

Article Information

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Come On Feel The Noise: EPA releases discussion paper outlining proposed changes to the Environmental Protection (Noise) Policy 2007 (SA)

The Environmental Protection Authority (EPA) is currently reviewing the Environmental Protection (Noise) Policy 2007 (Policy) and has recently released a discussion paper which invites stakeholders to submit responses to the various proposed amendments by 17 July 2020.

Following the introduction of the *Local Nuisance and Litter Control Act 2016 (LNLC Act)* and the *Planning, Development and Infrastructure Act 2016 (PDI Act)*, together with the results of an initial consultation three years ago, the EPA is undertaking an extensive review of the Policy. Responses to the discussion paper will inform the development of a revised draft noise policy. The discussion paper poses a series of questions for consideration and seeks feedback on those questions. In this article we examine some of the main discussion points raised in the paper.

Definitions

One of the key aspects being considered in the paper is how current definitions fit in with changing development styles and whether those definitions need amendment. For example:

- **Locality:** During consultation, stakeholders indicated that the definition of locality caused some confusion due to the common use of the term by planning authorities and, in particular, its application under the PDI Act. The discussion paper seeks input as to whether the definition of locality should be amended and, if so, how.
- **Public Infrastructure:** The term 'public infrastructure' is used in clause 22 of the Policy to describe construction activities to which the Policy does not apply. The discussion paper seeks feedback on whether a definition of 'public infrastructure' would provide greater clarity. The context of a 'public infrastructure' definition is linked to considerations of whether the construction elements of Part 6 of the Policy should remain in the Policy or be removed to avoid duplication with the LNLC Act (discussed below).
- **Intermittency:** The paper queries whether there is any justification for including a penalty for intermittency in the definition of characteristic in the Policy. Noise intermittency is the subject of a penalty, based on specific characteristics, in other Australian Jurisdictions.
- **Vibration:** To align with the definition of 'noise' in the EP Act, the EPA proposes that a new clause (and definition) be added to the Policy relating to 'vibration' to quantify what acceptable levels of vibration are. The discussion paper invites stakeholder input as to whether, like the NSW guideline, vibration sources like construction and excavation equipment, rail and road traffic, airborne pressure waves emitted by some heavy vehicles, aircraft and machinery should be included in the Policy.

Land uses and land use categories

The discussion paper outlines a number of inconsistencies with the terminology of the Policy and the new Planning and Design Code in relation to land uses. For example, a 'land use supported in the zone' in the relevant development plan is taken to be a principally promoted land use under the Policy. However, due to the growth in mixed land use zones, there is increasing uncertainty as to the land use category within which a principally promoted land use falls. Accordingly, the discussion paper invites stakeholder submissions regarding the interface between land uses in mixed land use zones and whether the current provisions in the Policy are adequate. The discussion paper also invites stakeholders to respond to the proposal that the land use categories in Table 1 of the Policy be amended to mirror the land use categories in the Planning

and Design Code.

Construction Noise

The discussion paper considers whether the current Part 6 special noise control provisions relating to construction noise need to remain in the Policy given the LNLC provisions. To avoid duplication, the paper suggests that Part 6 of the Policy be removed. The removal of Part 6 would also mean that the proposed definition of 'public infrastructure' is not required.

Indicative noise levels

The paper also seeks input relating to the inclusion of indicative noise levels (**INLs**) in the Policy. For example whether:

- the Policy should allocate an INL land use category for forestry;
- the INL in the Rural Industry zone should be decreased;
- indoor noise levels for living areas as well as sleeping areas should be specified for use in multi-storey buildings and buildings where there is no outdoor recreation area, where the construction of a noise barrier is not possible and high noise areas; and
- different prescribed noise limits should apply to different time periods throughout a day (day, evening and night).

Measurement Procedures

The Policy sets out general rules for the measurement and assessment of noise levels. The discussion paper looks at whether:

- weather conditions that have the ability to impact noise levels should be considered more generally in measurement (as is the case in NSW);
- the current breadth of character-based penalties should be reviewed to take into consideration stakeholder comments on the excessiveness of the penalty range relating to annoying noise characteristics;
- the current 15-minute period over which noise levels are to be measured should be increased to 30 minutes;
- the method for determining background noise levels should be changed; and
- the current INL criteria based on land use zones should be replaced with a regime based on existing noise levels.

Noise control provisions

The discussion paper also looks at current schedule 1 noise exclusions and seeks input in relation to whether:

- aircraft noise, noise from aerodromes and helicopter landing facilities should be removed from the Schedule 1 exclusions;
- site evacuation and fire alarms (including testing), noise from Council owned and managed reserves, parks and open spaces and noise that is specifically addressed in licence conditions should be included in the Schedule 1 exclusions;
- the current compliance/design criteria for emergency standby plants should be relaxed to be consistent with other States;
- unattended noise measurements should be introduced for development assessment given that modern equipment can include audio recording to assist with verification of source noise (thereby reducing the opportunity for interference); and
- Part 5 of the Policy should be broadened to allow the EPA to provide guidance to planning authorities in the assessment of noise impacts where the Planning and Design code identifies the need for development applications to be assessed against relevant noise criteria contained in the Policy.

The EPA has not indicated when the revised Policy, taking into account the responses to the discussion paper, will be released for further consultation.

Key Takeaways

- The EPA has released a discussion paper in connection with its review of the Environmental Protection (Noise) Policy 2007.
- Among the proposed amendments are changes to land use categories, INLs, measurement procedures and noise control provisions.