

ABOUT THE NOISE GUIDE FOR LOCAL GOVERNMENT

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Abstract

We live in communities where noise levels tend to be increasing and which can affect both our working and home lives. Local government plays the leading role in managing noise impacts in the community. This paper presents a discussion on the Noise Guide for Local Government that has been developed by the Department of Environment and Conservation (DEC) to aid council officers in their day to day role of addressing residents' noise complaints by finding solutions to community noise problems, informing the community about quieter noise practices, explaining the noise laws and generally raising awareness. The Noise Guide has a multi-disciplinary approach and can be used proactively by strategic planners so that noise can be considered in future land use planning decisions as well as reactively to current problems. The Noise Guide represents a significant contribution to better management of neighbourhood noise.

Introduction

Noise can disrupt people's activities and rest by interfering with speech, study, leisure or sleep. An individual's response to noise is subjective and can depend on specific circumstances, such as time of day and the type of activity being undertaken. Councils and Police have a key role in managing local noise problems by providing an impartial and fair assessment of what level of noise is reasonable, taking into account the nature of activity, the surrounding area and the number of people likely to be affected.

Successful noise management is based on a spectrum of considerations and options. At one end of the spectrum is prevention using long-term strategic approaches that aim to avoid or minimise potential noise impacts before they occur. Land-use planning has a key role in helping to prevent potential noise impacts, both at the strategic planning level and at the project-specific level. At the other end of the spectrum is the need to remedy existing noise impacts that are unacceptable and causing disturbance to the community. The *Protection of Environment and Operations Act 1997* (POEO Act) provides regulatory tools for managing noise impacts from new and existing noise-producing developments.

The *Noise Guide for Local Government* [1] has been developed to provide practical guidance to council officers and also police in the day-to-day management of local noise problems and the interpretation of existing policy and legislation. The Guide is advisory in nature and council officers are encouraged to use it to develop council procedures or policy to deal with noise issues relevant to local circumstances.

The Importance of Councils

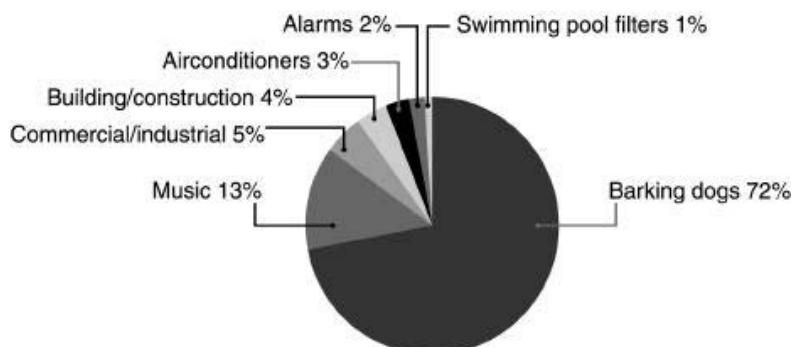
Local councils have a central role in handling noise problems. Council officers are often in direct contact with parties involved in noise problems and are typically the first point of call when people want to take formal action about a noise complaint.

To illustrate the size of local council's involvement in handling noise problems the *Noise Guide* shows a breakdown of complaints received by an urban council (Blacktown City) and a rural (Shoalhaven City) council, reproduced as Figure 1, that cover a similar range on noise issues relating to animals, air conditioners, alarms, music and commercial and industrial premises. In most cases complaints about noise form a significant proportion of the total number of complaints that are received. For Blacktown and Shoalhaven councils the percentage of noise complaints in the total number of complaints received by those councils was 63% and 35% respectively.

Local councils also have a role as both the land-use planner and the regulator for many noise problems in their area. Spanning these two roles provides the opportunity to apply the learnings from handling noise problems to planning with a view to avoiding noise problems. The DEC often provide advice to local councils in developing noise policies and sees councils as a valuable resource in the process of developing an effective framework to manage noise.

Council officers regularly face challenges in handling a range of often contentious noise problems without having an acoustic background. The *Noise Guide* aims to meet this challenge.

Blacktown City Council



Shoalhaven City Council

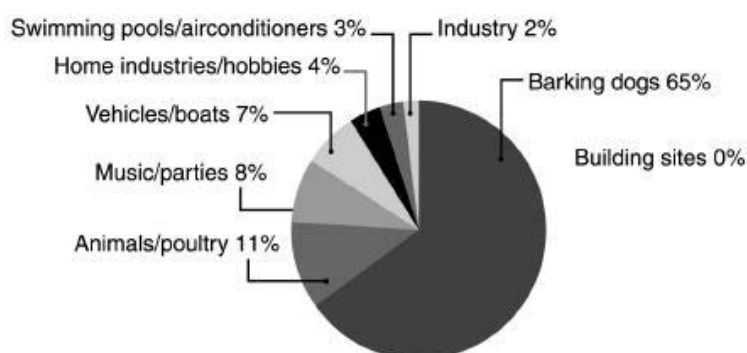


Figure 1. Noise related complaints received by Blacktown and Shoalhaven councils 2002-03.

Consultation Process

During the development of the *Noise Guide* there was a rigorous consultation process. DEC was aware of the need to tailor the document to meet council's needs. Also a practical document was wanted that covered all the issues, and in a way that allowed council officers to quickly find the information they needed.

The draft document was developed with the assistance of the Local Government and Shires Association (LGSA) and a small number of local councils that had experience and interest with noise issues. The draft document was mailed to all NSW councils and interested agencies for their comment. The document was also placed on the DEC website and press releases were printed in local papers to give more general notification of the draft and invite comments. Eight workshops were carried out; two at Sydney locations and the remaining six at various locations across the State (eg Grafton, Tamworth, Shellharbour).

Over 40 written submissions were received. As a result, there were a number of changes made to the draft document with the greatest changes adding more information on air conditioners, three extra case studies

and more detail on assessment procedures and the analysis of acoustic data.

Structure of the Noise Guide

The *Noise Guide* is set out in five parts, namely:

- Part 1 – Framework for noise control: outlines the legal framework for noise control and responsibility for dealing with noise problems
- Part 2 – Noise Assessment: describes the key noise assessment procedures including time of use and audibility, duration of alarms and offensive noise and noise measurement.
- Part 3 – Noise Management Principles: describes the range of mitigation strategies to prevent or minimise noise impacts from both planning and management perspectives.
- Part 4 – Regulating Noise Impacts: identifies the statutory processes that are available.
- Part 5 – Case Studies: illustrate methods to deal with some common noise problems.

Also mentioned in the *Noise Guide* is that the following guidelines may be of help when dealing with more complex noise problems:

- *NSW Industrial Noise Policy* [2] – specifically aimed at large industrial developments such as those covered under Schedule 1 of the POEO Act, but also provides guidance on measuring and assessing noise from smaller commercial and industrial premises regulated by councils.
- *NSW Environmental Criteria for Road Traffic Noise* [3] – criteria for assessing road traffic from road developments with the aim of promoting the consideration of noise pollution impacts early in the planning of new roads and freeways.

The *NSW Industrial Noise Policy* and the *NSW Environmental Criteria for Road Traffic Noise* are both whole-of-government policies on managing noise from industry and road traffic respectively, whilst the *Noise Guide* is a compendium of regulations and legislation for managing noise from a broad range of activities.

Noise Assessment

The concept of offensive noise is applied in both the *Protection of the Environment Operations Act 1997* [4] (POEO Act) and the *POEO (Noise Control) Regulation 2000* [5]. The definition of offensive noise is relevant when issuing a Noise Abatement Direction (see Section 276 of POEO Act) and also for relevant clauses of the Regulation (ie clause 14-vehicles used off-road, clauses 17 and 17A – motor vehicle sound systems, clause 30 – use of engine-powered marine vessels). Other parts of the Regulation apply different tests such as limits on times or audibility and these are discussed later.

The concept of offensive noise is to provide a systematic approach in assessing noise impacts without having to resort to quantitative measurement.

Determining whether noise is offensive relies on the unbiased judgement of the officer (or other person assessing the noise) and consideration of the POEO Act definition. The *Noise Guide* provides guidance on factors that may be relevant in deciding whether noise is offensive:

- Is the noise either in an absolute sense or relative to other noise in the area?
- Is the noise well above the background noise level?
- Does the noise include any tones, impulses or fluctuations in volume?
- Does the noise occur at times when unreasonable interference with comfort or repose occurs or is likely?
- How often does the noise occur?
- Is the volume, duration or character of the noise typical of the type of activity in question?
- Is the noise typical of activities conducted in the area?

- Is the noise affecting or likely to significantly affect people's activities?

Noise measurements can confirm when noise is a problem, and are appropriate for assessing ongoing noise problems. They may also be useful in checking compliance with a notice or a condition of development consent.

Noise measurements are usually necessary to establish acceptable noise limits that can be specified in a notice, such as in a Noise Control Notice that specifies a noise limit not to be exceeded at a particular location.

The *Noise Guide* sets out a procedure for carrying out short-term noise measurements, and choosing the appropriate noise descriptor for measurement and assessment of various noise generating activities.

Preventing and Managing Noise

Part 3 of the *Noise Guide* presents approaches for preventing as well as managing noise impacts in the community.

Effective land-use planning can help prevent potential noise impacts before they occur. A multidisciplinary approach for preventing and managing noise impacts, as set in the *Noise Guide* is:

- Strategic planners should consider the potential noise impacts of different land uses in developing a strategy for an area. Examples of this are Greystanes Precinct Plan, Ingleburn Industrial Estate and Steel River [6,7].
- Development control (statutory) planners should consider potential noise impacts during the development application phase for new and changing land uses.
- Industry and developers should consider noise impacts in their development proposals and operating procedures so that noise impacts are minimized.
- Managers and elected representatives of council have an important role as decision makers in many development and land use planning instruments.
- Environmental health and compliance officers should provide support and advice to planners and councillors in relation to existing and future noise impacts and offer advice on individual development applications where noise impacts may occur.
- Transport corridor regulators and managers such as the RTA, local government and managers of railways also have a role in this approach.

The *Noise Guide* discusses what land use planning instruments, such as Local Environment Plans (LEPs)

and Development Control Plans (DCPs), can identify in addressing noise.

For managing noise impacts for existing and future developments, the *Noise Guide* describes practices for controlling the noise at the source, controlling the noise transmission path and controlling the noise at the receiver location. Two concepts are discussed for when controlling the noise at the source: Best management practices and Noise-efficient technology. Best management practices involve adopting particular procedures that minimise noise while retaining production efficiency, whereas Noise-efficient technology involves selecting and using the most advanced and affordable technology, equipment, plant and machinery so that noise emitted is minimised.

Other noise management options are discussed in the *Noise Guide*, including environmental audits, environmental management plans, contract specifications, communication and negotiation and complaint management.

Communication between neighbours is strongly preferred as a first course in resolving noise problems with noisy neighbours.

Regulatory Tools

The key regulatory tools for managing local environmental noise impacts are provided by the POEO Act and the Noise Control Regulation. A range of notices, directions and orders in relation to noise can be issued under the POEO Act. The Regulation addresses common noise problems in a way that simplifies their assessment and enforcement by describing offences and outlining penalties for those offences.

The decision regarding which of these instruments to use will depend on the circumstances of each noise problem and on the judgement of the officer. Issuing a Penalty Notice tends to provide more streamlined enforcement procedures for many noise problems where a fine is all that is needed to provide the desired result.

The relevant enforcement options available under the POEO Act are:

- Noise Control Notices
- Noise Abatement Directions
- Noise Abatement Orders
- Prevention Notices
- Compliance Cost Notices
- Noise Pollution from Operating Plant

Only an Appropriate Regulatory Authority (ARA - defined in s6 of the POEO Act), not Police, can issue a Noise Control Notice.

Noteworthy is the requirement, under Part 9.5 of the POEO Act, for each Council as the regulatory authority to maintain a public register with details including each Environment Protection Notice, Noise Control Notice, Prevention Notice and Cost Compliance Notice.

A Noise Control Notice (see ss263-267 of POEO Act) prohibits noise from an activity or a piece of equipment from being emitted above a specified level. The notice must specify the acceptable noise level, measurement location(s), days and times when the noise levels apply and description of activity or article to be controlled.

A Noise Abatement Direction (see ss275-279 of POEO Act) is useful for quickly dealing with temporary noise problems such as loud music, where the noise can reasonably be reduced or stopped. A direction is an official instruction that offensive noise must cease and can be issued within seven days of offensive noise occurring. The direction can last up to 28 days. An Authorised Person (defined in s275 of the POEO Act), can issue a Noise Abatement Direction.

A Noise Abatement Order (see ss268-274 of POEO Act) can be sought by any occupier of premises who believes they are being affected by offensive noise, without involving a regulatory authority such as Council or the Police. This is done by filing an Application Notice to a chamber magistrate at the Local Court seeking a Noise Abatement Order. As issuing an order involves court time and possibly the involvement of legal representation, the chamber magistrate will often encourage parties to undertake mediation to prevent this time-consuming and potentially expensive process. It is not necessary to seek legal advice when seeking an order, although this may be advisable depending on the circumstances. This is a course of action where the complainant may be dissatisfied with the actions of Councils or Police in resolving the problem.

A Prevention Notice (see ss95-100 of POEO Act) can be used to control activities that are conducted in an 'environmentally unsatisfactory manner' (as defined in s95 of the POEO Act) and should specify the action to be taken to remedy the problem.

A Compliance Cost Notice (see s104(3) and s104(4) of the POEO Act) can be served to recover the costs incurred by the ARA for monitoring or ensuring compliance with a Prevention Notice. It is issued to the person who was issued with the Prevention Notice.

In sections 139 and 140 of the POEO Act are provisions for dealing with noise from the operation of plant and the handling of materials respectively. In the case of operating plant (s139 of POEO Act) a Penalty Notice can be issued to the occupier of premises, or the occupier prosecuted where the officer considers that a

noise problem from the premises is being caused by the operation of plant or machinery that is poorly maintained. In the case of materials handling (s140 of POEO Act) a Penalty Notice can be issued to the occupier of premises, or the occupier prosecuted where the officer considers that noise is occurring because materials are not being dealt with in a proper and efficient manner by the occupant.

The Noise Control Regulation applies different methods of control to different noise problems. These controls include:

- Preventing the use of certain articles where they can be heard during noise-sensitive periods (eg night-time)
- Placing limits on how long an article can emit noise (eg alarms)
- Prohibiting the use of certain articles where they emit offensive noise (eg off-road trail bikes)

The *Noise Guide* discusses the three groups of noise sources covered under the Regulation; namely miscellaneous articles (domestic equipment such as power tools, swimming pool pumps, musical instruments, air conditioners), alarms and motor-vehicle related sources. The *Noise Guide* also discusses what constitutes an offence, powers of entry for dealing with alarms, and penalties relating to the noise offences.

A section has been included on traffic noise as this is a widespread issue. The *Noise Guide* refers to the *NSW Environmental Criteria for Road Traffic Noise* and the RTA's *Environmental Noise Control Manual* [8].

References

- [1] DEC, "Noise Guide for Local Government", Department of Environment and Conservation (NSW), Sydney, 2004.
- [2] EPA, "NSW Industrial Noise Policy", NSW Environment Protection Authority, 2000.
- [3] EPA, "NSW Environmental Criteria for Road Traffic Noise", NSW Environment Protection Authority, 1999.
- [4] NSW Government, "Protection of Environment Operations Act", 1997.
- [5] NSW Government, "Protection of Environment Operations (Noise Control) Regulation", 2000.
- [6] Langonns. D, "Noise Control Planning for New Industrial Estates", Acoustics 2001 Canberra, Australian Acoustical Society conference proceedings, 2001.
- [7] ERM and Holroyd City Council, "Greystanes Estate: Residential Lands Precinct Plan", Environmental Resources Management, Sydney, 2002.
- [8] RTA, "Environmental Noise Management Manual", Roads and Traffic Authority of NSW, 2001.

