

Environmental Noise Policy

Policy | Development and Environmental Services

To assist Council to deal fairly, consistently and effectively with noise complaints and noise offences.

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Service Unit:	Development Compliance Services		
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Responsible Director:	Director Infrastructure & Planning		
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1 Background

1.1 Title of the Policy and Commencement Date

The Environmental Noise Policy takes effect upon adoption by Council.

1.2 Purpose of the Policy

The purpose of this Policy is to assist Council to deal fairly, consistently and effectively with noise complaints and noise offences.

2 Objective

2.1 Objectives and Coverage of the Policy

The objectives of this policy are:

- To identify noise issues before they escalate so they can be dealt with appropriately and effectively;
- To establish clear guidelines for the exercise of discretion when dealing with a noise matter;
- To clarify Council's role in dealing with noise issues.
- To help clarify which agencies are responsible for dealing with specific noise complaints; and
- To identify the various options for dealing with noise matters including negotiation, education, alternative dispute resolution and regulatory action.

3 Application

This Policy relates to noise from private and public property and includes the residential, industrial and commercial sectors. The Policy provides guidance and direction to the community and council staff in the application of compliance actions for noise related complaints.

It includes, but is not limited to, noise from sources such as air conditioners, vehicles, refrigeration units, power tools and equipment, musical instruments and vineyards.

3.1 Dealing with Noise Issues

There are many noise complaints which are either outside Council's jurisdiction or are best dealt with by the parties involved in a non-adversarial manner rather than resorting to regulatory action.

There are a number of agencies that deal with noise issues including the following:

- The Council;
- The Police;
- The Liquor Licensing Board (for licensed premises);
- The Community Justice Centre (mediating noise matters between disputing parties); and
- The Environment Protection Agency (for scheduled premises).



The Courts may also issue orders on behalf of affected residents in some circumstances.

3.2 Action by Affected Parties

When Council is unable to assist in resolving offensive noise matters to the complainant's satisfaction (especially when it involves complex noise impacts on a small number of residents), an affected person may seek a Noise Abatement Order from the local court under Section 268 of the *Protection of the Environment Act, 1997*.

3.3 Council Responsibilities

Appendix A provides details regarding Council's responsibilities in relation to common noise issues. Where identified in **Appendix A**, other agencies (eg Police) may also be contacted. Council will work with other agencies as requested and appropriate to do so to resolve noise matters.

4 Definitions

For the purposes of this policy:

Term	Meaning
Compliance	is the act of adhering to, and demonstrating adherence to, laws, regulations, conditions, standards and policies.
Council	The elected council or staff under delegation of the Singleton Council (Local Government Area).
Enforcement	the act of to put or keep force, to enforce laws or rules, to impose a course of action upon a person.
EPA	means Environment Protection Authority.
EP&A Act	means the <i>Environmental Planning and Assessment Act, 1979</i> .
PIN	A penalty or fine issued in accordance with the NSW Self Enforcing Infringement Notice, in lieu of court proceedings.
POEO Act	means the <i>Protection of the Environment Operations Act, 1997</i> .
Offensive Noise	The definition of offensive noise in the POEO Act is noise: (a) That, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances: (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations



5 Principles/Body

5.1 Education, Awareness and Cooperation

Priority will be given to providing information to the community about noise management and the roles that the various agencies have in dealing with these consequences of offensive noise.

Council will encourage the community to try to deal with and resolve noise issues as they arise before they escalate into significant issues.

Council will encourage a spirit of cooperation between all parties and where it is considered that Council cannot effectively resolve noise issues using available legislative tools, will refer such noise matters to the Community Justice Centre or similar organisations for mediation.

5.2 Response

Council is required to respond to noise complaints in a timely manner and in accordance with its Enforcement and Compliance Policy and Complaint Handling Policy.

Council's response could include referral of the complaint to another agency if the dispute is not within Council's area of responsibility.

Where the matter is primarily a neighbourhood matter between two or more neighbours, Council will recommend in the first instance that the neighbours attempt to resolve the issues by negotiation and mediation if necessary. Where the issue is a clear breach of any noise related legislation, and Council holds regulatory authority, Council will act as appropriate. Council will endeavour to encourage all parties to try and solve noise issues amicably.

Based on the circumstances of the noise issue, Council will respond in a way that reflects public interest, resource implications and the magnitude of the matter. Not all noise matters will require a regulatory approach by Council.

5.3 Council's Approach

- Council will ensure confidentiality and respect privacy when dealing with noise matters.
- Council will ensure procedural fairness in noise matters.
- Council will act in a manner that is impartial and objective when dealing with noise complaints and noise related matters.
- Council will provide prompt feedback to complainants regarding investigations into noise complaints and the reasons for decisions relating to these.
- Council will keep accurate records of noise complaints.
- All notifications of alleged unlawful activity will be properly recorded by Council on the Customer Request Management System which is managed by the Customer Service Team. All outcomes of requests are reported and filed on Council's electronic document management system.
- Council is not responsible for the regulation of noise emitted from amongst other things:
 - Mining



- Rail corridor
- Industrial complexes
- airports
- Gas pipelines (including construction)
- Electricity generating works

6 Relevant Legislation

- *The Local Government Act, 1993*
- *Environment Planning and Assessment Act, 1979*
- *Protection of the Environment Operations Act, 1997*
- *Biodiversity Conservation Act, 2016*
- *Companion Animals Act 1998*

Including the various Regulations made under the above Acts.

7 Document Information

7.1 Related Documents

Related documents, listed in **Table 7-1** below, are internal documents directly related to or referenced from this document.

Number	Title
POL10065	Enforcement and Compliance Policy
	Companion Animal Management Plan
POL/40007	Complaint Handling Policy
POL/40008	Unreasonable Complainant Conduct Policy
POL/10115	On-site Sewage Management Strategy
	Development Compliance Officer Guidelines
	Delegations Register
SOP 94	Nuisance Dog Complaint Procedure
SOP 95	Barking Dog Complaint Procedure
POL9008	Integrated Risk Management Policy

Table 7-1 – Related documents

8 Responsible Officer / Policy Owner

Ownership of this policy rests with the Manager Development and Environmental Services.



9 Responsibilities

Parties or Persons	Responsibilities
Director Infrastructure & Planning	<ul style="list-style-type: none"> Ensuring the document is maintained and reviewed according to the documents requirements. Ensuring the resources are allocated to effectively undertake all aspects of this document
Development and Environmental Services Team	<ul style="list-style-type: none"> Conduct compliance activities and enforcement actions in accordance with the requirements of this document and delegations issued by council.

10 Approval

As per cover sheet.

11 Monitoring

This policy will be monitored by the Director Infrastructure & Planning to ensure compliance.

12 Review Date

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed approximately every two (2) years or when changes to legislation are implemented which are likely to affect the Policy, to ensure that it meets legislative requirements.

13 Last Review Date

This policy was last reviewed on 20 August 2018.

14 Record Keeping, Confidentiality and Privacy

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

15 Breaches and Sanctions

Any breaches of this Policy will be referred to the General Manager for appropriate action.



Appendix A - Investigating and Responding to Noise Complaints

NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONS PROCEDURES OF COUNCIL
Power tools, equipment and musical instruments or electrical equipment on a domestic premises	Council or Police (after hours)	<p>All parties solving the noise problem amicably Mediation through the Community Justice Centre</p> <p>Individuals may seek a Noise Abatement Order from a local Court</p> <p>Regulatory action by Council as per Enforcement and Compliance Policy</p>	Council may issue notices to prevent or minimise noise	<p>Investigate to determine compliance POEO (Noise Control) Regulations in regard to hours of use of power tools and equipment. Investigation may include issue of a notice or warning letter.</p> <p>Notify user of correct times of use.</p> <p>Issue noise abatement directions under Section 276 of POEO if “offensive noise” is determined for an immediate resolution or if warning letter not complied with.</p> <p>If noise exceeds a statutory level or articles are used outside of prescribed time, serve Noise Control Notice to prescribe permitted noise level, its location and times of use of article.</p> <p>If statutory requirements are being met but affected parties are still aggrieved, information will be provided regarding individuals ability to commence proceedings under Section 268 POEO Act.</p>
Air Conditioners	Council	Both parties solving the noise problem amicably Mediation through the Community Justice Centre	Council may issue Notices or Directions	<p>Investigate to determine compliance with POEO (Noise Control) Regulations regarding times of use.</p> <p>Where times of use are complied with but “offensive noise” alleged, conduct basic noise</p>



NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONS PROCEDURES OF COUNCIL
		Individuals may seek a Noise Abatement Order from a local Court		<p>assessment to determine noise impact within affected premises.</p> <p>Where air conditioner appears to be generating excessive noise, operator may be directed to seek advice of an acoustic consultant to report on impacts and noise mitigation.</p> <p>Council may service Noise Control Notice under Section 264 POEO Act to prescribe noise limits, hours of operation.</p> <p>Where statutory controls do not assist complainants will be provided with information regarding Noise Abatement Orders under Section 268 POEO Act.</p>
Motor Sports	Council	<p>Negotiating a reasonable outcome Mediation through the Community Justice Centre</p> <p>Regulatory action</p>	Council may issue Notices or Directions	<p>Council will conduct a basic investigation to determine the substance of complaint.</p> <p>Investigating officers will consider the merits of the complaint, along with the requirements of any development consent condition or Council policy relating to the event.</p> <p>Council may require operators to provide a report from an Acoustic Consultant which provides details of noise levels and compliance with Statutory requirements. Council may require such a report through the service of a Prevention Notice under Section 96 of the POEO Act.</p>



NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONS PROCEDURES OF COUNCIL
				Council may serve a Prevention Notice (Section 96) to set operational conditions for motor sport facilities.
Noise from Alarms	Police (Council may assist the Police to enter a premises)	Negotiating a reasonable outcome	Police and Council may enter the premises (with a warrant) to stop a faulty alarm	Council will investigate to ensure compliance with the requirements of POEO Noise Regulations.
Small Factories and workshops	Council	All parties solving the noise problem amicably Individuals may seek a Noise Abatement Order from a local Court Regulatory action by Council	Council may issue Notices or Directions	Council will conduct a basic noise assessment taking into account statutory requirements and conditions of Development consent if applicable. Council may require proprietors to prove compliance by engaging an acoustic consultant. Council may issue a Noise Control Notice under Section 264 POEO Act to control noise levels from equipment or activities or their times of use. Where regulatory tools do not assist and complainants are further aggrieved, Council will provide information regarding Noise Abatement Orders (Section 268 POEO Act) which are issued by the Local Court.



NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONS PROCEDURES OF COUNCIL
Vineyards – Gas Gun Operation or the use of Bird Scarers	Council or Police (after hours)	<p>All parties solving the noise problem amicably</p> <p>Mediation through the Community Justice Centre</p>	Council may issue Notices or Directions	<p>Council will investigate matter to determine “offensive noise”.</p> <p>Council will liaise with operator and complainant to determine expectations and negotiate reasonable outcomes.</p> <p>After investigation, the investigating officer may use discretion in serving a Noise Abatement Direction (Section 276) to address offensive noise by limiting usage of the gas guns and bird scarers, prescribing times or locations of gas guns and/or bird scarers.</p> <p>Taking into account the surrounding landscapes and nearby vineyard operators, Council works on the pretence that gas guns cannot be operated before 7am and after 9pm Monday to Saturday and before 7am and after 5pm on Sunday.</p> <p>Gas Guns that are operated throughout the night outside the above time frames may instigate action by an Authorised Officer of Council in the issuing of a “Noise Abatement Direction” under the POEO Act</p> <p>Where statutory tools do not assist resolution and complainants are still aggrieved, Council will</p>



NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONS PROCEDURES OF COUNCIL
				provide information regarding Noise Abatement Orders under Section 268 POEO Act which are issued by the Local Court.
Building Construction	Council (or Private Certifier)	<p>All parties solving the noise problem amicably</p> <p>Individuals may seek a Noise Abatement Order from a local Court</p> <p>Regulatory action by Council</p>	Council may issue Notices or Directions	<p>Council will investigate matters to assess compliance with conditions of Development Consent as well as times of use of equipment under POEO (Noise Control) Regulations.</p> <p>Where building site is controlled by a Private Certifier, the Private Certifier will be contacted to resolve the issue.</p> <p>Where issues relating to hours of operation continue Council may serve a Noise Control Notice Section 264 (POEO Act).</p> <p>Where noise issue relates to excessive noise from equipment during permissible hours, Council may require the builder to provide an acoustic consultant's report to confirm compliance or recommend mitigation measures.</p>
Outdoor Concerts	Council	Negotiating a reasonable outcome	Council may issue Notices or Directions	<p>Council will conduct a basic noise assessment taking into account statutory requirements and conditions of development consent if applicable.</p> <p>Council may require proprietors to prove compliance by engaging an acoustic consultant.</p> <p>Council may issue a Noise Control Notice under Section 264 POEO Act to control noise levels</p>



NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONS PROCEDURES OF COUNCIL
		Individuals may seek a Noise Abatement Order from a local Court		<p>from equipment or activities or their times of use.</p> <p>Where regulatory tools do not assist and complainants are further aggrieved, Council will provide information regarding Noise Abatement Orders (Section 268 POEO Act) which are issued by the Local Court.</p>
Pubs, Clubs and Hotels	Council (noise from music or equipment)	Individuals may seek a Noise Abatement Order from a local Court	Council may issue notices to prevent or minimise noise from music or equipment	<p>Where regulatory tools do not assist and complainants are further aggrieved, Council will provide information regarding Noise Abatement Orders (Section 268 POEO Act) which are issued by the Local Court.</p> <p>Council will liaise with the Department of Liquor, Gaming and Racing to address issues relating to licensed premises. Council will not address alcohol related noise issues or those related to conduct of patrons.</p>
Dogs and other animals	Council	<p>All parties solving the noise problem amicably</p> <p>Mediation through the Community Justice Centre</p> <p>Individuals may seek a Noise Abatement Order from a local Court</p>	Council may issue Orders under some circumstances	<p>Council will encourage parties to communicate and resolve issues.</p> <p>Council will commence investigations relating to dog noise.</p> <p>If the investigating officer is satisfied that a dog is causing offensive noise, then a Nuisance Order may be served on its owner under the Companion Animals Act.</p>



NOISE SOURCE	RESPONSIBLE AGENCY	OPTIONS	REGULATORY RESPONSE IF REQUIRED	OPERATIONS PROCEDURES OF COUNCIL
				<p>Council will encourage dog owners to resolve nuisance barking through measures such as training, the use of technology and improved housing and animal care.</p> <p>Where a Nuisance Order is not complied with, an Infringement notice may be issued.</p> <p>Where offensive noise from other animals (e.g.; rooster, birds) is determined by a Council Officer, a Noise Abatement Direction may be issued under Section 276 POEO Act.</p> <p>Council will encourage the resolution of the matter through strategies such as removal of the animal, relocation, reduction in numbers of animals kept, construction of physical barriers (e.g.; solid fencing, aviaries and coops) and training.</p> <p>Where statutory tools do not assist resolution and complainants are still aggrieved, Council will provide information regarding Noise Abatement Orders under Section 268 POEO Act which are issued by the Local Court.</p>

