

# Environment Protection (Noise) Environment Protection Policy 2012 (No 1)

## Notifiable instrument NI2012–323

made under the

Environment Protection Act 1997, section 28 (Notification of environment protection policies), section 29 (Inspection)

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### 1 Name of instrument

This instrument is the *Environment Protection (Noise) Environment Protection Policy 2012 (No1)*.

### 2 Commencement

This instrument commences on the day after notification.

### 3 Notification

Notice is hereby given that the Environment Protection Authority has made the following Environment Protection Policy:

Title of Policy	Brief Description of the Policy
Noise Environment Protection Policy	The Noise Environment Protection Policy is designed to help people understand the Environment Protection Act 1997 and the Environment Protection Regulation 2005 as they apply to noise.

### 4 Inspection

In accordance with section 29 of the *Environment Protection Act 1997*, copies of the Noise Environment Protection Policy are available for public inspection at the following locations:

during business hours, at Environment Protection Unit, Level 3 South Wing, Macarthur House, 12 Wattle Street Lyneham ACT; and

electronic copies are available from the Environment and Sustainable Development Directorate website at <http://www.environment.act.gov.au>.

## **5 Revocation**

This instrument revokes Environment Protection (Environment Protection Policy) Notice 2010 (No 2) NI2010-149.

Daniel Walters  
Environment Protection Authority  
18 June 2012

# NOISE ENVIRONMENT PROTECTION POLICY

Environment Protection Authority | January 2010



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Produced by Publishing Services for the:  
Department of the Environment, Climate Change, Energy and Water

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Publication No 10/0041  
<http://www.act.gov.au>  
Telephone: Canberra Connect 13 22 81

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# 1. BACKGROUND

## 1.1 What is the purpose of this EPP?

This Noise **Environment Protection Policy (EPP)** is designed to help people understand the *Environment Protection Act 1997* (the Act) and Environment Protection Regulation 2005 (the Regulation) as they apply to noise. There are general offences in the Act, which carry substantial penalties. This **EPP** provides guidance on meeting these legislative requirements, including the need to adopt the **general environmental duty** as specified in the Act to prevent or minimise **environmental harm**. This **EPP** has been prepared by the **Environment Protection Authority (EPA)** in accordance with Part 4 of the Act.

The role of **Environment Protection Policies (EPPs)** and their relationship to the Act and the Regulation is explained in the General **EPP**. The General **EPP** also contains other material of relevance to this Noise **EPP** such as policies on environmental management instruments. This **EPP** should be read together with the General and other **EPPs**.

There are two other noise **EPPs**, which should be read in conjunction with this **EPP**. These **EPPs** relate to specific noise sources, and are listed below:

- Motor Sports Noise **Environment Protection Policy**; and
- Outdoor Concert Noise **Environment Protection Policy**.

## 1.2 Administration consistent with Objects of the Act

Section 2 of the Act requires that the Act be construed and administered consistently with the **Objects** of the Act. This Noise **EPP** should be read and applied to best give effect to the **Objects** of the Act.

This **EPP** has been developed in accordance with the following principles that, in the view of the **EPA**, are derived from, or consistent with, the **Objects** and provisions of the Act and Regulation:

- Regulatory limits on noise should reflect planning policies under the Territory Plan (promulgated under the *Planning and Development Act 2007*);
- Acoustic environmental values secured through **noise standards** should protect the health and wellbeing of the community and the individual;
- Regulatory controls should enable economically desirable or socially acceptable activities to take place provided that all reasonable steps consistent with the expectations of the overall community will be taken to minimise noise from such activities;
- The Noise **EPP** should maximise certainty for business and the community;
- The noise Regulation should not unnecessarily impact on regional (i.e. ACT and surrounding NSW) commerce;

- To the extent that noise generated in the ACT affects persons in NSW, the Act should be administered so as to deliver equivalent protection to residents of both jurisdictions; and
- Regulatory intervention to control noise from an activity is only warranted where that noise is having an adverse impact on an **affected person**.

Consistent with the concept of shared responsibility in the **Objects** of the Act, the **EPA** will encourage members of the community to resolve issues of excessive noise causing **environmental harm**. This also applies to the noise emitted in the course of: undertaking primary production; managing reserves; maintaining a garden or grounds on residential or other land; maintenance and repairing items; **building work**; activated motor vehicle and premise intruder alarms; mobile selling; parties on Territory leases or roads; warming up motor vehicle engines; religious services; using portable loud speakers; constructing or maintaining a road; waste collection; repairing a utility service; and conducting noise tests.

It should be noted that the Act does not apply to noise made by:

- a train;
- Commonwealth jurisdiction aircraft within the meaning of the *Air Services Act 1995* (Cwlth);
- a person using his or her body;
- an animal; or
- a motor vehicle being driven on the roads unless reliability trials or speed tests are being conducted and the vehicle has been exempted under road transport legislation from attaching silencers to the exhaust pipes, rules of the road and speed limits during the trials or tests.

Under the Regulation, noise is not taken to cause **environmental harm** if the noise is emitted in the course of:

- protecting life or property (Section 26);
- preventing, minimising or remedying another **environmental harm** (Section 27); and
- conducting an activity for which an **approval** is in force (Section 28).

### 1.3 Activities addressed by this EPP

This **EPP** addresses two main areas:

- Business activities, including the commercial, industrial and construction sectors and government; and
- People's activities in and around the home.

In both areas, people's actions have a direct impact on environmental noise levels in the ACT.

## 1.4 What about other legislation?

This **EPP** is complemented by other legislation and policies for the management of environmental noise.

More detailed information is as follows:

<b>Activity</b>	<b>Act</b>	<b>Contact</b>
General noise	<i>Environment Protection Act 1997</i>	<b>EPA</b> Canberra Connect on 13 22 81
Aircraft noise	<i>Commonwealth Air Services Act 1995</i> and <i>Air Navigation Act 1920</i>	Air Services Australia on 1 300 302 240
Animal noise	<i>Domestic Animals Act 2000</i>	Domestic Animal Services Canberra Connect on 13 22 81
Motor vehicle noise	<i>Road Transport (Vehicle Registration) Act 1999</i>	Road User Services Canberra Connect on 13 22 81
Noise in the workplace	<i>Occupational Health &amp; Safety Act 1989</i> (ACT employees) <i>Occupational Health &amp; Safety Act 1991</i> (Commonwealth employees)	ACT Workcover Canberra Connect on 13 22 81 or Comcare 1 300 366 979
Hotel, bar club entertainment (people noise)	<i>Liquor Act 1975</i>	Office of Regulatory Services Canberra Connect on 13 22 81
Outdoor entertainment (public land)	<i>Roads and Public Places Act 1937</i>	City Places and Open Spaces Canberra Connect on 13 22 81
Planning (Territory Plan)	<i>Planning and Development Act 2007</i>	ACT Planning and Land Authority Canberra Connect on 13 22 81

## 1.5 Notes on reading this EPP

1. Where the **EPP** refers to a legal requirement, it will give the source of this requirement. 'The Act' refer to the *Environment Protection Act 1997* (as amended) while 'the Regulation' refers to the *Environment Protection Regulation 2005* (as amended).
2. Wherever a term is used that is defined in the Act or Regulation, it appears in **bold**.
3. Copies of the documents cited in this Noise **EPP** may be inspected at the following locations:

### **Environment Protection Policies**

- Environment Protection Authority  
Macarthur House  
12 Wattle Street  
Lyneham ACT 2602
  - ACT Public Libraries
  - Department of the Environment, Climate Change, Energy and Water  
website: [www.environment.act.gov.au](http://www.environment.act.gov.au)
  - Queries may also be directed through Canberra Connect  
phone 13 22 81.
4. Copies of documents cited in this Noise **EPP** may be purchased at the following locations:

### **Australian Standard 2436 (noise control measures for building sites)**

- Global Customer Service Centre  
Business Publishing  
GPO Box 5420  
Sydney NSW 2001  
Phone: 131 242  
Website: [www.saiglobal.com/shop](http://www.saiglobal.com/shop)

## 2. POLICY OBJECTIVE

The objectives of this Noise **EPP** are, within the limits of its applicability, to deliver environmental noise levels which are consistent with the requirements and **Objects** of the Act. The **Objects** of the Act are set out in Section 2 of the Act and are of particular importance.

## 3. COMPLIANCE WITH THIS EPP

**EPPs** are not legally binding in themselves. They are statements of policy, guidelines and explanations of legal requirements. If something is legally required, this **EPP** refers to the source legal document (usually the Act or Regulation). **EPPs** have been developed to help people comply with the legal requirements of the Act and Regulation and the **general environmental duty**, which requires people to take practicable and reasonable steps to minimise **environmental harm** or **environmental nuisance**.

The role of this Noise **EPP** and its relationship to other **EPPs**, the Act and the Regulation is explained in the General **EPP**.

The **EPA** must take this **EPP** and any other **EPP** into account when administering the Act.

## 4. ENFORCEMENT POLICY

The **EPA** encourages the public to try to resolve any noise issues through discussion with the person responsible for the excessive noise, or mediation through Conflict Resolution Services.

A complaint may be lodged with the **EPA** by the person affected by the noise. It should be noted that a complaint regarding noise pollution will only be considered by the **EPA** if it is made by the **affected person**.

Consistent with the **EPA's** general approach to enforcement, as outlined in the General **EPP**, noise complaints will be dealt with in the following manner:

- First complaint, the **EPA** sends out a letter advising the alleged noise producer of their responsibilities under the Act and inviting them to contact the **EPA** to discuss the matter (in most cases the matter can be resolved at this stage);

- Second complaint, if the complaint is validated by the **EPA** through a noise measurement, a warning letter or infringement notice may be issued, or depending on the circumstances, an **environment protection order (EPO)** may be issued (see Section 10.2);
- Subsequent complaints will be dealt with accordingly. It should be noted that a breach of an **EPO** is a serious offence. If the noise continues to be a problem, it could lead to prosecution in court.

*Note: This approach is adopted for guidance only and serious cases, such as complaints regarding a one off event or an authorised event, may justify immediate application of a strict approach to enforcement.*

The **EPA** produces a range of education information, including industry specific information and codes of practice to educate and inform the public of their responsibilities under the Act.

## 5. REVIEW OF EPA DECISIONS

Certain decisions made by the **EPA** are reviewable by the ACT Civil and Administrative Tribunal (ACAT). Under Section 136B of the Act, which specifies the reviewable decisions, an eligible person can make an application to the ACAT for review of an **EPA** decision.

## 6. NOISE AND ENVIRONMENTAL HARM

### 6.1 Environmental harm

Section 25 of the Regulation provides that excessive noise causes **environmental harm**. The **EPA** will only take action if an **affected person** lodges a complaint about the noise, consistent with Section 22(3) of the Regulation.

Under the Regulation, the ACT is divided into **noise zones** based on land use policies defined by the Territory Plan. **Noise standards** apply to each zone. Except where otherwise permitted under the Regulation, an activity causes **environmental harm** if that noise exceeds the **noise standard** at the **compliance point** set either by the Regulation, an **environmental authorisation** or an **approval**.

Certain activities (e.g. lawn mowing, construction or outdoor concerts) which are either economically desirable and/or socially acceptable may not comply with **noise standards**. Such activities are permitted as either permitted activities under Section 29 of the Regulation or by

conditions of an **environmental authorisation** (see Section 10.1) or **approval**. In most cases, conditions are applied to restrict the adverse impact of the noise generated.

*Note: The person causing **environmental harm** is considered to be the person who is legally present or in control of the premises where the noise is emitted. However, for constant noise sources (e.g. air conditioner, pool pump) the person causing **environmental harm** is considered to be the legal occupier of the premises.*

## 6.2 Affected person

In accordance with Section 22(3) of the Regulation, the **EPA** will only take action in relation to excessive noise causing **environmental harm** if an **affected person** lodges a complaint.

An **affected person** is the occupier of an **affected place** subjected to noise which exceeds the **noise standard** applying to that place. To be an **affected person**, a person must:

- In the case of leased or privately owned land, be the legal occupier of that land and the noise must originate from an activity being undertaken outside that land; or
- In the case of unleased or public land (excluding roads, footpaths and cycle ways), be legally present on that land. The noise may originate from an activity being undertaken on or outside that land.

This definition of **affected person** excludes people who are in a position to control the activity causing the noise or who have other means available to them to address the problem. The following are not **affected persons**:

- The occupier of a parcel of land who is affected by noise from an activity being undertaken on that parcel of land (because the occupier is in a position to control the activity);
- The occupier of a **unit** in a **units plan**, such as a person living in an apartment block, who is affected by noise from common areas of the complex because that person is, through the body corporate, in a position to control the activity (such people are, however, considered to be affected by noise from activities being undertaken in another **unit** in the complex);
- The occupier of a parcel of land held under a territory lease who is affected by noise from another occupier on the same territory lease (e.g. two people living in an untitled dual occupancy or people living in untitled units); and
- Any person who is, on the land but is not the legal occupier. Examples include:
  - Customers on commercial premises, as they can ask the proprietor (who is the legal occupier) to take action or they can take their business elsewhere;
  - Employees within their employers lease boundary; and
  - Any person on a road, footpath or cycleway, as they are in transit or can readily move elsewhere.

## 7. NOISE STANDARDS

As noted above, the Territory Plan is promulgated under the *Planning and Development Act 2007* (Planning Act).

**Noise standards** under the *Environment Protection Act 1997* have been set to protect the acoustic environmental value, appropriate for the range of land zones designated under the Territory Plan.

**Noise standards** are the maximum level of noise which may be emitted by an activity, as measured at the **compliance point**. They are set in Table 2.2 of Schedule 2 of the Regulation.

*Note: All noise emissions from a parcel of land must comply with the noise standards at any point within the vertical plane of the site boundary.*

### 7.1 General standards

The ACT has been divided into seven **noise zones** which relate to land zones under the Territory Plan. The **noise standards** set for each **noise zone** have been based on planning guidelines, Australian standards, interstate practice and noise monitoring data. The **noise standards** permit the highest noise levels in industrial areas and are most stringent in residential areas.

Each zone has a “day” standard and a “night” standard. The day standard applies between 7am and 10pm Monday to Saturday (8am and 10pm Sunday and public holidays). The night standard applies between 10pm and 7am Monday to Saturday (10pm and 8am Sunday and public holidays).

Somewhat different arrangements apply to areas within the Territory Plan with land uses classified as ‘Community Facility’, ‘TSZ2 Services Zone’, ‘CZ5 Mixed Use Zone’ or ‘Leisure and Accommodation Zone’. A wide range of activities is catered for within these land use areas and the type of activity undertaken generally reflects the surrounding area. The **noise standard** for this classification of land use is ‘the same as the **noise standard** for the adjoining **noise zone** with the highest standard for the time period (Schedule 2, Table 2.2 of the Regulation)’.

Subsequently, for a nightclub in an ‘CZ5 Mixed Use Zone’ area adjoining a Town Centre, the Town Centre standard would apply, enabling the nightclub to compete on equal terms, as far as noise requirements are concerned, with nightclubs in the Town Centre.

In the case of a motel surrounded by residential areas, the residential **noise standard** would apply.

### 7.2 Standards for units (e.g. apartments)

Unlike people living in free-standing houses, people who live in a **unit** on a **units plan** do not have the ability to control noise from activities in other **units** within the **units plan**. To provide

these occupants with protection from noise generated by other people living in the **units plan**, the noise generated by an activity in another **unit** must not exceed 5 dB(A) below the **noise standard** in their **unit** (Section 24(2)(a) of the Regulation). This lower limit provides equity with people living in free-standing houses who can take certain actions (e.g. closing doors and windows) to reduce the noise from neighbours. The normal **noise standard** applies to noise generated outside the **unit's** lease.

Multi-unit non-residential complexes are treated in the same way as residential apartment buildings.

### 7.3 Standards for the boundary between two or more noise zones

The Regulation recognises that occupiers of land which is at the boundary between two **noise zones** need to make allowances for the differing land use on the other side of the boundary. This is achieved by setting the standard at the boundary to the average, rounded up to the nearest dB(A), of standards applying to the two zones at the time the noise was emitted (Section 24(2)(c) of the Regulation). For example, a shop located on a block of land bordering a residential area is expected to take more precautions than it otherwise would in order to reduce the noise reaching the residential area. Equally, a person living adjacent to a shop expects to be exposed to some increase in noise levels above the **noise standard** which applies in a purely residential area.

Averaging only applies to the boundary which is common to both zones. The normal zone noise limit applies to the other boundaries of the properties. In the example above, the shop owner would only need to take additional precautions to prevent **excessive noise** in the residential area. The normal commercial zone limit would apply with respect to his lease boundary with neighbours in the commercial area.

### 7.4 Authorised or approved activities

**Noise standards** which are different to those in the Regulation may apply to activities which are covered by an **environmental authorisation** or **approval** where the different standards are specified as conditions of the **environmental authorisation** or **approval**.

**Approvals**, which are granted under another law of the Territory (i.e. *Roads and Public Places Act 1937*), to conduct an activity on public land, will only include conditions varying **noise standards** which are consistent with the goals and **Objects** of the Act.

**Environmental authorisations** are covered in more detail in Section 10.1 of this **EPP** and Section 9 of the General **EPP**.

### 7.5 Areas of NSW adjacent to the ACT

While NSW residents and businesses are not subject to ACT legislation as far as their noise generating activities are concerned, they may be affected by noise originating from the ACT. To provide them with protection from ACT noise, Schedule 2 of the Regulation establishes **noise zones** in NSW which are equivalent to those in the ACT and enables NSW residents to be recognised as an '**affected person**' under ACT legislation.

## 7.6 Noise considerations for development

Under the Planning Act, development applications (DAs) are lodged and assessed by the ACT Planning and Land Authority (ACTPLA). In the assessment of DAs, ACTPLA takes into consideration the applicable **noise standards** to ensure the compatibility of the proposal with noise amenity appropriate to the land use. ACTPLA will refer the DA to the **EPA** who may request the preparation of a supporting noise management plan, to ensure the protection of amenity from noise. The plan must be prepared by a person suitably qualified in the assessment of environmental noise. The **EPA** considers persons who are full members of the Australian Acoustical Society listed in the directory of Members Areas of Professional Practice under Environmental Noise to be suitably qualified.

ACTPLA also assesses noise issues associated with road and apartment design. Further information is available from ACTPLA through Canberra Connect on 13 22 81.

## 8. MEASURING NOISE

### 8.1 Compliance point

The **compliance point** is the point at which noise from an activity must meet the applicable standard if it is not to be considered excessive. Section 32-38 of the Regulation specify **compliance points**. Under the Regulation, an **environmental authorisation** or an **approval** may specify an alternative **compliance point**.

Changing the **compliance point** in an **environmental authorisation** or **approval** can have the effect of changing the noise level permitted. Where such a **compliance point** is specified, this will be done applying the following general principles:

- The **compliance point** should make it as easy as possible to measure the noise concerned; and
- In combination with the setting of the noise level permitted, the choice of **compliance point** should ensure that the overall noise authorised or approved is consistent with the provisions and **Objects** of the Act and the Noise **EPP**.

Where the **compliance point** is not specified in an **environmental authorisation** or **approval**, the **compliance point** is five metres from the noise source for unleased land and for leased land is as near as practicable to the lease boundary of the land from which the noise is being emitted.

In the case of a **unit** in a **units plan**, there is an additional requirement that the noise not exceed 5dB(A) below the **noise standard**, in the **unit** affected by noise from another **unit** in the **units plan** (see Section 7.2).

Where two **noise zones** are separated only by a road, the **compliance point** is the lease boundary within the **noise zone** with the lower **noise standard**.

Unless otherwise specified in an **environmental authorisation** or **approval**, measurements for determining compliance with the Act and Regulation are to be taken at a **compliance point** on, or as close as practicable to, a straight line between the source of the sound and the location where the sound is causing, or is likely to cause, **environmental harm**.

## 8.2 Measurement of noise

Noise measurements to determine compliance with the Act and Regulation are to be taken in accordance with the ACT Noise Measurement Manual. Noise levels are to be measured as  $L_{A10,T}$  as defined in the Glossary.

The index for noise measurement in the ACT is as follows:

<i>Measurement index</i>	<i>Length of measurement time</i>	<i>Adjusted measure for:</i> - <i>tonality</i> - <i>impulsiveness</i> - <i>fluctuation</i>
$L_{A10}$ (level of exceedance for 10% of the time)	Representative measurement of the noise, not less than 5 minutes or greater than 15 minutes	+ 5dB(A)

Under Section 24 of the Act, other appropriate noise indexes and limits are assessed in the development of other noise **EPPs** (eg Motorsports EPP).

## 9. PERMITTED ACTIVITIES

Some everyday activities have the potential to generate noise above the relevant **noise standard**. Consistent with the **Objects** of the Act, these activities are permitted under Section 29 of the Regulation, provided certain conditions are met. These conditions, which are listed in Table 2.3 of Schedule 2 of the Regulation, may require steps to be taken to reduce the noise generated



and/or restrict the times at which the activities can be undertaken. The permitted hours of operation are to enable such activities to be undertaken while ensuring protection of the community from undue disturbance.

Activities in this category are listed below.

### 9.1 Primary production or the management of a reserved area

Some activities associated with primary production or management of reserved areas may generate noise above the **noise standard** (e.g. stump removal, earthworks for erosion control). To enable such activities to be undertaken, while ensuring the protection of the community from undue disturbance, noise from these activities may only exceed the **noise standard** between 7am and 10pm Monday to Saturday and 8am to 10pm on Sunday and public holidays. Under Table 2.3 Schedule 2 of the Regulation, it is a condition that the equipment is maintained and operated in accordance with manufacturer's instructions.

### 9.2 Maintaining a garden or grounds

Some activities associated with garden or grounds maintenance cannot realistically be made to comply with **noise standards**. To limit disturbance to neighbours, noise from these activities may only exceed the **noise standards** at certain times:

- For maintenance of gardens or grounds on residential land the **noise standard** may only be exceeded between 7am and 8pm Monday to Saturday and between 8am and 8pm on Sunday or public holidays; and
- For maintenance of garden or grounds on non-residential land, the **noise standard** may only be exceeded between 7am and 10pm Monday to Saturday and 8am and 8pm on Sunday or public holidays.

Equipment used must be maintained and operated in accordance with any manufacturer's specifications.

*Note: Grounds may include sports grounds, public parks and open spaces, recreational areas and verges.*

### 9.3 Maintenance or repair work

Maintenance and repair work, including minor construction work such as building pergolas and laying pavers, is part of living in a community. Some aspects of this work cannot realistically be made to comply with **noise standards**. To limit the disturbance caused by these activities, noise from the activities may only exceed the applicable **noise standard** between 7am and 8pm Monday to Saturday and 8am and 8pm on Sunday and public holidays.

This relaxation of the requirement to comply with the **noise standard** only applies to occasional work, not to home businesses or frequently used home workshops. In any eight week period, noise from maintenance and repair work may not exceed the **noise standard** for more than 40 hours. For home businesses and frequently used home workshops where noise exceeds the **noise standard** for more than 40 hours in an eight week period, noise attenuation measures will need to be taken to reduce noise levels to the **noise standard**.

Equipment used must be maintained and operated in accordance with any manufacturer's specifications.

It should be noted that the onus is on the complainant to keep records of noise emitted within any eight week period and produce a statutory declaration stating the accuracy of the records.

## 9.4 Building work

Some noise during **building work** is inevitable. Measures can be taken to reduce the noise and these are described in Australian Standard AS 2436: Guide to Noise Control on Construction Maintenance and Demolition Sites. Subject to time restrictions outlined below, noise from **building work** is permitted to exceed the **noise standard** provided the work is carried out in accordance with AS 2436.

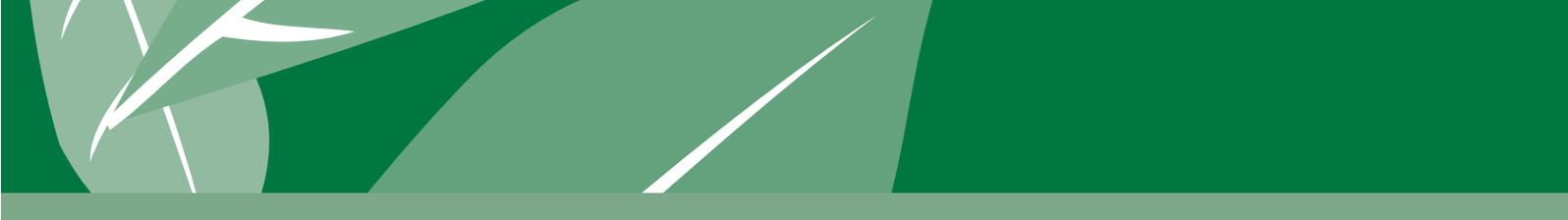
### 9.4.1 Building work requiring building approval

For **building work** which requires building approval under the *Building Act 2004*, division 3.3, the time restrictions which apply depend upon the length and duration of the work.

- In industrial areas, city centre and town centres, noise from **building work** can only exceed the **noise standard** between 6am and 8pm
- In other areas:
  - Noise from work which takes less than two weeks to finish can exceed the **noise standard** between 7am and 8pm Monday to Saturday and 8am and 8pm on Sunday and public holidays
  - Noise from work which takes longer than two weeks to finish can only exceed the **noise standard** between 7am and 6pm Monday to Saturday, excluding public holidays.

The period of two weeks applies to the duration of the entire project not to the duration of separate stages of the project.

These conditions have been established so that jobs which take less than two weeks can be finished as soon as possible. For jobs which take longer than two weeks, the aim is to prevent noise which exceeds the **noise standard** on Sundays and public holidays so that people living near the site have some respite from the noise made by the **building work**.



For jobs taking longer than two weeks, no noise exceeding the **noise standard** is permitted on any Sunday or public holiday. This includes the first two weeks of the period over which the job takes place.

#### 9.4.2 Building work not requiring building approval

For **building work** not requiring building approval, internal **building work** or maintenance and repair work on a building, the work can only exceed the **noise standard** for less than 40 hours in an 8 week period between 7am and 8pm Monday to Saturday and 8am and 8pm Sunday and public holidays.

### 9.5 Security alarms for motor vehicles or premises

Security alarms meet an important community need but controls are needed to prevent them causing unacceptable disturbance to the community.

Noise from a motor vehicle alarm may exceed the **noise standard** if the alarm sounds either intermittently or continuously for less than 90 seconds after the alarm first sounds (for a vehicle manufactured prior to 1 September 1997) or for less than 45 seconds after the first alarm sounds (for a vehicle manufactured after 1 September 1997), or if a window or the windscreen is broken or removed, if the vehicle is involved in an accident, or it is illegally broken into.

Noise from a building intruder alarm installed prior to 1 December 1997 may exceed the noise limit if it automatically ceases to sound within ten minutes after being activated by a detection device and it cannot be reactivated (except by a different detection device) until it has been manually or automatically reset.

Noise from a building intruder alarm installed on or after 1 December 1997 may exceed the noise limit if it automatically ceases to sound within five minutes after being activated by a detection device and if it cannot be reactivated (except by a different detection device) until it has been manually reset or it cannot be heard in a habitable room in any residential premises.

### 9.6 Mobile vendors

Mobile vendors operating in the ACT must not operate a noise device (e.g. loudspeaker, chime, horn, siren, bell or whistle) while the vehicle is stationary, before 8am or after 8pm on any day, for longer than 30 seconds in any three minute period or more than once in any one hour period in the same section of road between two intersecting crossroads which are nearest in each direction.

## 9.7 New Year's Eve parties

In recognition of the widespread community involvement in New Year's Eve celebrations, **noise standards** are relaxed between 6pm on New Year's Eve and 12.30am on New Year's Day. During this period, the applicable limits are:

- 60dB(A) at the boundary of the land on which the party is held; and
- If the party is a street party, 60dB(A) at the boundary of the land adjoining the street.

People organising such parties are encouraged to discuss the planned party with their neighbours.

## 9.8 Warming up vehicle engines

It may be necessary, particularly during cold weather, to warm the engine of a motor vehicle before it can be driven. Noise made by warming a motor vehicle engine may exceed the **noise standard** for no more than five minutes unless the vehicle's operating manual specifies a longer period. During warm-up vehicles must also comply with the noise requirements of the *Road Transport (Vehicle Registration) Act 1999*.

## 9.9 Bells, gongs, drums, trumpets and other non-amplified noise making equipment being used for religious purposes

The use of equipment such as bells and gongs has long been an accepted part of some religious ceremonies. In some circumstances, a requirement that noise from these activities comply with the **noise standard** would place unreasonable limits on such ceremonies. To enable these religious ceremonies to take place while providing reasonable protection to neighbours, noise made by unamplified equipment (e.g. bells) used for religious purposes may exceed the **noise standard** between 7am and 10pm on Monday to Saturday and 8am and 10pm on Sunday and public holidays. Noise made for religious purposes from amplified equipment must comply with the **noise standard**.

## 9.10 Noise from portable loud speakers

Some activities which take place on public land, such as sporting events and cultural festivals, involve the use of portable loud speakers. Noise from these loud speakers may be permitted to exceed the **noise standard** as part of an **approval** from a Government agency. An example might be an **approval** under the *Roads and Public Places Act 1937* to hold a multicultural day in Civic Square.



Any **approval** to exceed the **noise standard** would not include times other than between 7am and 8pm Monday to Saturday and 8am and 8pm on Sunday and public holidays. Loudspeakers used on leased land must comply with the **noise standard** except where other requirements apply under an **environmental authorisation**.

### 9.11 Roadworks

The construction and maintenance of roads is central to the economic and social well-being of the community. The Regulation restricts the times at which roadworks can take place to limit noise nuisance while not unduly affecting traffic.

No time restrictions are placed on the construction and maintenance of major roads to enable work to take place during periods of low traffic flows. For roads other than major roads, the noise made during construction or maintenance may only exceed the **noise standard** between 7am and 8pm on Monday to Saturday and 8am and 8pm on Sunday and public holidays.

### 9.12 Commercial collection of waste from commercial premises

The noise from waste collection can cause **environmental harm** or **nuisance**. The times at which residential waste collections take place is restricted under the contracts between the Government and the waste collection companies. Commercial waste collection is not subject to Government contracts and is therefore controlled by regulation. The Regulation requires that commercial waste collection not exceed the **noise standard** except where it is being undertaken in accordance with a code of practice accredited under Part 5 of the Act.

### 9.13 Maintenance of a utility service

The maintenance of a utility service is essential to the well-being of the community. No time restrictions are placed on the maintenance of a utility service to enable work to take place as required.

### 9.14 Testing compliance with noise standards

Occasionally it may be necessary to test whether an activity complies with the Regulation (e.g. motorsport testing or outdoor concerts that do not trigger an **environmental authorisation**). Noise from such tests may exceed the **noise standard** for up to two hours in any one week provided the tests are completed in the minimum time necessary. Testing should be undertaken by a suitably qualified person and must be in accordance with the *ACT Noise Measurement Manual*. Tests should, if possible, be undertaken between 7am and 8pm Monday to Saturday or 8am and 8pm on Sunday and public holidays. Where tests need to be made outside these hours, these may only be undertaken with the approval of the **EPA**. The **EPA**

would generally only approve tests for compliance with night limits where the background noise during the day is so high that it prevents testing during the permitted times.

*Note: The EPA does not provide a compliance testing service. Commercial acoustic consultants provide this service.*

## 10. ENVIRONMENTAL MANAGEMENT INSTRUMENTS

The Act creates a number of environmental management instruments. An explanation and general policies on the use of these instruments are described in Section 9 of the General EPP. The application of these instruments to activities with the potential to cause noise pollution is described below.

### 10.1 Environmental authorisations

An **environmental authorisation** is a form of licence to conduct an activity which has a significant potential to cause **environmental harm** (Part 8 of the Act), and sets out the conditions under which the activity must be conducted. **Noise standards** and **compliance points** can be varied under an **environmental authorisation**. Examples of activities with a significant potential to generate noise pollution subject to an **environmental authorisation** are outdoor concerts using amplified music at a venue capable of holding more than 2000 people and motor sports.

It is the responsibility of the activity manager to apply for an **environmental authorisation**. It is an offence to conduct an activity listed as a **Class A activity** in Schedule 1 of the Act without an **environmental authorisation**. The timeframe from application to grant for an **environmental authorisation** is approximately 30 days.

It should be noted that it is an offence under the Act to contravene an **environmental authorisation**, which carries a maximum offence of \$100,000 for a corporation.

The EPA has the power to require a person undertaking or intending to undertake an activity not defined in Schedule 1 of the Act, to obtain an **environmental authorisation** for that activity (section 43 of the Act). The EPA may only require such an authorisation where **serious** or **material environmental harm** has occurred, is occurring or may occur.

The EPA would generally expect to exercise this power in relation to activities causing noise pollution in the following circumstances, such as:

- a proposed activity not currently undertaken in the ACT and expected to generate considerable noise (e.g. a dragway);

- an activity emitting **excessive noise** which is of net benefit to the community, yet cannot readily be made to comply with **noise standards**; and
- the person undertaking an activity has a continuing poor environmental record.

## 10.2 Environment protection order

An **environment protection order (EPO)** is an instrument issued by the **EPA** under Section 125 of the Act. An **EPO** is issued where the **EPA** is satisfied that the person has breached the Act or an **environmental authorisation** condition.

An **EPO** will set out specific actions to be taken, stopped or not begun by the person to which the **EPO** relates and the maximum penalty for non-compliance with the **EPO**, among other things. Breaching an **EPO** is a serious offence and can lead to prosecution in court.

## 10.3 Other environmental management instruments

Three other environmental management instruments which may be used to manage environmental noise are:

- an **environmental protection agreement** which is a formal agreement under Part 7 of the Act between the **EPA** and a business (e.g. this could apply to activities such as furniture manufacturing, panel beating and jewellery manufacturing undertaken in residential areas, due to the potential to cause considerable disturbance to neighbours);
- an **environmental improvement plan** which is a formal plan under Part 9 Division 1 of the Act to improve the environmental performance of an activity and achieve best environmental practice over time (e.g. this could apply to an activity permitted to emit noise in excess of the **noise standard** under an **environmental authorisation**. The improvement plan would outline steps to be taken to reduce noise emissions, such as motor sport);
- an **environmental audit**, which is an assessment of an activity to identify causes of **environmental harm** or breaches of the Act and to determine the need for any change in management practices to reduce environmental impact (Part 9, Division 2 of the Act); and

Any use of these instruments will be in accordance with the policies outlined in the General **EPP**.

The other environmental management instruments, **emergency plans** and **financial assurances**, are unlikely to be used in managing environmental noise.



## 11. SALE OR HIRE OF THINGS

To avoid unnecessary complications to regional commerce, the conditions for sale or hire of things in the ACT have been aligned with the NSW requirements. Under Section 40 of the Regulation , things sold or hired in the ACT must meet the requirements for sale in NSW as set out in the New South Wales *Protection of the Environment Operations Act 1997* covering plant, motor or other vehicles, and vessels.

## 12. GLOSSARY OF TERMS

The definitions of the terms listed in this glossary are provided to assist in reading this EPP. For the formal legal definition of the terms marked with an asterisk (\*), refer to the Act and for those italicised refer to the Regulation.

<i>Term</i>	<i>Definition</i>
activity	A current or proposed activity including a process, operation, project or venture
affected person <sup>r</sup>	The occupier of an affected place, and includes a person who is lawfully on unleased or public land, which is subject to excessive noise
approval <sup>r</sup>	A licence, lease, permit or other instrument under a law of the Territory authorising the conduct of an activity on specified public land
building work <sup>r</sup>	Work in relation to the erection, alteration or demolition of a building, and includes disposal of waste materials generated— i) by the alteration of a building other than a building excluded under the Building Regulations; or ii) by the demolition of a building (but not part of the building); or iii) work in relation to repairs of a structural nature to a building
compliance point <sup>r</sup>	The point at which noise from an activity must not be excessive
dB(A)	dB (decibel) is the logarithmic unit for sound measurement. dB(A) is a unit used for "A-weighted" sound pressure levels. The A-weighting is an adjustment made to approximate the frequency response of the human ear
EPA*	Environment Protection Authority - a statutory office established under Part 2 of the Act to administer the Act
emergency plan*	A plan to deal with the foreseeable but unplanned entry into the environment of unauthorised pollutants
environmental authorisation*	A form of licence to conduct an activity which has a significant potential to cause environmental harm
environmental protection agreement*	A formal, but non-contractual, agreement between the EPA and a business to give effect to the <b>Objects</b> of the Act

<b>Term</b>	<b>Definition</b>
environment protection order*	An instrument, issued by the EPA where the EPA is satisfied that a person has breached the Act or an authorisation condition, specifying that certain actions be or not be taken
EPP*	Environment Protection Policy
financial assurance*	A financial assurance (e.g. bank guarantee, bond) provided to the EPA by an authorisation holder where there is a likelihood that action will be required to remedy environmental harm caused by the authorised activity
$L_{A10,T}$	The A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured by a precision sound level meter. Where T is the length of the measurement time period in minutes
Noise causing environmental harm <sup>r</sup>	Noise from an activity which exceeds the noise standard, or a different standard where that standard is specified in an environmental authorisation or approval, at the applicable compliance location
noise standard <sup>r</sup>	The maximum level of noise as measured at the applicable compliance location which may be generated by an activity being undertaken in the relevant noise zone. Table 2.2 of Schedule 2 of the Regulation defines zone noise standards
noise zone <sup>r</sup>	A parcel of land determine by land use policies in the Territory Plan to which a single noise standard applies. Table 2.1 of Schedule 2 of the Regulation defines noise zones
permitted activity	Day to day activities which are permitted to exceed the noise standard subject to certain conditions, as specified in Table 2.3 of Schedule 2
person causing noise	Noise from an activity by a person who is legally present or in control of premises where the noise is emitted
unit <sup>r</sup>	Part of a parcel shown in a unit title application or a units plan as a unit
vertical plane of the site boundary	The site boundary extends up in a vertical line from the ground, perpendicular to the horizon

## 13. REFERENCES

*Environment Protection Act 1997*

Environment Protection Regulation 2005

*ACT Noise Measurement Manual*, EPA 2009

General Environment Protection Policy, EPA August 2007

Outdoor Concert Environment Protection Policy, EPA February 2001

Motor Sport Environment Protection Policy, EPA October 2002

ACT Environment Protection information sheets

Australian Standard 2436-1981: Guide to noise control on construction, maintenance and demolition sites

