



## Noise Guide for Local Government

Cover images:

Large: The most common problem for councils is barking dogs. Photo: EPA

Top right: Leaf blowers need to be used in a way that doesn't cause 'offensive noise'. Photo: EPA

Centre right: Measuring noise from a commercial site in a residential area. Photo: EPA

Bottom right: Avoid using noisy power tools in a way that could annoy neighbours. Photo: EPA

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#### **Report pollution and environmental incidents**

**Environment Line:** 131 555 (NSW only) or [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au)

See also [www.epa.nsw.gov.au/pollution](http://www.epa.nsw.gov.au/pollution)

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# Overview

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This *Noise Guide for Local Government* aims to provide practical guidance to council officers in the day-to-day management of local noise problems and in the interpretation of existing policy and legislation.

It focuses on how to assess and manage noise issues dealt with by council officers, such as neighbour-to-neighbour problems and those resulting from commercial or industrial premises.

Importantly, the Guide is also aimed at planners. It outlines planning considerations that can have a significant bearing on prevention of future noise problems.

The Guide is advisory in nature, and council officers are encouraged to use it to develop council procedures or policy to deal with noise issues relevant to local circumstances.

**Part 1 — Framework for noise control** outlines the legal framework for noise control and the distribution of responsibility for dealing with noise problems. It includes a quick reference guide for common neighbourhood noise issues showing which agency is responsible and how the issue can be both assessed and managed.

**Part 2 — Noise assessment** describes the key noise assessment procedures that council officers may use when deciding whether noise is a problem. These cover the audibility test, duration of noise test for intruder alarms and the offensive noise test. Advice is also provided on procedures for assessing noise using a sound level meter and when this may be needed to determine if noise is offensive or intrusive.

**Part 3 — Noise management principles** describes how current planning instruments and policies can prevent noise problems from occurring. Mitigation strategies are described that can prevent or minimise noise impacts.

**Part 4 — Regulating noise impacts** identifies the statutory processes that are available to avoid or control noise.

**Case studies** appear in Parts 2, 3 and 4. They describe typical situations and show how assessment, management and regulatory tools can be used to help control common noise problems.

**Part 5 — Appendixes** provide technical notes that can assist in measuring noise levels and assessing noise impacts. The appendixes also include templates for issuing Noise Abatement Directions and warning notices under the POEO (Noise Control) Regulation 2008. They also refer to the *Guide to Notices* on the Environment Protection Authority (EPA) website where additional templates are available. This Part also includes guidance on noise control when installing air conditioners, heat pumps, swimming pool and spa pool pumps, and rainwater tank pumps.

**Part 6** has a list of further reading and a glossary that explains commonly used terms.

Specific guidance material on noise management for industrial noise, road traffic noise and construction noise is in the following documents.

The **NSW Industrial Noise Policy** — is specifically aimed at large industrial developments, but also provides guidance on measuring and assessing noise from small commercial and industrial premises regulated by councils. The EPA has commenced a review of this policy.

**NSW Road Noise Policy** – criteria for assessing road traffic noise from road developments with the aim of promoting the consideration of noise pollution impacts early in the planning of new roads and freeways.

The **Interim Construction Noise Guideline** describes how noise impact assessment can be done for construction sites, how sites can be managed to minimise noise and how compliance with approved conditions can be determined.

The **Environmental Noise Control Manual** previously published by the EPA does not contain current information on noise management and should not be used or relied upon. It has been superseded by the above policy documents and this Guide. Current noise policies are available at [www.epa.nsw.gov.au/noise/index.htm](http://www.epa.nsw.gov.au/noise/index.htm)

# Noise Guide for Local Government

## Part 1 Framework for noise control



**Part 1 Framework for noise control**

Part 2 Noise assessment

Part 3 Noise management principles

Part 4 Regulating noise impacts

Part 5 Appendixes

Part 6 Glossary, Further reading and Index

# Part 1 Framework for noise control

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# Part 1 Framework for noise control

## 1.1 Introduction

Noise pollution can be defined as unwanted noise that unreasonably intrudes on daily activities. In urban areas, noise pollution has many sources, most of which are associated with urban living: road, rail and air transport; industrial noise; and neighbourhood and recreational noise. The level of annoyance or discomfort depends on the type, timing, duration and frequency of noise or if the disturbance is out of the ordinary. Noise pollution can have negative impacts on the quality of life and health, and needs to be addressed in planning and pollution control strategies.

The impact of noise on human health has emerged as an increasingly significant issue that justifies considerable management effort. The *Guidelines for Community Noise* (WHO 1999) and *The Health Effects of Environmental Noise – Other than Hearing Loss* (enHealth Council 2004) identify the significant health effects of exposure to environmental noise.

This implies that access to quiet areas would be beneficial to health. This was confirmed in a study by Gidlof-Gunnarsson & Ohrstrom in 2007 which showed that access to quiet green areas, such as parks and reserves, reduced noise annoyance and stress-related psychological symptoms. These findings reinforce the need for judicious planning of residential developments as the pressures of population growth and greater urban density increase our exposure to various forms of unwanted noise.

Neighbourhood noise is a serious environmental amenity issue that affects many in the community and noise nuisance can escalate into serious confrontations within neighbourhoods. Management of these issues results in resource intensive compliance activities by enforcement agencies.

In NSW, local councils, NSW Police, Roads and Maritime Services (RMS) and the Environment Protection Authority (EPA) receive and manage complaints about noise. The aim of the Noise Guide for Local Government is to help councils assess, manage and regulate noise issues. Subsection 1.5 in this part of the guide provides a summary of how commonly occurring noise issues can be dealt with by councils or other regulatory authorities, and it directs the reader to the sections of the Noise Guide that contain further detail.

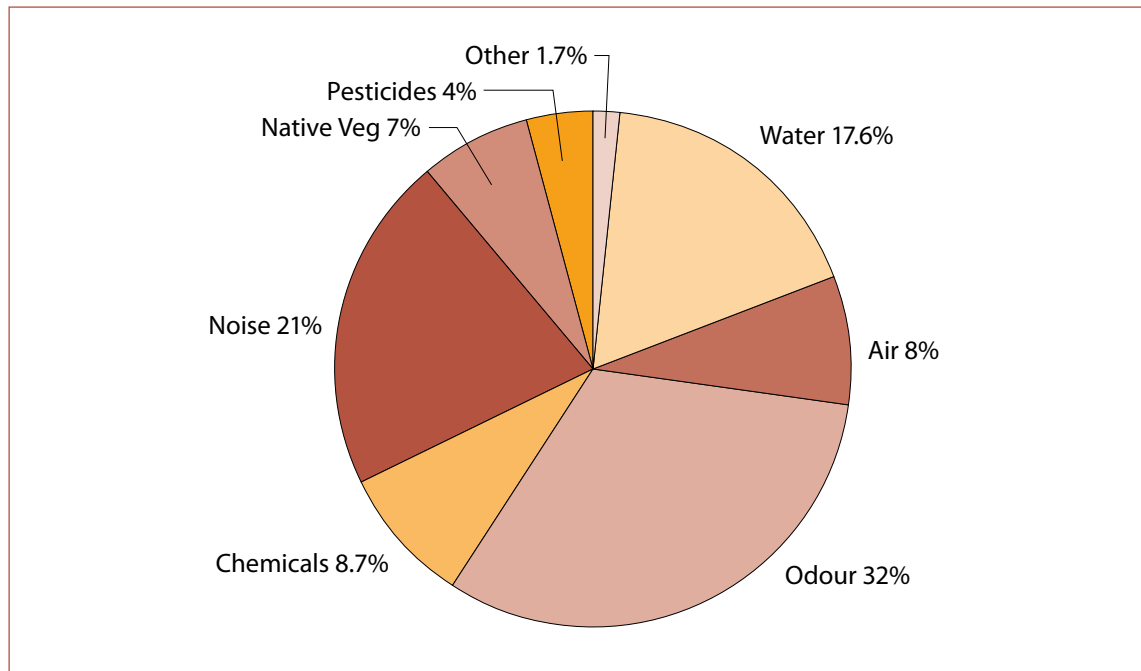
## 1.2 Noise complaints

Many councils have data on the number and type of noise related calls received, but information is not available on the total number of calls received by all 152 councils in NSW. The EPA and NSW Police also have information on the number and type of calls they receive. Some of the available data is provided below.

### Calls to Environment Line

In 2008–09, Environment Line received 1480 noise incident reports accounting for 21% of all incident calls. Of these noise incident reports, 77% were about activities that are regulated by the EPA. In addition, the agency dealt with 1411 noisy vehicle incidents. There were also 4985 requests for information about noise issues to Environment Line or 8% of all information calls received.

**Figure 1.1: Environment Line incident calls, 2008–09**



Source: NSW Department of Environment, Climate Change and Water data 2009

## Calls to NSW Police

NSW Police record all calls received within the computer dispatch system (NSW PoliceCAD). Table 1.1 shows the number of noise and alarm incidents recorded on PoliceCAD in 2008 and the number attended by police. These complaints were initially reported as noise complaints, however, they may be the result of other activities (e.g. building alarm as a result of a break-in and enter).

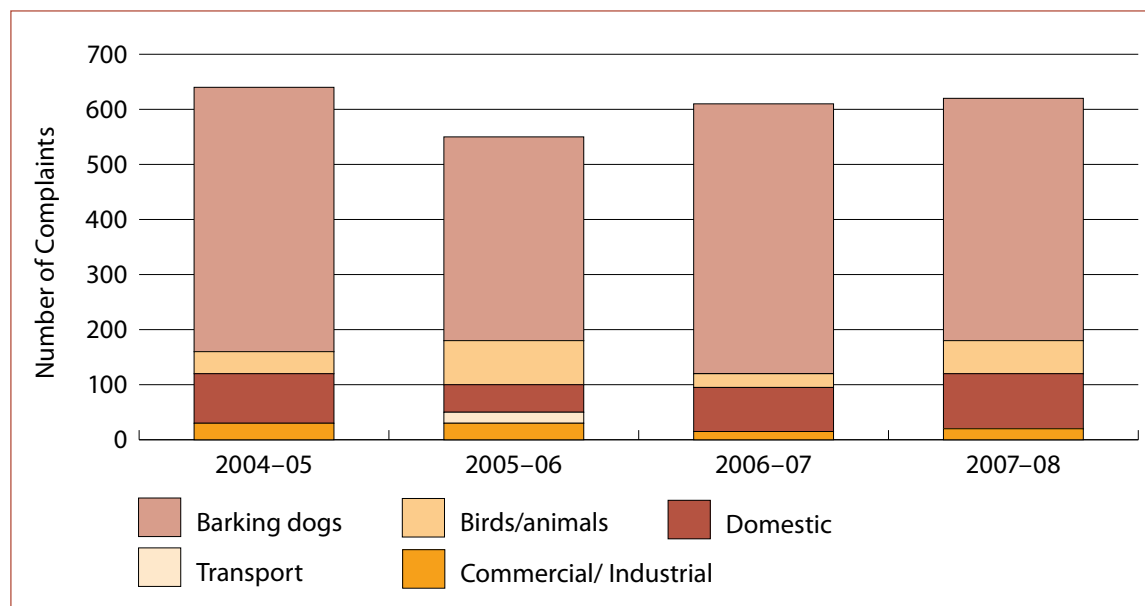
**Table 1.1: Number of noise and alarm incidents recorded and attended 2008**

Type of incident	Recorded on PoliceCAD
Noise complaint	100,273 (65%)
Alarm (vehicle and/or building)	55,087 (35%)
<b>Total</b>	<b>155,360</b>

Source: NSW Police Data 2009

## Calls to Wollongong City Council

Figure 1.2: Complaints received by council for noise pollution



Source: Wollongong City Council State of the Environment Report 2007-08

## Calls to Blacktown City Council

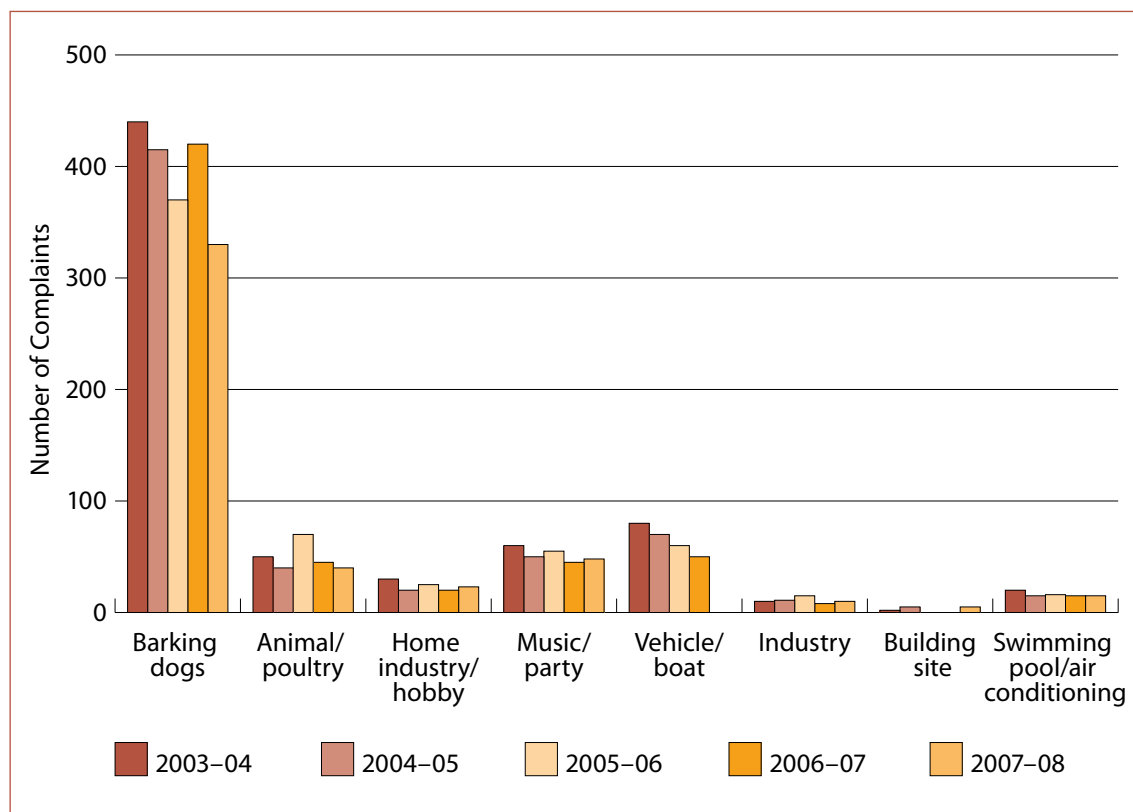
Table 1.2: Complaints received by council for noise pollution

Noise source	2003-04	2004-05	2005-06	2006-07	2007-08
Barking dogs	771	867	786	827	870
Industrial commercial	53	64	61	61	83
Air conditioners	44	49	46	51	47
Alarms	23	36	30	36	42
Music	142	194	229	240	264
Pool filters	10	13	16	9	5
<b>Total</b>	<b>1043</b>	<b>1223</b>	<b>1168</b>	<b>1224</b>	<b>1311</b>

Source: Blacktown City Council State of the Environment Report 2007-08

## Calls to Shoalhaven City Council

Figure 1.3: Complaints received by council for noise pollution



Source: Shoalhaven City Council State of the Environment Report 2007-08

### 1.3 Responses to noise

An individual's response to noise is subjective and can depend on specific circumstances, such as the time of day and the type of activity being undertaken. This can make it difficult to determine a noise level that is satisfactory to all people, so it is important to ensure that there is an independent and unbiased assessment of noise problems. This will help find the balance between being able to conduct legitimate activities that may emit noise and the responsibility to minimise noise.

Where noise is a problem, there is a general expectation that whoever is creating the noise should take all reasonable and feasible measures to minimise it.

Councils and Police have a key role in managing local and neighbourhood noise problems by providing an impartial and fair assessment of what level of noise is reasonable, taking into consideration the nature of the activity, the surrounding area and number of people likely to be affected. RMS plays a similar role with regard to noise from vessels on navigable waters.

Resolving noise problems successfully will often rely not just on identifying the problem and developing a suitable noise management strategy, but also on managing the complaint effectively. This is important so that the complainant sees that action is being taken, has realistic expectations about the end result (i.e. the noise may still be audible) and understands the time it will take to resolve the problem.

Part 3 of the Noise Guide describes the range of noise management strategies from proactive planning strategies to reactive regulatory action and in what circumstances each of these may be employed.



## 1.4 Legal framework for noise control

The *Protection of the Environment Operations Act 1997* (POEO Act) and the *Protection of the Environment Operations (Noise Control) Regulation 2008* (Noise Control Regulation) provide the main legal framework and basis for managing unacceptable noise.

The POEO Act:

- identifies the authority responsible for regulating noise (s. 6 of the Act)
- defines 'noise' and 'offensive noise' (Dictionary in the Act)
- provides a range of regulatory tools to manage noise, including Noise Control Notices, Prevention Notices, Noise Abatement Directions and Noise Abatement Orders (see Part 4 of this Guide)
- makes it an offence to breach the conditions of a Notice, Direction or Order
- requires activities listed in Schedule 1 to the POEO Act to be licensed by the EPA (see ss. 42–88 of the Act)
- makes it an offence to:
  - sell certain articles emitting more than the prescribed noise (s. 136 of the Act)
  - sell certain articles not fitted with the prescribed noise control equipment (s. 137 of the Act)
  - emit noise through the operation of plant at a premises, unless the plant is maintained in an efficient condition and operated in a proper and efficient manner (s. 139 of the Act)
  - emit noise through processing or otherwise dealing with materials (including raw materials) in or on premises, except where those materials are dealt with in a proper and efficient manner (s. 140 of the Act)
- provides authorised officers appointed by the EPA with the power to stop, inspect and test motor vehicles (ss. 206–210 of the Act)
- provides NSW Police officers with the power to stop, inspect and test motor vehicles (ss. 206 and 208 of the Act)
- provides marine park rangers authorised by the Marine Parks Authority and officers authorised by RMS with the power to stop, inspect and test vessels (ss. 206 and 208 of the Act)
- provides authorised officers with the power to turn off or disable building intruder alarms and motor vehicle intruder alarms that have been sounding for longer than the permitted time (s. 198A of the Act)
- enables regulations to be made in order to give effect to the Act provided these are not inconsistent with the Act (s. 323 of the Act).

The POEO Act and the *Protection of the Environment Operations (General) Regulation 2009* (POEO General Regulation) make certain agencies the **appropriate regulatory authority (ARA)** responsible for various premises/activities. This includes local councils, the EPA, Marine Parks Authority and RMS. The Act enables these agencies to make their officers **authorised officers** for the purpose of exercising certain regulatory functions in relation to regulating these premises/activities. Authorised officers are also by default **authorised persons** for the purposes of issuing noise abatement directions. The POEO Act makes NSW Police authorised persons for the purposes of issuing noise abatement directions.

All of these agencies and other agencies such as Port Corporations and the Sydney Harbour Foreshore Authority can also make their officers **enforcement officers**. Details of the ARAs and the powers of the different officers/persons are outlined below.

The **ARA** is the body responsible for regulating particular premises/activities and can issue, for example, Prevention Notices, Noise Control Notices and Compliance Cost Notices related to the premises/activities for which it is the ARA. Only the ARA can issue these Notices for the activities/premises for which it is responsible.

### Appropriate regulatory authorities

#### Local councils

Section 6 of the POEO Act makes local councils the ARA for any premises/activities in its local government area other than those covered by other ARAs as noted below.

#### Environment Protection Authority (EPA)

Section 6 of the POEO Act makes the EPA the ARA for:

- premises, and all activities carried on at those premises, on which scheduled activities are carried out that are listed in Schedule 1 to the POEO Act (these are generally large industrial sites)
- premises, and all activities carried on at those premises, to which an environment protection licence has been issued for the purpose of regulating water pollution
- activities conducted by state or public authorities, whether at premises occupied by the state or a public authority or otherwise (e.g. noise from public schools, local council road works etc).

The POEO General Regulation makes the EPA the ARA for certain non-scheduled activities, which may involve noise issues, for example:

- route of the Inner West Light Rail (cl 89)
- large outdoor entertainment activities and certain sporting activities at certain state facilities (cl 90)
- other activities such as large plants that mix crushed rock with bituminous materials, large concrete batching plants and certain mobile plants (cl 92).

Clause 87 of the POEO General Regulation relates to Kosciuszko National Park and makes the EPA the ARA for:

- non-scheduled activities
- premises which have a scheduled activity, premises to which an environment protection licence applies and activities conducted by a state or public authority.

#### Olympic Park Authority

Clause 90A of the POEO General Regulation 2009 makes the Olympic Park Authority the ARA for entertainment activities at Olympic Park that are not carried out by the state or a public authority.

#### Marine Parks Authority

Clause 84 of the POEO General Regulation makes the Marine Parks Authority the ARA for activities/premises in marine parks other than those for which the EPA is the ARA, that is, premises which have a scheduled activity, premises to which an environment protection licence applies and activities conducted by a state or public authority.

### Roads and Maritime Services (RMS)

Clause 86 of the POEO General Regulation makes RMS the ARA for activities involving non-pilotage vessels in navigable waters other than those for which the:

- EPA is the ARA, that is, premises that have a scheduled activity, premises to which an environment protection licence applies and activities conducted by a state or public authority
- Marine Parks Authority is the ARA, that is, non-scheduled activities in marine parks.

(**Note:** Non- pilotage vessels include, for example, any vessels outside of designated ports and recreational vessels, vessels less than 30 metres, vessels over 30 metres that are exempt from the pilotage requirements, and sea planes within designated ports. Refer to section 4.3.4 for details.)

**Authorised officers** are appointed by an ARA under s. 187 of the POEO Act, and act on its behalf in investigating alleged environmental problems relating to activities/premises for which it is the ARA. Authorised officers have a range of investigative powers. The POEO Act provides authorised officers with powers to:

- require information or records (Part 7.3 of the Act)
- enter and search premises (Part 7.4 of the Act)
- question and identify persons (Part 7.5 of the Act).

Section 187 of the POEO Act enables a local council to appoint officers and employees of other local councils (as well as its own officers and employees) as authorised officers for the purposes of the Act, in relation to its area. This is to facilitate investigations under the Act that require action across local government boundaries.

**Authorised persons** can issue Noise Abatement Directions under Part 8.6 Division 3 of the POEO Act. Section 275 of the POEO Act makes Police officers and people who have been made authorised officers under s. 187 of the POEO Act authorised persons.

**Enforcement officers** are people who are authorised by the agencies listed under cl 81 of the POEO General Regulation to issue Penalty Notices for certain offences. There are different classes of enforcement officers depending on which organisation has authorised the enforcement officer. Schedule 6 of the POEO General Regulation sets out which classes of enforcement officers can issue Penalty Notices for offences. ARAs will usually also appoint those it has appointed as 'authorised officers' as 'enforcement officers', however, there may be occasions on which an ARA decides it is appropriate to appoint a person as one but not the other. As well as the ARAs, other organisations such as NSW Police, Port Corporations (Sydney, Port Kembla and Newcastle) and the Sydney Harbour Foreshore Authority may also appoint enforcement officers.

An enforcement officer can use all the investigatory powers of an authorised officer (i.e. a person appointed under s. 187 of the POEO Act), except for certain specified powers, but only for the purposes of issuing a Penalty Notice. Only the ARA and the EPA can initiate court proceedings rather than issue a Penalty Notice for a breach of the POEO Act or the Noise Control Regulation. However, if a person elects to have a matter for which they have been issued with a Penalty Notice heard by the court, an enforcement officer may then commence court proceedings.

Section 189 requires that authorised officers and enforcement officers who are not Police officers are provided with identification cards and these must be produced if requested by any person affected by the exercise of the officer's functions. Similarly, Police officers must produce their identification.

The **Noise Control Regulation** contains specific provisions relating to common noise problems, including restrictions on the use of:

- air conditioners, heat pump water heaters, pool pumps, power tools etc.
- building and car alarms
- individual motor vehicles, including defective mufflers and car sound systems
- recreational marine vessels, including sound systems on vessels and the use of sirens.

Section 136 of the POEO Act makes it an offence to sell certain prescribed articles emitting more than the prescribed noise. The regulation lists the prescribed articles and noise limits related to s. 136 of the POEO Act, which include limits for motor vehicles and, for example, grass cutting machines. Section 137 of the POEO Act makes it an offence to sell prescribed articles not fitted with the prescribed noise control equipment, or where the fitted noise control equipment has not been maintained in accordance with the regulation. The regulation prescribes motor vehicles and motor vehicle noise control equipment for the purposes of s. 137 of the POEO Act.

For offences prosecuted in the court, in some cases the maximum penalty is stated in the POEO Act. For example, s. 97 states that the maximum penalty for failure of an individual to comply with a Prevention Notice is \$250,000 and a further \$60,000 for each day the offence continues. In other cases, the maximum penalty is stated as a number of penalty units. For example, s. 277 states that the maximum penalty for a person who contravenes a Noise Abatement Direction is 30 penalty units. The maximum penalty is also stated as a number of penalty units for offences in the Noise Control Regulation. For example, cl 52 related to noise from air conditioners states that the maximum penalty is 50 penalty units for an individual. At the time of publication of this Guide, s. 17 of the *Crimes (Sentencing Procedures) Act 1999* set a penalty unit at \$110. The penalties associated with offences for which penalty notices may be issued are noted in the POEO General Regulation. For example, for an individual, a penalty notice issued for a contravention of s. 140 of the POEO Act related to noise from dealing with materials has a penalty of \$200 and a contravention of cl 52 of the Noise Control Regulation related to noise from air conditioners has a penalty of \$200.

A detailed description of the Notices, Directions, Orders and Penalty Notices that can be used in relation to noise issues is contained in Part 4 of this Guide, Regulating noise impacts.

### 1.4.1 NSW Office of Liquor, Gaming and Racing

Under the *Liquor Act 2007*, Police, local councils and residents can make a disturbance complaint to the Director of Liquor and Gaming. The Director has a range of statutory powers and enforcement functions under the liquor laws including the power to deal with disturbance complaints against licensed venues.

A disturbance complaint can be made to the Director of Liquor and Gaming when the quiet and good order of a neighbourhood is unduly disturbed by the:

- conduct of licensed premises, and/or
- behaviour of patrons after leaving the premises (such as alcohol-related antisocial behaviour and violence).

A disturbance complaint can be made to the Director of Liquor and Gaming by:

- local residents (three or more residents are required)
- Police
- a local council
- a person who satisfies the Director that their financial or other interests are adversely affected by the licensed premises (e.g. another business operator in the neighbourhood).

A disturbance complaint form, which is available from [www.olgr.nsw.gov.au/safer\\_nights\\_out.asp](http://www.olgr.nsw.gov.au/safer_nights_out.asp) must be supported by a statutory declaration.



The Director of Liquor and Gaming is responsible for dealing with disturbance complaints made in relation to hotels and other licensed venues including registered clubs.

Section 79 of the *Liquor Act 2007* provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises and registered clubs (or their patrons). The Director is responsible for resolving such complaints and may impose temporary or permanent conditions on the licence.

Complaints to the Director can relate to noise emitted from licensed premises and registered clubs from within the physical structure of the premises and disturbance from patrons, especially when departing. Complaints may include other issues such as antisocial behaviour of patrons, including vandalism, method and timing of delivery vans, and disposal of refuse such as bottles, glassware and food packaging. In some instances the NSW Office of Liquor, Gaming and Racing (OLGR) will consider complaints where the operation of the licensed premises or registered club is alleged to be the cause of an increased requirement for Police resources owing to its operation or the type of clientele it attracts.

Generally noise created by mechanical equipment is outside OLGR's responsibility, and the local council should manage these issues.

Officers of OLGR assist complainants by providing information on their legislative measures and requirements. Councils may seek assistance from the OLGR in resolving a noise issue from premises licensed under the *Liquor Act 2007*.

A s. 79 complaint must be made by statutory declaration and where necessary be accompanied by authorisation forms from at least two people residing in the neighbourhood of the licensed premises/registered club. Forms are available from OLGR including its website – [www.olgr.nsw.gov.au/safer\\_nights\\_out.asp](http://www.olgr.nsw.gov.au/safer_nights_out.asp)

Complainants are required to provide their contact details and must be advised that the complaint cannot proceed anonymously, that is, a copy of the complaint and accompanying documents will be forwarded to the licensed premises and the complainant's attendance will be required at a conference, if convened.

However, the Director requires the venue not to publish identifying information about complainants to other persons who are not party to the complaint.

Matters are usually dealt with at a conciliation conference between the licensee or secretary and the complainant. The local Police and local council are also invited to attend, along with any party who has a financial interest in the premises.

The types of condition that can be imposed on licensees by the Director include, but are not restricted to:

- noise conditions
- prohibition on amplified entertainment
- requirement for acoustical testing and amelioration work
- provision of licensed security
- restriction on time of entry to the premises.

Further information is available from the OLGR website ([www.olgr.nsw.gov.au/olgr\\_default.asp](http://www.olgr.nsw.gov.au/olgr_default.asp) or telephone the Disturbance Complaints Team on 9995 0715).

A copy of a noise condition currently imposed is as follows:

#### Current noise condition

The  $L_{A10}^*$  noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The  $L_{A10}^*$  noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive) between 12:00 midnight and 7:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00 am.

\* For the purpose of this condition, the  $L_{A10}$  can be taken as the average maximum deflection of the noise emission from the licensed premises.

This is a minimum standard. In some instances the Director may specify a time earlier than midnight in respect of the above condition.

Interior noise levels which still exceed safe hearing levels are in no way supported or condoned by the Director.

### 1.4.2 Strata schemes

Under the *Strata Schemes Management Act 1996* each strata scheme must have a set of by-laws, but they may be different for each strata scheme. It is likely that most strata schemes relating to residential premises will have a by-law relating to noise that is similar to the model by-law provision. The model by-law provision about noise provides that:

*An owner or occupier of a lot must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.*

Owners and occupiers of the strata scheme lots are required to comply with the by-laws. If the owners corporation (principal manager) is satisfied that an owner or occupier of a lot has contravened a by-law, the owners corporation can serve a notice requiring the owner or occupier to comply with the by-law. If the person to whom the notice is issued contravenes the notice within 12 months of the notice being served, the owners corporation can apply to the Consumer, Trader and Tenancy Tribunal for the person to be fined up to \$550. Action to enforce a by-law cannot be taken by an individual but can only be taken by the owners corporation. Also, the enforcement of a by-law by the owners corporation can only be pursued where there is a noise issue within a particular strata scheme. It is not relevant where noise made within a strata scheme impacts on a property that is not part of the strata scheme.

## Frequently asked questions about noise control in strata schemes

### **Can action under the POEO Act/Noise Control Regulation and action under the Strata Schemes Management Act be taken at the same time?**

Action under strata titles legislation and the POEO Act/Noise Control Regulation could be taken at the same time or sequentially. In some situations where there is a noise issue within a particular strata scheme, council may consider that it is appropriate for the strata corporation to take action to attempt to enforce the by-laws, rather than or before council takes any action under POEO legislation.

### **Are common property and private residential strata lots 'premises' for the purposes of issuing a noise abatement direction?**

A building and its surrounds which is under strata title constitutes a 'premises' and an individual strata lot also constitutes a premises. A Noise Abatement Direction can be issued to the occupier of the premises, being the person with management or control of the premises, or the person believed to be making or contributing to the noise. This is the case whether the noise is being emitted from an individual strata lot or the common property. Where the noise is being emitted from common property, the occupier of the premises would generally be the owners corporation of the strata scheme, unless the common property has been transferred or leased. If possible, Noise Abatement Directions should be issued to the person believed to be making or contributing to the noise.

### **Do the powers in the Noise Control Regulation relating to 'residential premises' apply to noise from one strata lot impacting on another strata lot in the same strata scheme?**

The clauses within the Noise Control Regulation relating to 'residential premises' (cl 14, cl 50, cl 51 and cl 52) apply where one strata lot impacts on another strata lot in the same strata scheme.

### **Do the powers in the Noise Control Regulation relating to 'residential premises' apply to noise being made on another residential premises that can be heard on the common property?**

Whether cl. 14, 50, 51 and 52 can be used to prevent noise being made on another residential premises (that is not part of the strata scheme) that can be heard on the common property of the strata scheme depends on the nature of the common property. Common property will constitute residential premises, provided that it is not used for some non-residential use. The clauses deal with the impact on a habitable room in any other residential premises. 'Habitable room' means 'any room other than a garage, storage area, bathroom, laundry, toilet or pantry'. Most common property would generally not constitute a habitable room. For example, entranceways, stairways and landings within a building would not constitute a habitable room. However, rooms such as games rooms or lounge rooms which are part of the common property would constitute a habitable room in a residential premises.

### **Do the powers in the Noise Control Regulation relating to 'residential premises' apply to noise emitted from common property?**

In a strata building, parts of the common property within or around the physical building would generally constitute residential premises. For example, areas such as entranceways, hallways, stairs and common parts of a basement garage, as well as grassed or landscaped areas, pool areas, clothes line areas or playground areas, would constitute residential premises, provided that those areas are not being used for some non-residential use, such as for commercial use. When the items that make noise are being used on common property within one residential premises that can be heard within a habitable room of another residential premises that is not part of that strata scheme, e.g. a neighbouring property, the clauses (cl. 14, cl. 50, cl. 51 and cl. 52) would apply. When the items that make noise are being used on common property that can be heard within the habitable room of a strata lot within the strata scheme, the clauses do not apply. The clauses refer to noise that can be heard within a habitable room in any other residential premises. As the common area is essentially tied to each strata lot within the strata scheme, the strata lot and common areas are essentially part of the same residential premises.

### 1.4.3 The NSW Ombudsman

The NSW Ombudsman investigates and reports on complaints about the conduct of NSW agencies or their employees, including both government (state and local) and some non-government agencies.

If a person thinks they have been unfairly treated by a local council, and council officials such as councillors, administrators, members of staff of council, members of council committees, or delegates of council to whom a function of council is delegated such as contractors, consultants, volunteers, members of advisory and section 355 committees, independent hearing assessment panels and community representatives, they can complain to the Ombudsman.

The Ombudsman helps to make sure councils act fairly and reasonably and can look at the conduct of councillors and council employees and the administrative conduct of the council itself.

Some issues that can be investigated by the Ombudsman include:

- noise complaints
- inadequate inspection or investigation
- failure to comply with proper procedures or the law
- failure to enforce development conditions
- failure to act on complaints about unauthorised work and illegal activities
- failure to enforce compliance with the law and conditions of consent
- failure to notify people before decisions that affect them are made
- failure to comply with tendering procedures
- unreasonable, discriminatory or inconsistent treatment
- failure to reply to correspondence
- failure to provide relevant information
- unauthorised disclosure of information.

The Ombudsman will not usually investigate decisions such as the setting of rates, the merits of particular development applications or the adoption of particular policies. It is best for a person to lobby the council or councillors directly if they are unhappy about these sorts of decisions.

The Ombudsman does not have the power to amend or revoke development consents. Generally there needs to be some issue of public interest or evidence of abuse in the determination processes for the Ombudsman to investigate such matters.

The Ombudsman is independent and impartial and offers services free of charge. Further information can be obtained by contacting the Ombudsman's office:

**NSW Ombudsman**

Inquiries 9.00 am – 4.00 pm, Monday to Friday or by appointment.

Level 24, 580 George Street, Sydney, NSW 2000

Phone: (02) 9286 1000; Fax: (02) 9283 2911

Tollfree: 1800 451 524

Email: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)

Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)



### 1.4.4 The Community Justice Centre

The Community Justice Centre (CJC), a part of the Attorney General's Department, provides mediation services to the community with the aim of reaching agreement between disputing individuals without involving legal proceedings. This service can assist in resolving noise disputes. Requests to use their services can come from both councils receiving complaints and local courts that receive enquiries from affected parties about starting legal proceedings.

The Community Justice Centre has published material that can assist residents to deal with situations of potential conflict with neighbours. A brochure called *Some Suggestions on How to Deal with Conflict* can be viewed at [www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au) under 'publications and pamphlets'.

## 1.5 Responsible authorities – quick reference guide

Table 1.3 provides a quick reference guide to which agency is responsible for different noise sources and how issues may be assessed and managed. Although this Guide is primarily for councils, information relating to all of the ARAs is noted in the table to provide the context within which councils operate. The approaches described are indicative only and may not be the only or best approach for individual situations. For more detail go to the section in the Guide noted in **bold** in brackets. The last column notes additional reference material that may be useful.

The agency listed as the ARA has primary responsibility for the noise source and can issue, for example, Prevention Notices or Noise Control Notices and initiate court proceedings or issue Noise Abatement Directions or Penalty Notices as appropriate. Where other agencies are noted, including the NSW Police, they may be able to issue Penalty Notices where appropriate. The NSW Police may also issue Noise Abatement Directions as appropriate. Other agencies such as the NSW Police, may be able to take regulatory action but are unlikely to do so if an ARA is clearly defined for a noise source. These other agencies have not been listed under 'Responsibility' for that noise source.

In some circumstances, such as where the activity is being undertaken by or on behalf of a public authority, the EPA would be the ARA. The POEO Act and POEO General Regulation may need to be checked in relation to the particular activity in question in order to determine the correct ARA.

Table 1.3 – Approaches to managing common neighbourhood noise issues

Agricultural activities						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Farm machinery such as tractors and harvesters on private farms	Council (ARA)		Offensive noise test <b>(2.1.4)</b> or assessment against any relevant council policy	Negotiate implementation of reasonable and feasible best practices Noise Control Notice <b>(4.2.1)</b> or Prevention Notice <b>(4.2.4)</b>		
Frost fans	Council (ARA)		Offensive noise test <b>(2.1.4)</b> or assessment against any relevant council policy	Negotiate implementation of reasonable and feasible best practices Noise Control Notice <b>(4.2.1)</b> or Prevention Notice <b>(4.2.4)</b>		Example Guidelines: Griffith City Council – Frost Fans Policy 47 EPA Victoria Guideline – Publication 1043: Guidelines on Noise from Frost Fans
Gas scare guns	Council (ARA)		Offensive noise test <b>(2.1.4)</b> or assessment against any relevant council policy	Negotiate implementation of reasonable and feasible best practices Noise Control Notice <b>(4.2.1)</b> or Prevention Notice <b>(4.2.4)</b>		Example Guidelines: EPA Victoria Publication 1254: Noise Control Guideline, Chapter 12 EPA South Australia – Audible Bird Scaring Devices – Environmental Noise Guideline
Intensive agriculture such as poultry farms, piggeries, and feedlots, that do not require an environment protection licence	Council (ARA)		Offensive noise test <b>(2.1.4)</b> or assessment against any relevant council policy	Negotiate implementation of reasonable and feasible best practices Noise Control Notice <b>(4.2.1)</b> or Prevention Notice <b>(4.2.4)</b>		

**Note:** Relevant sections of the Guide are shown in bold, bracketed text.

Aircraft						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Aircraft in flight and Commonwealth-owned airports	Commonwealth – Airservices Australia	See comments for 'Noise resulting from privately operated airports' and 'Noise resulting from airports operated by NSW public authorities such as local councils'				<i>Air Navigation Act 1920</i> Air Navigation (Aircraft Noise) Regulations 1984 Air Navigation (Aircraft Engine Emissions) Regulations
Aircraft when landing, taking off or taxiing at: <ul style="list-style-type: none"> <li>Commonwealth-owned and leased airports</li> <li>Non-Commonwealth owned and leased airports</li> </ul>	Commonwealth – Airservices Australia	International Civil Aviation Organisation definitions: 'Take-off' commences with the application of power to the aircraft once it is on the runway to bring the aircraft to the speed necessary to become airborne. 'Landing' ends when an aircraft leaves the runway or comes to a stop on the runway.		The Airport Environment Officer employed by the Commonwealth Department of Infrastructure and Transport, has regulatory powers		Airports Act 1996 Airports (Environment Protection) Regulations 1997 Air Navigation Act 1920 Air Navigation (Aircraft Noise) Regulations 1984 Air Navigation (Aircraft Engine Emissions) Regulations

Aircraft on the ground at Commonwealth owned and leased airports – e.g. noise from aircraft engines being tested or when aircraft are parked at a gate or in a designated aircraft parking area	Commonwealth Department of Infrastructure and Transport – Relevant airport lessee company under the <i>Airports Act 1996</i>	There are four Commonwealth owned and leased airports in NSW: 1. Sydney (Kingsford Smith) Airport – Sydney Airport Corporation Limited 2. Bankstown Airport – Bankstown Airport Limited 3. Camden Airport – Camden Airport Limited 4. Gold Coast Airport (part only) – Queensland Airports Limited				Airports Act 1996 Airports (Environment Protection) Regulations 1997
Noise resulting from privately operated airports – e.g. aircraft on the ground undergoing excessively noisy engine maintenance	Council (ARA)	Noise from aircraft on the ground not taxiing, taking off or landing can be directly controlled through the POEO Act provisions. Therefore, noisy aircraft engine maintenance activities on the ground can be controlled by, for example, specifying permitted hours and/or noise limits at affected residences.	Offensive noise test (2.1.4) or assessment against any relevant council policy	Negotiate alternative times for engine testing, acceptable hours etc. Prevention Notice (4.2.4)		NSW Industrial Noise Policy
Noise resulting from airports operated by NSW public authorities such as local councils – e.g. aircraft on the ground undergoing excessively noisy engine maintenance	EPA (ARA)		Offensive noise test (2.1.4) or assessment against any relevant policy	Negotiate alternative times for engine testing, acceptable hours etc. Prevention Notice (4.2.4)		NSW Industrial Noise Policy



**Aircraft** *(continued)*

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Helicopter premises not covered by POEO Act Schedule 1 – e.g. aircraft on the ground undergoing excessively noisy engine	Council (ARA)	Air Services Australia is responsible for noise from aircraft in flight and aircraft movements (taxiing, taking off and landing). The POEO Act provisions can not be applied to these activities. This includes conditions specifying, for example:	Offensive noise test (2.1.4) or assessment against any relevant council policy	Negotiate alternative times for engine testing, acceptable hours etc. Prevention Notice (4.2.4)		NSW Industrial Noise Policy
Helicopter premises covered by POEO Act Schedule 1 – e.g. aircraft on the ground undergoing excessively noisy engine maintenance	EPA (ARA)	<ul style="list-style-type: none"> <li>• noise limits that apply to aircraft in flight and aircraft movements</li> <li>• permitted hours for movements</li> <li>• permitted number of movements</li> <li>• (except in limited circumstances) permitted aircraft models – e.g. models certified to meet a certain noise level in certain specified test conditions</li> </ul>	Offensive noise test (2.1.4) or assessment against any relevant policy	Negotiate alternative times for engine testing, acceptable hours etc. Environment protection licence		NSW Industrial Noise Policy.

Animal noise						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Barking dogs	Council (ARA)		Assess whether dogs are a 'nuisance' as defined in the <i>Companion Animals Act 1998</i> s. 21 or POEO Act – Offensive noise test (2.1.4)	Companion Animals Act s. 21 or POEO Act – Noise Abatement Direction (4.2.2) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court	Part 4 Case Study 1 EPA Dealing with barking dogs brochure
Dog kennels	Council (ARA) Police	Although the NSW Police may issue Noise Abatement Directions related to this type of noise, as any issues are likely to be related to a particular premise and to be ongoing in nature, councils are typically the main agency for control.	Offensive noise test (2.1.4)	Negotiate noise management plan Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court (4.2.3)	EPA Victoria Publication 1254 – Noise Control Guideline Chapter 4
Other animal noise	Council (ARA) Police	Although the NSW Police may issue Noise Abatement Directions related to this type of noise, as any issues are likely to be related to a particular premise and to be ongoing in nature, councils are typically the main agency for control.	Offensive noise test (2.1.4)	Negotiate reduction of noise level – noise management plan Noise Abatement Direction (4.2.2) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court (4.2.3)	

## Commercial premises

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Commercial premises – e.g. noise from deliveries, garbage collection, public address systems, air conditioners etc at shops or offices	Council (ARA)		Offensive noise test (2.1.4) or assessment against any relevant council policy.	Negotiate implementation of reasonable and feasible best practices. Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		NSW Industrial Noise Policy Part 4 Case Study 2

## Construction noise

General residential/commercial building construction	Council (ARA)			Negotiate changes to work practices Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Action under the <i>Environmental Planning and Assessment Act 1979</i> if the construction noise is in breach of the planning approval	DECC Interim Construction Noise Guideline City of Sydney Construction Hours/ Noise within the CBD – Code of Practice 1992
Major public infrastructure construction	EPA (ARA)			Negotiate implementation of reasonable and feasible best practices Environment protection licence or Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		DECC Interim Construction Noise Guideline
Public road construction	EPA (ARA)			Negotiate implementation of reasonable and feasible best practices Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		DECC Interim Construction Noise Guideline

Educational facilities						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Private childcare centres, schools, colleges and universities	Council (ARA)			Negotiate changed times for activities Noise Abatement Direction (4.2.2) or Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court	Fairfield City DCP – Child Care Centres
Public schools and TAFEs, council childcare centres	EPA (ARA)			Negotiate changed times for activities Noise Abatement Direction (4.2.2) or Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court	
Public university activities	EPA (ARA)	Public universities have been determined to be public authorities – therefore the EPA is the ARA for activities conducted by or on behalf of the university		Negotiate changed times for activities Noise Abatement Direction (4.2.2) or Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court	

Entertainment						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Loud music, patron noise etc from hotels and liquor licensed premises (not including noise from equipment such as air conditioners, coolers etc)	NSW Office of Liquor, Gaming and Racing (OLGR)				If conditions in the development consent relating to noise have been breached, council (or any other person) could take action under the <i>Environmental Planning and Assessment Act 1979</i>	Noise Guide (1.4.1)
Pyrotechnic displays	WorkCover NSW	A fireworks and pyrotechnician's licence from WorkCover NSW is required. The licensee must notify council and WorkCover 7 days prior to the event and Police and Fire Brigade 2 days prior to the event.				Guidelines for councils are on the Division of Local Government , Department of Premier and Cabinet website <a href="http://www.dlg.nsw.gov.au">www.dlg.nsw.gov.au</a>
Outdoor concerts, festivals and cinematic or theatrical events using sound amplification equipment with 200 or more people at venues designated under cl. 90 of the POEO General Regulation	EPA (ARA)	Venues designated under cl. 90 of the POEO General Regulation are: Royal Botanic Gardens, the Domain, Centennial Park, Moore Park, Parramatta Stadium, Sydney Cricket and Sports Ground (i.e. Sydney Cricket Ground and Sydney Football Stadium), Opera House and Darling Harbour.		Prevention Notice (4.2.4)		Part 3 Case Study 1

Entertainment activities at Sydney Olympic Park carried on by the state or a public authority	EPA	Venues designated under cl. 90 of the POEO General Regulation are: Royal Botanic Gardens, the Domain, Centennial Park, Moore Park, Parramatta Stadium, Sydney Cricket and Sports Ground (i.e. Sydney Cricket Ground and Sydney Football Stadium), Opera House and Darling Harbour		Prevention Notice (4.2.4)		
Entertainment activities at Sydney Olympic Park not carried on by the state or a public authority	Sydney Olympic Park Authority	Cl. 90A of the POEO General Regulation makes Sydney Olympic Park Authority the ARA.		Prevention Notice (4.2.4)		
Public entertainment facilities such as amusement parks, public concerts (other than those noted above)	Council (ARA)	Cl. 95 of the POEO General Regulation makes the Luna Park site exempt from the noise provisions within the POEO Act.	Offensive noise test (2.1.4)	Negotiate implementation of reasonable and feasible best practices Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		Part 3 Case Study 1



## Industrial premises

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Activities listed in cl. 92 of the POEO General Regulation. These activities include plants with a capacity greater than 30,000 tonnes per year that mix crushed rock with bituminous materials or are concrete batching plants and mobile plants that include any of the activities in Part 1 of Schedule 1 to the POEO Act.	EPA (ARA)	Because these activities are considered to be low risk, they are not required to hold an environment protection licence, however the EPA remains the ARA for these activities.		Negotiate implementation of reasonable and feasible best practices Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		NSW Industrial Noise Policy
Large industrial complexes required to hold an environment protection licence issued by the EPA	EPA (ARA)	Relevant activities/premises are listed in Schedule 1 of the POEO Act		Negotiate implementation of reasonable and feasible best practices Environment protection licence		NSW Industrial Noise Policy
Small factories and backyard workshops – e.g. noise from plant and equipment, reversing alarms, public address systems, deliveries, garbage collection	Council (ARA)		Offensive noise test (2.1.4) or assessment against any relevant council policy	Negotiate implementation of reasonable and feasible best practices. Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		NSW Industrial Noise Policy Part 4 Case Study 2 and Case Study 5 NSW Interim Construction Noise Guideline

Motor vehicles						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
General road traffic noise on local roads	Council (ARA)					Department of Environment, Climate Change and Water (DECCW) NSW Road Noise Policy
General road traffic noise on freeways, tollways, main roads	EPA (ARA)	The EPA will liaise with RMS		Advise on planning consent		DECCW NSW Road Noise Policy
Motor vehicle on residential premises causing unnecessary noise during the night or early morning	Council (ARA) Police		Audibility test (2.1.2)	Negotiate for activity to cease Cl. 14 of the Noise Control Regulation (4.3.3)		EPA Managing vehicle noise brochure
Noisy motor vehicles (including trail bikes) off road on private property and public land such as parks and reserves	Council (ARA) Police	Police have the power to stop, inspect and test vehicles.  The Office of Environment and Heritage (OEH) also has powers in relation to motor vehicles in national parks under the National Parks and Wildlife Regulation 2009	Offensive noise test (2.1.4) or assessment against any relevant council policy	Negotiate for activity to cease, fitting of appropriate mufflers, conducting activity well away from sensitive receivers such as residences  Cl. 13 of the Noise Control Regulation (4.3.3) or Noise Abatement Direction (4.2.2) or Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		EPA Managing vehicle noise brochure

**Motor vehicles** *(continued)*

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Noisy motor vehicle engine/exhaust on roads, verges and car parks	EPA Police	EPA authorised officers and police can stop, inspect and test vehicles.  Under the Noise Testing and Anti-tampering Inspection Scheme, there is an EPA-approved network of inspection stations across NSW.  RMS also has responsibility for noise from heavy vehicles.		Issue of penalty notices: EPA – cl. 12 and 18 of the Noise Control Regulation and NSW Police – cl. 18 of the Noise Control Regulation  EPA authorised officers may also issue Defective Vehicle Notices		EPA Managing vehicle noise brochure
Motor vehicle on residential premises causing unnecessary noise during the night or early morning	Council (ARA) Police		Audibility test (2.1.2)	Negotiate for activity to cease Cl. 14 of the Noise Control Regulation (4.3.3)		EPA Managing vehicle noise brochure
Vehicle alarms	Council (ARA) Police Sydney Harbour Foreshore Authority	Councils should liaise with their Police Local Area Commands regarding alarms.	Alarm should not sound for longer than permitted time (Table 4.4)	Identify owner and arrange for alarm to be deactivated Cl. 24 of the Noise Control Regulation (4.3.2)	Council authorised officers can turn off or disable alarms sounding for longer than the permitted time (POEO Act s. 198A).	EPA Managing noise from intruder alarms brochure
Vehicle refrigeration units	Council (ARA) Police		Audibility test (2.1.2)	Negotiate for vehicle to be moved Cl. 15 of the Noise Control Regulation (4.3.3)		EPA Managing vehicle noise brochure
Vehicle sound systems	Council (ARA) Police		Offensive noise test (2.1.4)	Cl. 16 of the Noise Control Regulation (4.3.3)		EPA Managing vehicle noise brochure

Neighbourhood noise						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Air conditioners	Council (ARA) Police	Although the Police may issue Noise Abatement Directions and Infringement Notices related to this type of equipment, as it is fixed in place and any noise issues are likely to be ongoing in nature, councils are typically the main agency for control.	Night time: audibility test (2.1.2) Day time: offensive noise test (2.1.4)	Negotiate reduction of noise level – move equipment away from neighbours, install acoustic shielding, install quieter model. Night time: Cl. 52 of the Noise Control Regulation (4.3) Any time: Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court (4.2.3)	Part 5 Appendixes 3 and 4
Amplified music, musical instruments	Council (ARA) Police	Police are typically the main agency for control of noise from late night parties, or where the safety of officers may be a concern or where council officers may not be available.	Night time: audibility test (2.1.2) Day time: offensive noise test (2.1.4)	Negotiate reduction of volume. Mediation may be an option, either informally or through a CJC. Night time: Cl. 51 of the Noise Control Regulation (4.3) Day time: Noise Abatement Direction (4.2.2)	Police may seize equipment being used in contravention of a Noise Abatement Direction (POEO Act s. 282) (4.2.2). Council authorised officers may seize offending equipment if connected with an offence (POEO Act s. 198)	Part 4 Case Study 3

## Neighbourhood noise *(continued)*

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Building intruder alarms	Council (ARA) Police	Councils should liaise with their NSW Police Local Area Commands regarding alarms.	Alarm should not be heard in habitable room of residences for longer than permitted time (Table 4.6)	Identify owner/occupier and arrange for alarm to be deactivated Cl. 53 of the Noise Control Regulation (4.3.2) Prevention Notice (4.2.4)	Council authorised officers have the power to turn off or disable alarms that have been sounding for longer than the permitted time (POEO Act s. 198A).	EPA Managing noise from intruder alarms brochure
Electric power tools, powered garden equipment	Council (ARA) Police	Police may become involved when council officers are not available.	Night time: audibility test (2.1.2) Day time: offensive noise test (2.1.4)	Negotiate reduction of noise level – using quieter equipment, changing times of use, closing doors, moving equipment away from neighbours. Night time: Cl. 50 of the Noise Control Regulation (4.3) Day time: Noise Abatement Direction (4.2.2)	Police may seize offending equipment being used in contravention of a Noise Abatement Direction (POEO Act s. 282) (4.2.2) Council authorised officers may seize offending equipment if connected with an offence (POEO Act s. 198)	Part 3 Case Study 4 and Part 4 Case Study 5
Heat pump water heaters	Council (ARA) Police	Although the Police may issue Noise Abatement Directions and Infringement Notices related to this type of equipment, as it is fixed in place and any noise issues are likely to be ongoing in nature, councils are typically the main agency for control.	Night time: audibility test (2.1.2) Day time: offensive noise test (2.1.4)	Negotiate reduction of noise level – move equipment away from neighbours, install acoustic shielding, install quieter model. Night time: Cl. 52 of the Noise Control Regulation (4.3) Any time: Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court (4.2.3)	Part 5 Appendixes 3 and 4 <b>Note:</b> Some of the guidance relevant to air conditioners may also be applied to heat pump water heaters.

Model vehicles, boats and aircraft	Council (ARA) Police	The EPA does not consider models to be included within the definitions of vehicles, vessels and aircraft for the purposes of making other agencies the ARA for noise issues related to these items	Offensive noise test (2.1.4)	Negotiate reduction of noise level – alternative times, relocation of activity  Noise Abatement Direction (4.2.2) or Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Council authorised officers may seize offending equipment if connected with an offence (POEO Act s. 198)  Police may seize offending equipment being used in contravention of a Noise Abatement Direction (POEO Act s. 282) (4.2.2)	
Rain water pumps Swimming pool pumps Spa pumps	Council (ARA) Police	Although the Police may issue Noise Abatement Directions and Infringement Notices related to this type of equipment, as it is fixed in place and any noise issues are likely to be ongoing in nature, councils are typically the main agency for control.	Night time: audibility test (2.1.2)  Day time: offensive noise test (2.1.4)	Negotiate reduction of noise level – move equipment away from neighbours, install acoustic shielding, install quieter model  Night time: Cl. 50 of the Noise Control Regulation (4.3)  Any time (council): Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)	Individuals may seek a Noise Abatement Order from a local court (4.2.3)	Part 5 Appendixes 3 and 5



## Public authorities

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information
Activities undertaken by or on behalf of public authorities such as state government agencies and local councils	EPA (ARA)			Negotiate implementation of reasonable and feasible best practices. Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		Part 3 Case Study 1

## Rail

Inner West Light Rail	EPA (ARA)			Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		
Rail noise	EPA (ARA)	Transport for NSW is overseeing the development of a comprehensive approach to managing rail noise.		Negotiate implementation of reasonable and feasible best practices Environment protection licence and Pollution reduction programs		DECC Interim guideline for the assessment of noise from rail infrastructure projects Department of Planning Development near rail corridors and busy roads – Interim Guideline

Sporting venues						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information
Motor boat racing	RMS (ARA)		Offensive noise test (2.1.4)	RMS Aquatic Licences		
Motor sports – on private land e.g. Eastern Creek	Council (ARA)	<b>Note:</b> Special legislation may be in place exempting certain events from the POEO Act and Noise Control Regulation e.g. s. 30 of the <i>Homebush Bay Homebush Motor Racing (Sydney 400) Act 2008</i> and s. 12 of the <i>Mount Panorama Motor Racing Act 1989</i>	Offensive noise test (2.1.4)	Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		Part 3 Case Study 2
Motor sports – on road	NSW Police	NSW Police are responsible for a race, speed record attempt or speed trial approved by the Commissioner of Police under s. 40 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> .				

**Sporting venues** *(continued)*

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information
Outdoor sporting events involving sound amplification equipment for 200 or more people at venues designated under cl. 90 of the POEO General Regulation	EPA	Venues designated under cl. 90 of the POEO General Regulation are: the Royal Botanic Gardens, the Domain, Centennial Park, Moore Park, Parramatta Stadium, Sydney Cricket and Sports Ground (i.e. Sydney Cricket Ground and Sydney Football Stadium), the Opera House and Darling Harbour	Offensive noise test (2.1.4)	Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		
Private gun/rifle/pistol clubs	Council (ARA)		Offensive noise test (2.1.4)	Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		Section 3.3 of Part 3
Sporting facilities/events (other than as noted above)	Council (ARA)		Offensive noise test (2.1.4)	Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		

Vessels						
Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information
Amplified music from vessels (other than vessels for which the EPA is the ARA)	RMS Port Corporations Police Council	RMS and Police have the power to stop, inspect and test vessels.	Offensive noise test (2.1.4)	RMS, Port Corporations, Police and council may issue penalty notices under cl 33 of the Noise Control Regulation (4.3.4)		
Recreational vessels, including, jet skis Any vessel outside of a designated port (including container ships, bulk carriers, tankers, cruise ships, fishing vessels and recreational vessels) Vessels within designated ports that are less than 30 metres and vessels over 30 metres declared exempt from the pilotage requirements (Note: Excludes vessels for which the EPA or Marine Parks Authority is the ARA)	RMS (ARA) Port Corporations Police Council EPA	RMS and Police have the power to stop, inspect and test vessels. Designated ports are Newcastle Port, Sydney Harbour, Botany Bay, Port Kembla, Yamba and Eden. Vessels declared exempt from the pilotage requirements include large harbour cruise vessels that do not leave the harbour		Negotiate implementation of reasonable and feasible best practices RMS, Ports Corporations and Police may issue penalty notices under cl.. 29, 30, 32, 33, 34 and 35 of the Noise Control Regulation. Councils may issue penalty notices under cl.. 29, 30 and 33 of the Noise Control Regulation (4.3.4) RMS and EPA may issue penalty notices under ss. 139 and 140 of the POEO Act (4.2.6) RMS, Police, council and EPA may issue a Noise Abatement Direction (4.2.2) RMS, Police, council, EPA and Marine Park Authority may issue a Defective Vessel Notice (4.3.4) RMS may issue a Prevention Notice (4.2.4)		

**Vessels (continued)**

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information
<p>Vessels over 30 metres (such as large container ships, bulk carriers, tankers and cruise ships) within designated ports other than those:</p> <ul style="list-style-type: none"> <li>declared exempt from the pilotage requirements</li> <li>for which the EPA is the ARA.</li> </ul>	<p>Council (ARA) RMS Port Corporations Police EPA</p>	<p>RMS and EPA authorised officers and Police have the power to stop, inspect and test vessels.</p> <p>Designated ports are Newcastle Port, Sydney Harbour, Botany Bay, Port Kembla, Yamba and Eden.</p> <p>Vessels declared exempt from the pilotage requirements include large harbour cruise vessels that do not leave the harbour.</p>		<p>Negotiate implementation of reasonable and feasible best practices</p> <p>RMS, Ports Corporations and Police may issue penalty notices under cl.. 29, 30, 32, 33, 34 and 35 of the Noise Control Regulation. Councils may issue penalty notices under cl.. 29, 30 and 33 of the Noise Control Regulation <b>(4.3.4)</b></p> <p>RMS, Councils and EPA may issue penalty notices under ss. 139 and 140 of the POEO Act <b>(4.2.6)</b></p> <p>Council, RMS, Police and EPA may issue a Noise Abatement Direction <b>(4.2.2)</b></p> <p>RMS, Police, council, EPA and Marine Park Authority may issue a Defective Vessel Notice <b>(4.3.4)</b></p>		
Vessels berthed at a port facility subject to an environment protection licence, which covers vessels berthed at the facility.	EPA (ARA)	Some environment protection licences cover vessels berthed at the facility and some do not.		<p>Negotiate implementation of reasonable and feasible best practices</p> <p>EPA may issue penalty notices under ss. 139 and 140 of the POEO Act. <b>(4.2.6)</b></p> <p>Environment protection licence</p>		

Vessles related to activities carried on by the State or a public authority	EPA (ARA)	EPA authorised officers have the power to stop, inspect and test vessels.		<p>Negotiate implementation of reasonable and feasible best practices</p> <p>EPA may issue penalty notices under ss. 139 and 140 of the POEO Act <b>(4.2.6)</b></p> <p>EPA may commence legal proceedings as the ARA for breach of cll.. 29, 30, 32, 33, 34 &amp; 35 of the Noise Control Regulation</p> <p>EPA may issue penalty notices under ss. 139 and 140 of the POEO Act.<b>(4.2.6)</b></p> <p>EPA, RMS and Police may issue a Noise Abatement Direction <b>(4.2.2)</b></p> <p>EPA, RMS and Police may issue a Defective Vessel Notice <b>(4.3.4)</b></p> <p>EPA may issue a Prevention Notice <b>(4.2.4)</b></p>		
Vessels within marine parks, other than vessels for which the EPA is the ARA.	<p>Marine Parks Authority (ARA)</p> <p>RMS</p> <p>Port Corporations</p> <p>Police</p> <p>Council</p> <p>EPA</p>	Marine Parks Authority and EPA authorised officers have the power to stop, inspect and test vessels.		<p>Negotiate implementation of reasonable and feasible best practices</p> <p>RMS , Ports Corporations and Police may issue penalty notices under cll.. 29, 30, 32, 33 , 34 &amp; 35 of the Noise Control Regulation. Councils may issue penalty notices under cll.. 9, 30 &amp; 33 of the Regulation <b>(4.3.4)</b></p> <p>The Marine Park Authority may commence legal proceedings as the ARA for a breach of cll.. 29, 30, 32, 33, 34 &amp; 35 of the Noise Control Regulation</p> <p>RMS and EPA may issue penalty notices under ss. 139 and 140 of the POEO Act <b>(4.2.6)</b>.</p> <p>Marine Park Authority, EPA, RMS and Police may issue a Noise Abatement Direction <b>(4.2.2)</b></p> <p>Marine Park Authority, EPA, RMS, Police and council, may issue a Defective Vessel Notice <b>(4.3.4)</b></p> <p>The Marine Parks Authority may issue a Prevention Notice <b>(4.2.4)</b></p>		



**Vessels** *(continued)*

Noise source	Responsibility	Comments	Assessment	Suggested management/Regulation	Possible further action	Further information (see 1.6 Useful links)
Naval vessels	Commonwealth – Defence Department					

**Wind Farms**

Wind farms covered by Schedule 1 of the POEO Act 1997 (e.g. wind farms that are State Significant Development).	EPA (ARA)	A regulation to make the EPA the ARA for large-scale wind farms is being considered at the time of publication	Environment protection licence			Draft NSW Planning Guidelines Wind Farms
Wind farms not covered by Schedule 1 of the POEO Act 1997.	Council – Consent Authority	The planning approval should be the primary regulatory tool		Noise Control Notice (4.2.1) or Prevention Notice (4.2.4)		Draft NSW Planning Guidelines Wind Farms

## 1.6 Useful links

### NSW Government

**Community Justice Centre (CJC):** provides a free mediation service [www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)

**Environment Protection Authority (EPA):** the lead environmental agency in NSW

- Policies and guidelines (available at: [www.epa.nsw.gov.au/noise](http://www.epa.nsw.gov.au/noise)):
  - *NSW Road Noise Policy* – This policy document provides guidance on the acceptable noise levels from the operation of public roads.
  - *NSW Industrial Noise Policy* – This policy document provides guidance on the measurement and assessment of noise and acceptable noise levels for large industrial complexes, but it may also be applied to small industrial and commercial premises regulated by councils (currently being revised).
  - *Assessing Vibration: A Technical Guideline* – This guideline presents preferred and maximum vibration values for use in assessing human response to vibration within buildings.
  - *Interim Guideline for the Assessment of Noise from Rail Infrastructure Projects* – This guideline deals with the management of noise from the operation of railways (currently being revised and will be replaced by the Rail Infrastructure Noise Guideline).
  - *Interim Construction Noise Guideline* – This guideline sets out ways to deal with the impacts of construction noise on residences and other sensitive receivers. It provides approaches tailored to the scale of the project and details a range of regulatory mechanisms and work practices that can be employed to minimise noise. It is primarily intended to be used to manage large infrastructure projects, but it may be applied to construction work regulated by councils.
- Brochures (available at [www.epa.nsw.gov.au/noise/noise\\_brochures.htm](http://www.epa.nsw.gov.au/noise/noise_brochures.htm)):
  - Dealing with neighbourhood noise
  - Dealing with barking dogs
  - Managing vehicle noise
  - Managing noise from intruder alarms
  - Seeking noise abatement orders
- Web pages and registers:
  - EPA noise policy web page ([www.epa.nsw.gov.au/noise](http://www.epa.nsw.gov.au/noise))
  - EPA public register – Provides electronic access to information about environment protection licences, environment protection notices, noise control notices, exemptions from the provisions of the POEO Act or regulations, prosecution convictions and the results of civil proceedings, as required by s. 308 of the POEO Act ([www.epa.nsw.gov.au/prpoeo/index.htm](http://www.epa.nsw.gov.au/prpoeo/index.htm)).

**Division of Local Government, Department of Premier and Cabinet:** provides guidance to local government and administers the *Companion Animals Act 1998*

- [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au)
- *Fireworks guidelines for councils*, available at [www.dlg.nsw.gov.au/Files/Information/Gudeline\\_Fireworks.pdf](http://www.dlg.nsw.gov.au/Files/Information/Gudeline_Fireworks.pdf)

**Department of Planning and Infrastructure:** principal agency for planning issues

- [www.planning.nsw.gov.au/](http://www.planning.nsw.gov.au/)
- *Development near Rail Corridors and Busy Roads – Interim Guideline*, available at [www.planning.nsw.gov.au/planningsystem/pdf/guide\\_infra\\_devtrailroadcorridors\\_interim.pdf](http://www.planning.nsw.gov.au/planningsystem/pdf/guide_infra_devtrailroadcorridors_interim.pdf). This guideline aims to assist in reducing the impacts of rail and road noise and adverse air quality on sensitive adjacent development.

**Office of Liquor Gaming and Racing (OLGR):** regulates liquor licensed premises

- OLGR website: [www.communities.nsw.gov.au](http://www.communities.nsw.gov.au) or [www.olgr.nsw.gov.au/olgr\\_default.asp](http://www.olgr.nsw.gov.au/olgr_default.asp).
- *Disturbance Complaints Information Sheet*, available at [www.olgr.nsw.gov.au/pdfs/L\\_FS\\_DC.pdf](http://www.olgr.nsw.gov.au/pdfs/L_FS_DC.pdf)

**Parliamentary Counsel's Office:** administers NSW Government Legislation

- All NSW legislation including *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2008*, available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

**Roads and Maritime Services (RMS)**

- Responsible for the construction and management of main roads and the management of vessels
- [www.rta.nsw.gov.au/](http://www.rta.nsw.gov.au/)
- *Addressing Noise* – A fact sheet about reducing and minimising impacts of road traffic noise, available at [www.rta.nsw.gov.au/environment/noise/index.html](http://www.rta.nsw.gov.au/environment/noise/index.html)
- *Environmental Noise Management Manual* – A manual detailing RMS's framework for managing noise and vibration impacts from road traffic, individual vehicles, and road construction and maintenance activities, available at [www.rta.nsw.gov.au/environment/noise/noise\\_management\\_manual.html](http://www.rta.nsw.gov.au/environment/noise/noise_management_manual.html) (**Note:** RMS is preparing a series of practice notes that will incrementally supersede the Manual)
- RMS website: [www.rms.nsw.gov.au/](http://www.rms.nsw.gov.au/)

**WorkCover New South Wales:** principal agency responsible for fireworks

- WorkCover NSW website: [www.workcover.nsw.gov.au/Pages/default.aspx](http://www.workcover.nsw.gov.au/Pages/default.aspx)
- *Fireworks Display Checklist*, available at [www.workcover.nsw.gov.au/formspublications/publications/Pages/WC05629\\_FireworksDisplayChecklist.aspx](http://www.workcover.nsw.gov.au/formspublications/publications/Pages/WC05629_FireworksDisplayChecklist.aspx)

## Other government organisations

**City of Sydney**

- *Construction Hours/Noise within the Central Business District: Code of Practice, 1992*, available at [www.cityofsydney.nsw.gov.au/Development/Documents/PlansAndPolicies/Policies/ConstructionHours\\_Noise92.pdf](http://www.cityofsydney.nsw.gov.au/Development/Documents/PlansAndPolicies/Policies/ConstructionHours_Noise92.pdf)

**Environment Protection Authority Victoria**

- Guidelines on noise from frost fans – Publication 1043, 2006, available at [www.epa.vic.gov.au/noise/noise\\_publications.asp](http://www.epa.vic.gov.au/noise/noise_publications.asp)
- Noise Control Guideline – Publication 1254, 2008, available at [www.epa.vic.gov.au/noise/noise\\_publications.asp](http://www.epa.vic.gov.au/noise/noise_publications.asp)

**Environment Protection Authority South Australia**

- *Audible Bird Scaring Devices – Environmental Noise Guideline, 2007*, available at [www.epa.sa.gov.au/xstd\\_files/Noise/Guideline/guide\\_bird.pdf](http://www.epa.sa.gov.au/xstd_files/Noise/Guideline/guide_bird.pdf)

**Fairfield City Council**

- *Fairfield City Wide Development Control Plan Chapter 13 – Child Care Centres Version 8*, available at [www.fairfieldcity.nsw.gov.au/upload/dtgrb96642/Chapter13ChildCareCentres.pdf](http://www.fairfieldcity.nsw.gov.au/upload/dtgrb96642/Chapter13ChildCareCentres.pdf)

**Griffith City Council**

- *Council Policy – Frost Fans – Policy 47*, Griffith City Council, phone (02) 6969 4813

## Non government organisations

**Association of Australian Acoustical Consultants:** professional society of noise-related professionals, available at [www.aaac.org.au](http://www.aaac.org.au)

**Australian Acoustical Society:** professional society of noise-related professionals, available at [www.acoustics.asn.au](http://www.acoustics.asn.au)

**Australian Institute of Refrigeration, Air Conditioning and Heating (AIRAH)**

- *Air Conditioning Residential Best Practice Guideline (NSW)* – provides general information and appropriate locations for air conditioners, available at [www.airah.org.au/Content/NavigationMenu/Resources/BestPracticeGuide](http://www.airah.org.au/Content/NavigationMenu/Resources/BestPracticeGuide)
- *Air conditioner noise calculator*, available at [www.fairair.com.au/](http://www.fairair.com.au/)

## Australian standards and codes

- AS 2021:2000 *Acoustics Aircraft Noise Intrusion – Building Siting and Construction*; required construction standards for noise insulation, available at [www.standards.org.au/](http://www.standards.org.au/)
- AS/NZS 2107:2000 *Acoustics – recommended design sound levels and reverberation times for building interiors*; required construction standards for noise insulation, available at [www.standards.org.au/](http://www.standards.org.au/)
- *The Building Code of Australia*, Australian Building Codes Board, available at [www.abcb.gov.au](http://www.abcb.gov.au)

## 1.7 References

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