

Environment Protection (Commercial and Industrial Noise) Policy 2022

Explanatory report

Environment Protection (Commercial and Industrial Noise) Policy 2022 explanatory report

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Abbreviations

| | |
|----------|---|
| AS/NZS | Australia/New Zealand Standard |
| EP Act | <i>Environment Protection Act 1993</i> |
| EPA | South Australian Environment Protection Authority |
| EPP | environment protection policy |
| IEC | International Electro Technical Commission |
| LNLC Act | <i>Local Nuisance and Litter Control Act 2016</i> |
| PDI Act | <i>Planning Development Infrastructure Act 2016</i> |
| dB(a) | A-weighted decibels |

1 Introduction

This report explains the proposed changes to the current *Environment Protection (Noise) Policy 2007* (Noise Policy) which are subject to the statutory processes required by section 28 of the *Environment Protection Act 1993*. The changes proposed will revoke the current policy and create a new *Environment Protection (Commercial and Industrial Noise) Policy 2022* (Commercial and Industrial Noise Policy).

The purpose of the existing Noise Policy is to protect human health from the impacts of noise. The proposed changes add to this objective by:

- updating references to current noise measurement and other standards to ensure human health is protected
- adding a character penalty for intermittent noise to further manage annoyance and health impacts from noise
- referencing modern planning guidelines in order to provide more clarity and consistency to users of the policy

Noise is commonly defined as unwanted sound. Virtually all processes generate noise. It is an inherent part of most activities and includes a large range of sources from singing birds to the hum of a power station.

The management of excessive noise presents challenges. If uncontrolled, it can be a long standing and serious nuisance for many, leading to reduced quality of life or potential health problems stemming from anxiety to loss of sleep. Individual responses to noise are subjective and can vary widely.

1.1 Why we need to regulate noise

The World Health Organization *Noise Guidelines*¹ provide strong evidence that noise is ‘one of the top environmental hazards to both physical and mental health and well-being’.

Short- and long-term health problems as a result of noise can include:

- sleep disturbance
- mental illness
- cardiovascular effects including a defence reaction leading to a potential increase of blood pressure
- psychophysiological effects such as headaches and fatigue
- hearing impairment including noise-induced hearing loss, ear discomfort and tinnitus.

In order to prevent serious harm to human health, noise pollution requires regulation.

1.2 Regulating noise pollution in South Australia

Given the vast range of activity that generates noise, the regulation of noise is a shared responsibility across different South Australian regulatory authorities. In many instances agencies including the EPA work together to manage noise. Figure 1 provides examples of the jurisdictions which regulate various noise sources in South Australia. For a detailed list of regulatory authorities responsible for neighbourhood nuisances including noise sources please visit [the EPA website](#).

¹ Berglund B, Lindvall T, Schwela DH & World Health Organization Occupational and Environmental Health Team 1999, *Guidelines for community noise*, World Health Organization, <https://apps.who.int/iris/handle/10665/66217>

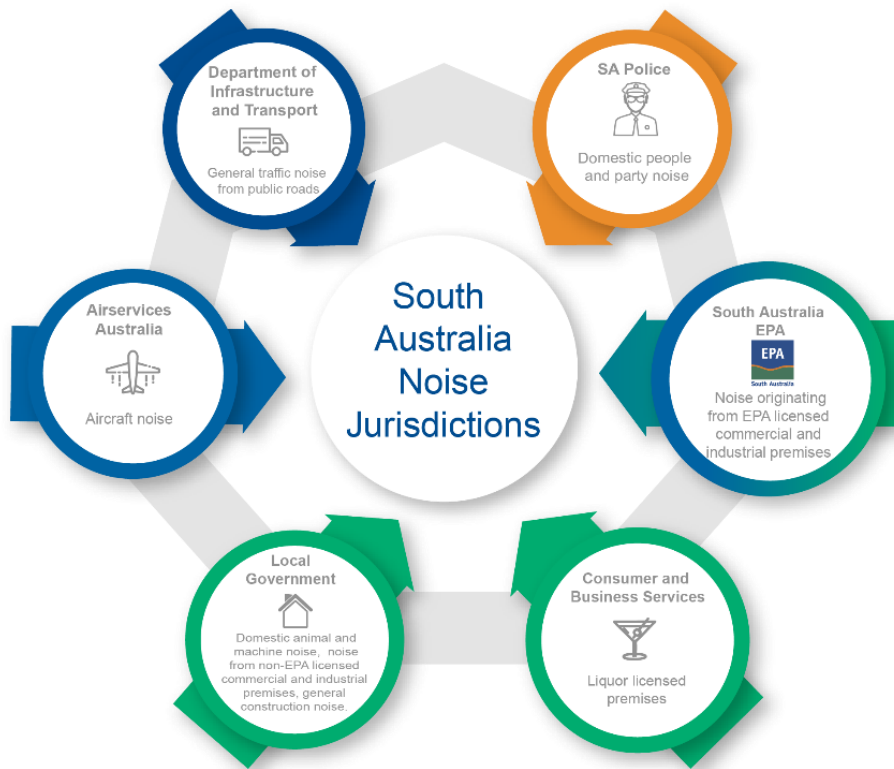


Figure 1 South Australia noise jurisdictions

1.3 What noise does the EPA regulate?

Unlike pollution of water or air by chemicals, noise pollution is not visible, but falls within the definition of both a 'pollutant' and 'environmental nuisance' under the *Environment Protection Act 1993* (EP Act).

Noise pollution leading to environmental nuisance is an offence under section 82 of the EP Act and could amount to material environmental harm potentially attracting serious penalties depending on impact or scale. The general obligation not to pollute under section 25 of the EP Act also applies to noise as it does other pollutants.

1.3.1 Scope of the existing Noise Policy

The existing *Environment Protection (Noise) Policy 2007* (Noise Policy) provides a legal framework for the assessment of a wide range of noise sources in South Australia including both domestic and non-domestic sources.

Examples of activities include:

- air-conditioning units, pool pumps, power tools and lawn mowers from domestic and non-domestic sources
- burglar alarms from both domestic and non-domestic sources
- premises associated with primary industry processing such as wineries, abattoirs, dairies and seed processing
- light industry premises like motor vehicle repair shops
- commercial premises such as shopping centres
- industrial premises including manufacturing and processing facilities.

Environment protection policy

An environment protection policy (EPP) is one of a number of legislative tools provided for under the EP Act. An EPP can be made for any purpose directed towards securing the objects of the Act. This may include setting out requirements or mandatory provisions that will be enforceable under the Act.

An environment protection policy:

- has the force of a standard imposed by Parliament
- may impose mandatory provisions with penalties
- is developed for a specific area, eg waste, water, air, noise.

1.3.2 Environment protection licenses are subject to the Noise Policy

The EPA licenses premises and activities that have the potential to cause significant or widespread impact on the environment. Noise emanating from EPA-licensed sites are regulated by licence conditions and are subject to the Noise Policy. Local governments are responsible for the management of local nuisance issues, such as commercial and industrial noise from sources not licensed by the EPA.

1.4 Why is the Noise Policy being reviewed

The Noise Policy has been in place for 15 years, during this time a number of opportunities to improve its operation has been identified. Along with the need to revise the policy, two significant legislative changes occurred in South Australia in 2016, which triggered the need to review the Noise Policy to ensure alignment with new legislation.

These were:

- 1 The introduction of the *Local Nuisance and Litter Control Act 2016* (LNLC Act)

With the introduction of the LNLC Act, local government are now responsible for the management of local nuisance issues, such as noise from sources not licensed by the EPA and other domestic noise sources. This excludes 'people' noise which is regulated by South Australia Police. The commencement of the LNLC Act resulted in a significant impact on the way in which the Noise Policy operates and the management of local noise in South Australia.

- 2 The *Planning Development and Infrastructure Act 2016* (PDI Act) replacing the *Development Act 1993*.

The new legislation includes the single electronic Planning and Design Code, which replaced 72 development plans used by planning authorities. Previously these development plans totalled over 1,200 zones. The Planning and Design Code now has 65 zones and the same number of subzones.

The Noise Policy is connected to the planning system. It uses zones and subzones to apply provisions and must align with current planning legislation to proactively minimise noise by assessing development proposals in a noise context.

1.5 Process of making a new environment protection policy for noise

It is proposed the existing Noise Policy is revoked and replaced with the 'Environment Protection (Commercial and Industrial Noise) Policy 2022'. Development of the new EPP is subject to the statutory process required under section 28 of the EP Act (Figure 2).

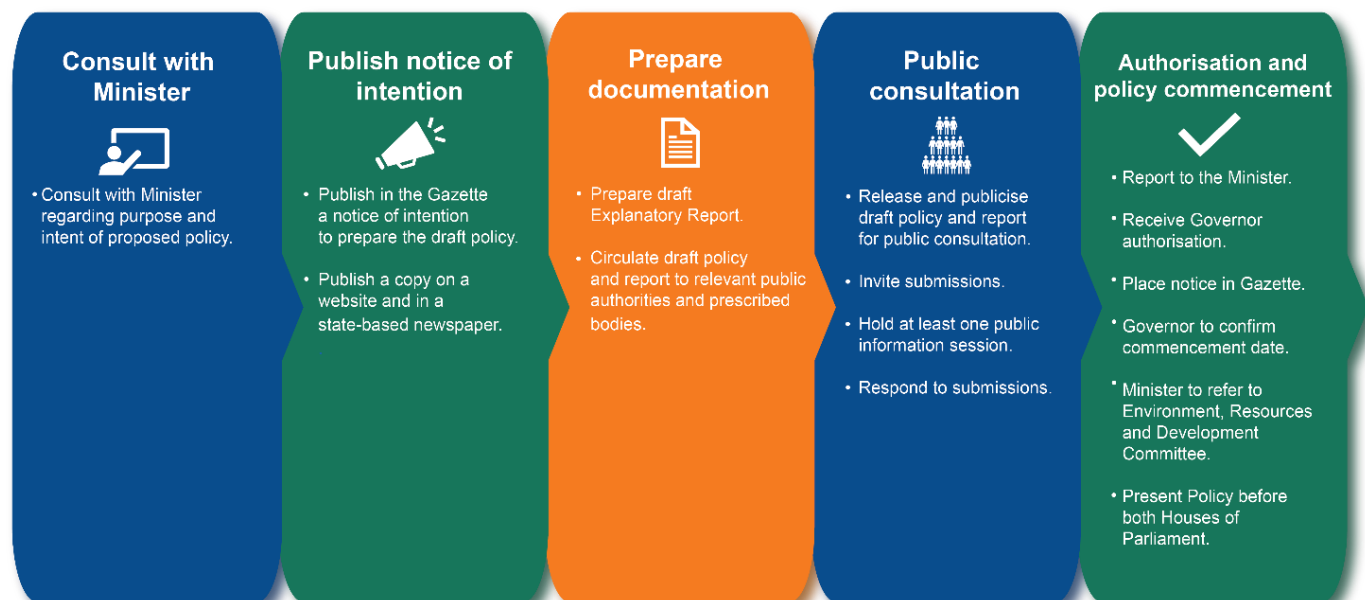


Figure 2 Steps to develop environment protection policies

1.6 Consultation process to date

To date the review of the Noise Policy has been through two consultation stages. The initial consultation (stage 1) commenced in 2017. While not a legislated requirement, Stage 1 followed the government's 'Better Together' engagement principles².

Stage 1: included targeted consultation over an 8-week period, with 65 stakeholders to assist with framing the scope of the policy review in March 2017.

Key stakeholder groups included:

- Peak bodies and associations
- Major mining companies
- South Australian and Commonwealth Government agencies
- Prescribed bodies identified in Regulation 9 (normal procedure for making policies) of the *Environment Protection Regulations 2009* under the EP Act.

The findings of Stage 1 then informed the development of a discussion paper to assist with developing final recommendations for revisions to the policy.

Stage 2: involved the release of a [discussion paper in May 2020](#) to engage with the South Australian community and industry on opportunities to improve the Noise Policy. Stage 2 consultation was open for public comment over a 10-week period (also additional to legislated requirements). A total of 31 submissions were received, primarily from industry stakeholders and local government. A [report which summarises submission findings](#) is published on the EPA website.

As a result of the two-stage consultation process, several changes to the existing Noise Policy are proposed.

² <https://www.bettertogether.sa.gov.au/principles-overview>

2 Draft Environment Protection (Commercial and Industrial Noise) Policy 2022

It is proposed the draft Environment Protection (Commercial and Industrial Noise) Policy 2022 (Commercial and Industrial Noise Policy) replace the existing Environment Protection (Noise) Policy 2007 (Noise Policy).

As stated above, the draft Commercial and Industrial Noise Policy is the result of both an extensive review of the legislation and policies used in the regulation and management of noise in South Australia and a two-stage consultation process.

2.1 Objectives

The objectives of the Commercial and Industrial Noise Policy are to:

- Ensure human health protection from excess commercial and industrial noise.
- Set noise goals to measure compliance with general environmental duty under section 25 of the EP Act.
- Set factors required to be considered when noise goals are exceeded.
- Prevent future and emerging noise issues through development application procedures.
- Set clear and consistent procedures for measuring noise to determine compliance.

The Commercial and Industrial Noise Policy will achieve these objectives by:

- Incorporating standards and approaches that are consistent with the World Health Organization guidelines.
- Providing the framework for setting standards for development assessments for environmental noise.
- Providing a consistent regulatory tool that reduces ambiguity for enforcement authorities.
- Responding to new and emerging noise issues through a streamlined policy amendment process.

2.2 Enforcement

The Commercial and Industrial Noise Policy is enforced through the use of the environment protection orders under section 93(1) of the EP Act. This Policy provides guidance to the EPA on the enforcement process.

2.3 Proposed variations from the existing Noise Policy

Table 1 describes the key changes proposed to the existing Noise Policy.

Table 1 Summary of key changes to the existing Noise Policy

| Proposed variation | Purpose & effect |
|--|--|
| Create independent Noise Policy definitions | <p>Purpose: It is proposed the new policy changes the current term 'locality' to 'designated area', a distinctly different term with a similar meaning. This is to ensure the term applied under the new Commercial and Industrial Noise Policy is independent of the term 'locality' currently used in the PDI Act and the Planning and Design Code.</p> <p>Effect: This change will add clarity to the application of Commercial and Industrial Noise Policy provisions.</p> |
| Include 'intermittency' as a new additional noise characteristic | <p>Purpose: Noise intermittency can increase the nuisance caused by excessive noise when compared to steady or continuous noise. To bring South Australia in line with other interstate policies that regulate noise, it is proposed 'intermittency' is included as a noise characteristic that attracts a penalty based on specified characteristics (ie modulating, tonal, etc).</p> |

| Proposed variation | Purpose & effect |
|---|---|
| | <p>Effect: This change will add further clarity to the assessment of noise under the new Commercial and Industrial Noise Policy.</p> |
| Align the Commercial and Industrial Noise Policy with current planning legislation | <p>Purpose: The existing Noise Policy operates both within, and outside of the planning system. The current Noise Policy makes direct reference to <i>the Development Act 1993</i> which is superseded by <i>the Planning Development and Infrastructure Act 2016 (PDI Act)</i> and the Planning and Design Code. It is proposed the new Commercial and Industrial Noise Policy references current planning legislation.</p> <p>Effect: The proposed change will ensure the new policy references modern planning legislation. This will reduce ambiguity for the EPA, councils, developers, and the community.</p> |
| Remove 'domestic noise' from the policy to avoid duplication of provisions with other legislation | <p>Purpose: <i>The Local Nuisance and Litter Control 2016 (LNLC Act)</i> commenced in 2017. This Act regulates most nuisance issues from noise other than those emanating from sites licensed by the EPA. Local government is responsible for the management of local nuisance issues.</p> <p>With the introduction of the LNLC Act, it is proposed Part 6 of the existing Noise Policy 'Special noise control provisions' is removed from the new Commercial and Industrial Noise Policy to avoid duplication with the LNLC Act.</p> <p>Part 6 contains special and definitive controls for noise sources generally associated with activities involving residential land uses or 'domestic' uses including domestic pool pumps, rubbish collection services and building intruder alarms.</p> <p>Construction noise at most sites is regulated under the LNLC Act. However, if a subject site is already a licensed site under the EP Act then any construction undertaken at this site will be managed through the environment protection licence in place of Part 6 of the existing policy (which is proposed for removal).</p> <p>Councils may choose to conduct measurements in accordance with the Commercial and Industrial Noise Policy to support the subjective assessment of nuisance conducted under the LNLC Act.</p> <p>Clause 5(4) of the LNLC Act does not apply to noise generated in relation to an activity authorised by an environmental authorisation within the meaning of the EP Act.</p> <p>Effect: Removing Part 6 from the Noise Policy will ensure the Commercial and Industrial Noise Policy does not contain duplicate provisions with the LNLC Act.</p> |
| Technical updates | <p>Purpose: The existing Noise Policy references expired Australian and New Zealand Standards and guidelines. It is proposed references to standards and guidelines in the new policy are updated.</p> <p>Effect: Referencing current standards and guidelines will ensure the new policy follows best practice for measuring noise.</p> |

| Proposed variation | Purpose & effect |
|-----------------------------------|---|
| Other minor updates to the policy | <ul style="list-style-type: none"> • Change reference of 'administering authority' to 'administering agency' to correct an existing error (referencing section 18 of the EP Act). • Clarify that the 'Authority' will determine the relevant land use under the Noise Policy. This will provide greater procedural guidance. • Remove reference to <i>Audible Bird Scaring Devices Environmental Noise Guidelines 2007</i> from the Noise Policy which is now regulated by the LNLC Act and council bylaws. • Change the wording of 'emergency vehicle sirens' to 'emergency vehicle sirens, fire alarms and other emergency alarms and devices' as this will broaden the definition to clarify noise from emergency alarms are not considered under the Noise Policy as they are regulated under the general environment duty in the EP Act. • Remove reference to noise sources that are not suitable to be measured under the new Commercial and Industrial Noise Policy (for example helicopter landing facilities) by removing the wording 'as described in clause 8 of Schedule 1 of the Act' from Schedule 1(7) which infers that these activities, when below the licensing threshold, are measurable using the policy. This provides clarity that Schedule 1(7) noise sources are instead considered under the general environment duty. • Schedule 1(6) of the new policy has removed reference to the following Acts: <ul style="list-style-type: none"> – <i>Community Titles Act 1997</i> – <i>Strata Titles Act 1988</i> – <i>Residential Tenancies Act 1995</i>. <p>These Acts are no longer relevant with the removal of Part 6 from the existing policy.</p> • Schedule 1(6) now reads 'Noise that may be the subject of proceedings under the <i>Liquor Licensing Act 1997</i>'. This Act has remained due to the relevance of commercial premises under the Act. • Schedule 1(7) of the existing policy has been removed. The provision states 'Noise caused by dogs or other animals resulting from an activity at domestic premises'. With the removal of Part 6 from the existing policy this provision is not needed to clarify what is excluded from the Commercial and Industrial Noise Policy. • Split Schedule 1(3) 'aircraft or railway noise' into two separate dot points under Schedule 1 to provide clarity. • Remove the words 'resulting from an activity at domestic premises' from Schedule 1(1) for clarity. |

3 Clause by clause explanation

Part 1 – Preliminary

Clause 1 Short title

Clause 1 names the policy as the Environment Protection (Commercial and Industrial Noise) Policy 2022.

What's changed?

The title change from the *Environment Protection (Noise) Policy 2007* is due to the removal of Part 6 'Special Noise Provisions' from this existing policy. Part 6 of the existing policy includes provisions for domestic noise sources such as pool pumps which are now regulated under the LNL Act.

Clause 2 Commencement

Clause 2 provides the date set by the Governor of South Australia for the commencement of the Commercial and Industrial Noise Policy.

No change proposed

Clause 3 Interpretation

Clause 3(1) provides definitions for terms used throughout the Commercial and Industrial Noise Policy.

Clause 3(2) describes that the use of terms defined in Australian Standards, Australian/New Zealand Standard or International Electro Technical Commission Standard is a reference to the standard as varied from time to time. If a standard under the policy is varied, it is still relevant under the Commercial and Industrial Noise Policy.

What's changed?

A number of changes to the policy's terms are proposed including:

- 'intermittent characteristic' has been added as a standalone term and to the definition of characteristic.
- 'locality' from the existing policy has been changed to 'designated area' to distinguish the term 'locality' used under the PDI Act.
- 'quiet locality' has been replaced with 'quiet designated area'
- the term 'noise source' has been changed to 'noise source means a commercial or industrial premise or place at which an activity is undertaken, or a machine or device is operated, resulting in the emission of noise.'
- 'Development Plan' has been replaced with the 'Planning and Design Code'
- relevant Development Plan provisions has been replaced with Relevant Planning and Design Code provisions
- 'relevant land use' has been added as a new term
- The term 'mandatory provisions' has been removed (no longer relevant with the proposed removal of Part 6 from the existing Noise Policy)
- Minor word change to the term 'noise source' to ensure there is a commercial and industrial focus.

Clause 4 Relevant land uses and land use categories

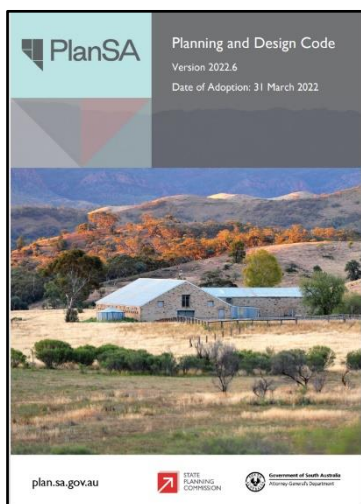
Clause 4 sets the rules for determining relevant land use and land use categories under the Commercial and Industrial Noise Policy.

The EPA is the 'Authority' is responsible for determining the land use category which sets the indicative noise level for a noise source or the relevant allowable noise level for noise-affected premises.

There are seven available land use categories under the Commercial and Industrial Noise Policy:

- Rural Living
- Residential
- Rural Industry
- Light Industry
- Commercial
- General Industry
- Special Industry

Clause 4(1) states the Authority (the EPA) will determine if a land use referred to under the Planning and Design Code for a designated area is a relevant land use under the Commercial and Industrial Noise Policy. This will then be used to determine the land use category and accompanying indicative noise level under the Policy.



Designated Area

The Commercial and Industrial Noise Policy is linked to the Planning and Design Code. The term 'designated area' under the policy refers to zones and sub zones or otherwise as stipulated under the Planning and Design Code.

Under the Planning and Design Code

Desired outcomes are policies designed to aid the interpretation of performance outcomes (see below) by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features are one way of satisfying (or interpreting) the performance outcome.

Clause 4(1)(a) is where the first instance, the 'desired outcomes' provisions of the code should be used to assign the land use category under the policy.

Clause 4(1)(b)(i) is where if the desired outcome cannot be used to assign a land use category to an area, the 'performance outcome' provisions of the code should be used in the second instance.

Clause 4(1)(b)(ii) is where if the desired outcomes and performance outcomes cannot be used to determine the land use category, the 'designated performance' features should be used in the third instance.

Below is an example of the application of clause 4(1):

A noise source is located within the 'Strategic Employment' zone. To determine the relevant land use, the desired outcome of the zone is examined. Desire Outcome 1 notes 'a range of industrial, logistical, warehousing, storage, research and training land uses together with compatible business activities generating wealth and employment for the state'. From this, it is determined that general industry land use is the main land use envisioned in this zone and is the relevant land use.

Clause 4(2) is where once a land use from the code has been determined a category that best describes the land use is assigned under the 'Guidelines for the use of the Environment Protection (Commercial and Industrial Noise) Policy 2022'³.

Referencing the previous example, it is determined that the 'Strategic Employment' zone in the Planning and Design Code is considered to be "General Industry" land use category in accordance with the requirements of the *Environment Protection (Commercial and Industrial Noise Policy) 2022*.

Clause 4(3) allows the Authority determines the land use category within which a relevant land use under the code.

Clause 4(4) allows the allocation of a designated area to a land use category to be determined by the Authority under the 'Indicative noise level guidelines for the Environment Protection (Commercial and Industrial Noise Policy 2022)'⁴.

Clause 4(5) If there is uncertainty or disagreement as to whether a land use referred to in the code applies to a designated area or alternatively if there is uncertainty or disagreement for which land use category is a relevant land use under the code, then the Authority is ultimately responsible for determining the land use category after consulting with the State Planning Commission.

What's changed?

Clause 4 provisions have been updated to reference modern planning legislation including both the PDI Act and the Planning and Design Code.

Additional wording has been included in clause 4 to refer to a new guideline (*Indicative noise level guidelines for the Environment Protection (Commercial and Industrial Noise Policy 2022)*). This guideline provides pre-interpreted indicative noise levels for each designated area to provide certainty for users of the policy.

³ In publication

⁴ In publication

Clause 5 Indicative noise levels

What is an indicative noise level?

The indicative noise levels provide the trigger to investigate if further action is to be taken with respect to reducing the noise from the noise source.

Indicative noise levels have been graded according to the acoustic amenity of different land use categories. The least intensive land use category is Rural Living which has the most stringent indicative noise levels. The most intensive land use category is Special Industry which is assigned the least stringent indicative noise levels.

Clause 5 sets the indicative noise levels for a noise source. An indicative noise level is calculated by referencing the land use category or categories assigned in accordance with clause 4.

Clause 5(1)(a)(i) and (ii) recognise the specific situation of both the noise affected premises and the noise source being located in a General Industry or Special Industry land use categories.

It ensures the noise source can operate over a 24-hour period provided it can achieve the daytime noise levels at the noise affected premises.

Clause 5(1)(b) deals with all other situations not included in 5(1)(a)(i) and (ii).

Clause 5(2) establishes the time periods defining day and night-time for the purposes of the Commercial and Industrial Noise Policy. These periods are consistent with current Australian legislation, standards and the World Health Organization recommendations.

Clause 5(3) defines the method to select the indicative noise factor according to Tables 1 or 2 in clause 5(9) of the Commercial and Industrial Noise Policy. This factor is then used in clauses 5(4) to 5(6) as relevant to determine the indicative noise level for the noise source.

Clause 5(4) deals with the situation of both the noise source and noise affected premises being in the same designated area, which in turn is assigned one land use category. An example would be an industry and surrounding dwellings located in a residential zone.

Clause 5(5) considers two situations not addressed by clause 5(4) which are where the noise source and the noise affected premises are in separate 'designated areas' (interface); or where the noise source and the noise affected premises are in the same 'designated area', and there are a number of relevant land uses envisaged by that 'designated area' (commonly known as a mixed-use zone). For both the interface and mixed-use situations, clause 5(5) requires an averaging of the indicative noise factors for each of the land use categories determined in accordance with clause 4.

Clause 5(6) is the exception to clause 5(5) which occurs in the interface situation, when the two 'designated areas' are separated by a distance of greater than 100 metres. A practical example where this may apply is in areas where council has provided for a buffer zone, to separate potentially incompatible land uses. Clause 5(6) applies the indicative noise level to the noise source as if the noise source was located in the same 'designated area' as the noise affected premises.

Under clauses 5(4) to 5(6), the seven listed land use categories may be applied in over 20 possible combinations.

Clause 5(7) states that a figure resulting from the calculation of an average under subclause (5) must, if it contains a fraction be rounded to the nearest whole number.

Clause 5(8) provides for provisions where the measurements are made within a habitable room but cannot be located at an open window.

Clause 5(9) provides two tables (see below); Table 1 is related to subclause (1)(a) and Table 2 is related to subclause (1)(b). These tables assign a land use category to an indicative noise factor in decibels (dB(A)) which is an indicative noise level for both day- and night-time.

(9) Tables

Table 1 (subclause (1)(a))

| Land use category | Indicative noise factor (dB(A)) | |
|-------------------|---------------------------------|-------|
| | Day | Night |
| General Industry | 65 | 65 |
| Special Industry | 70 | 70 |

Table 2 (subclause (1)(b))

| Land use category | Indicative noise factor (dB(A)) | |
|-------------------|---------------------------------|-------|
| | Day | Night |
| Rural Living | 47 | 40 |
| Residential | 52 | 45 |
| Rural Industry | 57 | 50 |
| Light Industry | 57 | 50 |
| Commercial | 62 | 55 |
| General Industry | 65 | 55 |
| Special Industry | 70 | 60 |

What's changed?

Clause 5 provisions have been updated to reference modern planning legislation including both the PDI Act and the Planning and Design Code. There are no changes proposed to noise levels in Tables 1 and 2 of the policy.

Clause 6 Application of the policy

Clause 6 states the Commercial and Industrial Noise Policy is not to be applied to items outlined in Schedule 1 or a noise source subject to an environmental authorisation, order or exemption in place prior to the gazettal of the policy.

Note: Clause 7 Revocation of other policies has been removed from the existing Noise Policy as it is no longer relevant.

No change

Clause 7 Amendment of policy without following normal procedure (section 32 of Act)

Clause 7(1)–(3) provides a streamlined process to incorporate minor policy amendments and facilitate an efficient response to emerging issues. Clause 7 states parts 3 and 6 of the policy may be amended under a modified process. Amendments are still subject to the comprehensive consultation and approval process specified under clause 7(3).

What's changed?

Clause 5 has been added to 7(1).

Part 2 – Objects of the Policy**Clause 8 Objects of Policy**

Clause 8 defines the objects which are to establish:

- a measurement procedure for commercial and industrial noise sources.
- commercial and industrial noise goals that, if achieved, secure compliance with the EP Act.
- requirements that the Authority will impose to address noise issues whereby noise exceeds noise goals.
- a consistent approach to development applications under the *Development Act 1993* or the PDI Act, and to proactively address commercial and industrial noise issues at the development stage.

What's changed?

- Reference to Part 6 from the existing policy has been removed and reference to the PDI Act has been included.
- Minor word change to clause 8(a) and (d) of the policy to ensure a commercial and industrial noise focus.

Part 3 – Measurement procedure

Part 3 of the Policy provides the measurement procedures for assessment of commercial and industrial noise against the policy.

Clause 9 Application of Part

Explains that unless otherwise specified, this Part does not apply to noise to which guidelines under Part 6 apply.

No change

Clause 10 Instrumentation

Clause 10 (1)–(3) sets the minimum accuracy requirements for instruments used to measure and assess noise under the policy.

What's changed?

Standards referenced have been updated to *AS/NZS IEC 61672.1.2019: Electroacoustics*.

Clause 11 Noise-affected premises and measurement place

Clause 11 defines the appropriate location to collect noise data for assessment against the policy. In general, the measurement position is at the noise affected premises.

Clause 11 (1)(a) defines these premises as a residence or a business, that must be in separate occupation, or not on the same land, as the noise source. The noise source must be audible at the measurement location to proceed.

Clause 11 (1)(b) also enables measurements to occur at a park or reserve or place of public recreation, in recognition of the expected amenity associated with these locations.

Clauses 11(2)–(5) provide an authorised officer with flexibility to determine the most relevant measurement position. This allows accurate assessment of noise impacts in a wide range of situations.

Clauses 11(3)–(5) set the rules for the selection of the measurement location on the noise affected premises by establishing a selection hierarchy for a relevant measurement location.

What's changed?

References to Part 6 under the existing policy has been removed from the Commercial and Industrial Noise Policy.

Clause 12 General procedures

Clauses 12 provides the general rules for the measurement and assessment of noise during on-site investigation and generally reflect accepted practice.

Clause 12(a) provide procedures which must be adopted when measuring source noise level (continuous), ambient noise level (continuous or background noise level) if the measurement is taken outside.

Clause 12(b) provide procedures which must be adopted when measuring source noise level (continuous), ambient noise level (continuous or background noise level) if the measurement is taken at an open window in a room.

Clause 12(c) provide procedures which must be adopted when measuring source noise level (continuous), ambient noise level (continuous or background noise level) if the measurement is taken within a room or at any place determined by the Authority or another administering agency.

What's changed?

Minor text change to ensure the term 'administering agency' is used consistently

Clause 13 Source noise level procedures

Clause 13(1) sets general rules that apply to the source noise level to enable comparison against the policy and sets the default period for the measurement at 15 minutes reinforcing normal practice for environmental noise measurements. The default period may be changed provided the modified period is equally representative of the impact of the noise under investigation.

Clause 13(2) requires that the influence of ambient noise should be removed from the source noise level measurements for the purposes of comparison with the noise goals.

Clause 13(3) establishes the rules for the application of 'penalties' to the source noise level for the presence of characteristics. A sliding scale is used under clause 13(3), where the presence of any one characteristic attracts a total penalty of 5 dB(A), two characteristics a total penalty of 8 dB(A) and three or four characteristics, a total penalty of 10 dB(A).

What's changed?

Minor text change in clause 13(3) from three or four characteristic to 'three or more' as this is due to the new addition of the intermittency characteristic under clause 3.1.

Clause 14 Ambient and background noise level procedures

Clause 14 sets general rules that apply to the measurement of the background noise level and the ambient noise level (continuous).

Clause 14(1)(b) requires that the period for measurement should be adequately representative of the nature of the ambient noise.

Clause 14(2) deals with the situation where the ambient noise (continuous) or background noise cannot be determined, because it is not reasonable or practicable to stop the noise source, or because there is extraneous noise adversely affecting the measurement. The clause allows for the selection of an alternative remote location subject to the requirements of clause 14(2)(a)–(c) inclusive.

No change

Clause 15 Rounding

Clause 15 recognises the level of accuracy appropriate for an environmental noise assessment when taking into account the influence of meteorological conditions, sound level meter accuracy, the flexibility within the measurement procedure and the use of indicative noise levels. All measurements taken for the purpose of comparison with the Commercial and Industrial Noise Policy are rounded to the nearest whole number. Fractions between 0.5 and 0.9 should be rounded up, and fractions between 0.1 and 0.4 should be rounded down.

No change

Part 4 – General noise control provisions

Clause 16 Application of Part

The general noise provisions establish the rules to secure compliance with the general environmental duty under section 25 of the EP Act for most noise sources, other than those excluded by Schedule 1, or subject to more specific or tailored rules within Part 6.

What's changed?

References to Part 6 under the existing policy has been removed from the Commercial and Industrial Noise Policy.

Clause 17 Compliance with noise goals satisfies general environmental duty

Clause 17 (1) and (2) establishes the circumstances that a noise source will satisfy the general environmental duty of the EP Act, and, as such, will be under no legal obligation to take further noise reduction measures.

What's changed?

Minor text change to clause 17(2) so that 'noise' is changed to 'noise source'.

Clause 18 Criteria for determining action to deal with non-complying noise from noise source

Clause 18 establishes the criteria that the Authority must have regard to when determining what action, if any, to take if the noise goals under clause 18 cannot be met.

The clause 18 criteria also assist in determining the time to implement those actions.

The action taken will be subject to the facts and degrees of each situation when considered against the clauses 18(a)–(i) inclusive.

What's changed?

Minor text change to clause title to add the word 'source' to 'noise source'

Part 5 – Development authorisation applications

Clause 19 Development authorisation applications

Clause 19 provides the rules which apply to the EPA's assessment of referred development applications. A principle of clause 19 is to provide for a consistent but more stringent assessment procedure to the general noise provisions in Part 4 of the Commercial and Industrial Noise Policy.

An objective of clause 19 is to extend the noise policy beyond the management of existing complaint situations to a more proactive approach that provides clear expectations for industry and the community.

Clause 19(1) sets the scope of application to proposed development referred to the Authority under the *Development Act 1993* or the PDI Act, which comprise activities of environmental significance.

Clause 19(2) provides the links between the defined terms 'noise source' and 'noise affected premises' for applying Part 5 of this policy for a proposed commercial or industrial development.

Clause 19(2)(b) provides for the rules of clause 19 to apply to future premises.

Clause 19(3) establishes that the noise goal for the proposed development will be the indicative noise level derived in accordance with the Commercial and Industrial Noise Policy, less 5 dB(A). For the scope of application of clause 19, the assessment of development is more stringent than the assessment of an existing situation by a factor of 5 dB(A).

Clause 19(4) limits the impacts from new development on a quiet designated area to the World Health Organization recommendations for community noise⁵.

A quiet designated area is defined in the Commercial and Industrial Noise Policy as a designated area (zone, subzone or otherwise) which would be assigned a Rural Living or Residential land use category in accordance with the provisions of the Policy.

Clause 19(5) establishes that the provision of information and documentation associated with the prediction of noise levels and assessment of impacts under clause 19 is the responsibility of the applicant for the development.

Clause 19(6) establishes the criteria that the Authority must have regard for when determining its response to a development that does not achieve the objective tests in clause 19. Rather, the clause 19 tests provide a conservative line under which no adverse impacts are expected, regardless of those factors. The Authority may determine that the proposed development can operate at levels in excess of the objective tests of clause 19. If this is the case, then section 25 of the EP Act is deemed to be met and environmental harm or nuisance is not created.

No change

Part 6 – Guidance documents

Part 6 of the Policy provides the Authority with the ability to give effect to listed guidelines through the issue of an environment protection order.

What's changed?

Clause 33 from the existing Noise Policy has been removed as audible bird scaring devices are now regulated by the LNLC Act and council bylaws.

Clause 20 Wind farms

Clause 20(1)–(2) states one guideline, *Wind Farm Environmental Noise Guidelines 2021*, prepared by the Authority is included in Part 6 being *the*.

What's changed?

- *Wind farm environment noise guidelines 2003* has been updated to *Wind farms environmental noise guidelines 2021*.
- Minor word change from 'person' to 'entity'. Under the new *Legislation Interpretation Act 2021*, 'entity' includes a person.

⁵ Berglund B, Lindvall T, Schwela DH & World Health Organization Occupational and Environmental Health Team 1999, *Guidelines for community noise*, World Health Organization, <https://apps.who.int/iris/handle/10665/66217>

Clause 21 Issue of environment protection orders to give effect to guidelines

Under this clause, the Authority or another administering agency may issue an environment protection order to a person who has undertaken an activity referred to in this Part to give effect to *the Wind Farm Environment Noise Guidelines 2021* that apply to the activity under this Part.

No change

Schedule 1 – Noise excluded from policy (clause 6)

Schedule 1 lists the noise sources which are excluded from the Policy.

What's changed?

- The wording of Schedule 1(1) in the new policy has been changed from 'Noise principally consisting of music or voices, or both, resulting from activity at domestic premises' to 'Noise principally consisting of music or voices' this has broadened the definition to clarify noise principally consisting of music or voices is not part of this policy.
- Schedule 1(3) 'aircraft or railway noise', in the new policy, has been split into two separate dot points under Schedule 1 to provide clarity.
- Schedule 1(6) of the new policy has removed reference to the following Acts:
 - *Community Titles Act 1997*
 - *Strata Titles Act 1988*
 - *Residential Tenancies Act 1995*.
- These Acts are no longer relevant with the removal of Part 6 from the existing policy.
- Schedule 1(6) now reads 'Noise that may be the subject of proceedings under the *Liquor Licensing Act 1997*'. This Act has remained due to the relevance of commercial premises.
- Schedule 1(7) of the existing policy has been removed. The provision states 'Noise caused by dogs or other animals resulting from an activity at domestic premises'. With the removal of Part 6 from the existing policy this provision is not needed to clarify what is excluded from the Commercial and Industrial Noise Policy.
- Schedule 1(8) of the new policy has removed the wording 'as described in clause 8 of Schedule 1 of the Act'. The wording infers that these activities, when below the licensing threshold, are measurable using the policy. This change provides clarity that Schedule 1(8) noise sources are instead considered under the general environment duty in the EP Act.

Schedule 2 – Repeal of *Environment Protection (Noise) Policy 2007*

Schedule 2 states the Environment Protection (Noise) Policy 2007 is revoked.