 penalty units.

24 Revocation or suspension of Amplified Music Venue Permit

- (1) Council may, at any time, revoke or suspend an Amplified Music Venue Permit for any reason which, in the opinion of Council, justifies the revocation.
- (2) Without limiting the generality of subsection (1), Council may revoke or suspend an Amplified Music Venue Permit if the permit holder or any person who manages the amplified music venue—
- (a) has been convicted of an offence against this local law; or
 - (b) has not complied with a compliance notice; or
 - (c) is not a suitable person to perform their function at the amplified music venue, having regard to the factors set out in section 8(2).
- (3) If Council proposes to revoke or suspend a permit under this section, it must give notice⁶ in writing to the permit holder.
- (4) When giving a notice under subsection (3), Council must allow the permit holder a period stated in the notice to make written representations to Council about the proposed revocation or suspension.
- (5) If Council proposes to revoke or suspend a permit under this section, and the amplified music venue is also licensed premises, it must give the Executive Director Liquor Licensing Division notice of the proposed revocation or suspension.
- (6) If subsection (5) applies, Council must consult the Executive Director Liquor Licensing Division or nominee about the proposed revocation or suspension and each of Council and the Liquor Licensing Division may make relevant information or documents available to the other for the purpose of that consultation.

⁵ See *Acts Interpretation Act 1954* section 39 — Service of Documents and section 39A — Meaning of Service by Post etc.

⁶ See *Acts Interpretation Act 1954* section 39 — Service of Documents and section 39A — Meaning of Service by Post etc.

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- (7) Upon consideration of the representations made under subsection (4) and consultation under subsection (6), Council may decide—
 - (a) to proceed with the revocation or suspension; or
 - (b) not to proceed with the revocation or suspension; or
 - (c) not to proceed with the revocation or suspension, but to add to, vary or revoke a permit condition.

 - (8) Council must give notice to the permit holder of a decision under section 7(a) or (c) and the permit will be revoked, suspended or varied at the end of the venue's normal trading hours—
 - (a) on the day on which the notice is served on the permit holder if the normal trading hours end before midnight; or
 - (b) on the day after the day on which the notice is served on the permit holder if the normal trading hours end after midnight.

 - (9) If Council's decision under subsection (7) is suspension of the permit the notice must state when the suspension period ends.

25 Executive officer liability

- (1) The executive officers of a corporation must ensure that the corporation complies with this local law.

- (2) If a corporation commits an offence against a provision of this local law, each of the executive officers of the corporation also commits an offence, namely, the offence of failing to ensure the corporation complies with the local law.
Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation committed an offence against this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with this local law.

- (4) It is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence – the officer took all reasonable steps to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Part 3 Internal review

26 Original decisions

A decision listed in Schedule 2 is an **“original decision”**.

27 Dissatisfied person

- (1) A dissatisfied person for an original decision, is—
- (a) if the decision is about the determination of a permit application under section 9(1) (b) or (d) —the applicant;
 - (b) if the decision is about the variation of a permit condition under section 13(7)(b), 14(3) or 24(7)(c) — the permit holder;
 - (c) if the decision is about the variation or renewal of a noise management plan under section 17(3) —the permit holder;
 - (d) if the decision is about the giving of a compliance notice under section 23(1)—a person who received the notice;
 - (e) if the decision is about the revocation or suspension of a permit under section 24(7)(a) — the permit holder.

28 Procedure for review

- (1) A dissatisfied person may apply to Council for a review of the original decision.
- (2) The application for review under subsection (1) (**the "internal review"**) must be—
- (a) in writing; and
 - (b) supported by enough information to enable Council to decide the application; and
 - (c) received by Council —
 - (i) for an original decision listed in Schedule 2 Part 1—within 10 business days of the day on which Council gave the applicant notice of the original decision;
 - (ii) for an original decision listed in Schedule 2 Part 2 —within 2 business days of the day on which the applicant was given the notice of the original decision.
- (3) Council must—
- (a) consider any written submissions properly made by the applicant ; and

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- (b) make a decision (the "**review decision**") to—
 - (i) confirm or revoke the original decision; or
 - (ii) vary the original decision in a way that Council considers appropriate.

 - (4) The application for internal review must not be dealt with by—
 - (a) the person who made the original decision, whether or not the person was exercising a delegated power in making the original decision; or
 - (b) a person in a less senior office than the person who made the original decision.

 - (5) Council must make the review decision —
 - (a) for an original decision listed in Schedule 2 Part 1 —within 30 business days after receiving the review application;
 - (b) for an original decision listed in Schedule 2 Part 2—within 2 business days after receiving the review application.

 - (6) Council must give written notice of the review decision to the applicant, stating reasons for a decision to confirm or vary the original decision.

 - (7) Notice of the review decision (the "**review notice**") must be given—
 - (a) for an original decision listed in Schedule 2 Part 1 —within 2 business days after Council makes the review decision;
 - (b) for an original decision listed in Schedule 2 Part 2 —within 24 hours after Council makes the review decision.

 - (8) A review notice may be given personally or by post⁷.

 - (9) The internal review application does not stay the original decision.

 - (10) The review decision takes effect on the date stipulated in the review notice.

Part 4 Miscellaneous

29 Electronic applications and submissions

- (1) If an approved form provides that the form may be lodged at a stated e-mail address, the application to which the form relates may be made by electronically transmitting to the e-mail address the information required by the approved form in a format substantially similar to the approved form.

⁷ See *Acts Interpretation Act 1954* section 39 — Service of Documents and section 39A — Meaning of Service by Post etc.

- (2) If Council provides a facility for online lodgement of any information required to be lodged with Council under this local law, a person who lodges the information as prescribed by the facility complies with the lodgement requirements of this local law.

Schedule 1

Criteria⁸ for external emission of noise from amplified music

Venue Location	Day and Time	Amplified music noise level 1 ^a	Amplified music noise level 2 ^b
Special Entertainment Precinct Core Area A	10am to midnight on a Sunday, Monday, Tuesday, Wednesday & Thursday. 10am Friday to 1am Saturday. 10 am Saturday to 1am Sunday.	LC _{eqT} 90dB	LL _{eqT} 45dB in any one-third octave band between and including 31.5Hz and 125Hz.
	All other times.	LC _{eqT} 80dB and LL _{eqT} 73dB in any one-third octave band between and including 31.5Hz and 125Hz.	LL _{eqT} 43dB in any one-third octave band between and including 31.5Hz and 125Hz.
Special Entertainment Precinct Core Area B	10am to midnight Friday and Saturday. 10am to 11:30pm on a Sunday, Monday, Tuesday, Wednesday and Thursday.	LC _{eqT} 88dB	LL _{eqT} 45dB in any one-third octave band between and including 31.5Hz and 125Hz.

⁸ This Schedule sets out the criteria for external levels of amplified music which will be used to determine and set the internal levels of noise from amplified music in the conditions of an Amplified Music Venue Permit in accordance with sections 8(3) and 12 (a) of this law.

Venue Location	Day and Time	Amplified music noise level 1 ^a	Amplified music noise level 2 ^b
	All other times.	LC _{eqT} 65dB and LL _{eqT} 55dB in any one-third octave band between and including 31.5Hz and 125Hz	LL _{eqT} 43dB in any one-third octave band between and including 31.5Hz and 125Hz.

a At any point 1 metre external to the amplified music venue premises.

b In a bedroom or living room of a residential or short term accommodation premises that is located in the same building as the amplified music venue, or which is separated from the venue building by a distance of 3 metres or less. This does not apply where a short-term accommodation premises and amplified music venue are within the same building and are owned and operated by the same entity.

Schedule 2 Original decisions

Section 27

Part 1

Section	Description of Decision
9(1)(b) or (d)	Determination of a permit application
13(7)(b), or 14(3) or 24(7)(c)	Variation of a permit condition
17(3)	Variation or renewal of a noise management plan

Part 2

Section	Description of Decision
23(1)	Decision to give a compliance notice
24(7)(a)	Decision about the revocation or suspension of a permit

Schedule 3 Dictionary

Section 3

Amplified Music Venue Permit means a permit under this local law for an amplified music venue.

City means the City of Brisbane.

core area of a special entertainment precinct means an area so designated in a map in the planning scheme.

development approval has the meaning given in the *Integrated Planning Act 1997*.

licensed premises has the meaning given under section 956G(6) of the *Local Government Act 1993*, to which section 112B(1)(a) of the *Liquor Act 1992* applies.

Liquor Licensing Division means the Queensland Government agency responsible from time to time for the administration of the *Liquor Act 1992*.

played in relation to amplified music at an amplified music venue means amplified music emitted from both live and recorded sources.

prescribed infringement notice penalty has the meaning given in the *State Penalties Enforcement Act 1999*.

relevant offence means an offence against the *Drugs Misuse Act 1986* or a cognate law of Queensland, of another State, or of the Commonwealth.

special entertainment precinct core area A is defined in the Fortitude Valley Local Plan of Brisbane City Plan 2000.

special entertainment precinct core area B is defined in the Fortitude Valley Local Plan, Newstead Teneriffe Waterfront Local Plan and Bowen Hills Local Plan of Brisbane City Plan 2000.

the planning scheme means Brisbane City Plan 2000 as amended from time to time and any subsequent planning scheme made by Council under the *Integrated Planning Act 1997*.