

Queensland



Explanatory Notes for SL 1997 No. 342

Environmental Protection Act 1994

ENVIRONMENTAL PROTECTION (NOISE) POLICY 1997

GENERAL OUTLINE

Title

Environmental Protection (Noise) Policy 1997.

Authorising law

This explanatory note pertains to the Environmental Protection (Noise) Policy 1997 under the *Environmental Protection Act 1994*. Chapter 2 of the Act provides the head of power to make this policy.

Object

The object of the policy is to achieve the object of the Act in relation to Queensland's acoustic environment.

How will the policy object be achieved?

The object of policy is achieved through an integrated management program that is consistent with ecologically sustainable development. This includes—

- making a statement of environmental values;

- setting a long-term objective for noise reduction;
- implementing a framework to involve a whole-of-government approach to noise management;
- making accurate and consistent noise assessments;
- involving the community in environmental noise management; and
- encouraging dispute resolution as an alternative to litigation.

Consistency with authorising law/other legislation

The policy is consistent with the authorising law. The Act states that the protection of Queensland's environment is to be achieved by an integrated management program that is consistent with ecologically sustainable development. The policy is part of that integrated program. The policy is not inconsistent with the objectives of other legislation.

Alternate regulatory options

Alternative means of achieving the policy objectives were considered. These options are addressed in the regulatory impact statement.

Benefits and costs of implementation

The regulatory impact statement covers all major benefits and costs of the policy. Where possible, monetary values have been calculated for costs and benefits. Many benefits cannot be given a monetary value but are highly valued by members of the community and will be valued by future generations.

In developing the policy, attention has been given to assessing the value that various groups in the community place on environmental protection. Attention has also been given to identifying the impact the policy would have on various groups. The policy provides a fair balance between protecting the environment and minimising social and economic impacts.

Fundamental legislative principles

The policy does not reverse the onus of proof.

Consultation**How was the consultation carried out?**

Two rounds of public consultation have been carried out for the policy, as required under the authorising law.

The first round of consultation was carried out in 1993 in conjunction with final consultations on the Environmental Protection Bill. The second round of consultation was carried out in 1996. During both periods of consultation, the draft policy was circulated, public meetings were held and submissions were invited and received.

Public consultations with the community, Queensland government departments and key stakeholder groups with an interest in the policy were carried out from May to July 1996. The regulatory impact statement was also circulated and submissions invited. Further submissions on the draft policy were invited in October 1996 and May 1997. The draft policy was then reviewed by the Environment Protection Council Queensland.

Results of consultation

The draft policy was revised in the light of submissions received. The regulatory impact statement was not revised following consideration of submissions received.

NOTES ON PROVISIONS

Details of specific clauses follow.

PART 1—PRELIMINARY

Division 1—Preliminary matters

Short title

1. This section sets out the title of the policy.

Commencement

2. This section states the commencement date of the policy. The provisions relating to the labelling of noisy products, however, come into effect 12 months after the commencement date.

Definitions and dictionary

3. The dictionary in schedule 5 of the policy clarifies the interpretation of the policy by defining terms used. Some other relevant terms are defined within the body of the policy or in the Environmental Protection Act.

Division 2—Basic concepts

Acoustic environment

4. The policy applies to the whole of Queensland's acoustic environment. The acoustic environment of a place is characterised by the noise (sound or vibration) that may be experienced at that place. This means that different districts or regions can have different acoustic environments.

Beneficial assets

5. The policy introduces the concept of ‘beneficial asset’ within the environment. The concept aims to achieve a balance between competing incompatible land uses: that is, people and industry of varying types.

The beneficial asset concept is based on the guiding principles of ecologically sustainable development (ESD), and, in particular—‘decision making processes should effectively integrate both long and short-term economic, environmental, social and equity considerations’.

Characteristics of noise

6. Noise should be characterised in terms of noise levels (quantitative levels) and described in qualitative terms. Noise is most often ‘described’ in terms of a single-number sound pressure level but this does not describe the character of the noise.

PART 2—APPLICATION AND OBJECT

Application of policy

7. The policy applies to the whole of Queensland’s acoustic environment.

Object of policy

8. The object of the policy is to achieve the object of the Act by managing environmental noise. This is to be achieved through an integrated management framework that is consistent with ecologically sustainable development.

How object is achieved

9. The object of the policy is achieved through an integrated management program that is consistent with ecologically sustainable development. This includes—

- a statement of environmental values;
- a long-term objective for noise reduction;
- a framework to involve a whole-of-government approach to noise management;
- making accurate and consistent noise assessments;
- involving the community in environmental noise management; and
- encouraging dispute resolution as an alternative to litigation.

Environmental values to be enhanced or protected

10. The Environmental Protection Act requires an environmental protection policy to state the environmental values that the policy seeks to enhance or protect.

The environmental values to be enhanced or protected under this policy are—

- the wellbeing of the community, including its social and economic amenity; and
- the wellbeing of an individual.

Acoustic quality objective

11. The acoustic quality objective is a long-term goal to attain a good standard of amenity, with respect to environmental noise, for the majority of people in Queensland. It is an indicator of a level of ambient sound above which consideration must be given to noise reduction.

The objective allows considerable variation in noise levels during the day, evening and night. This level is nominally 55 dB(A), Leq, measured over 24 hours outside a noise sensitive place.

PART 3—ENVIRONMENTAL MANAGEMENT DECISIONS

Application

12. This Part applies to a decision relating to an environmental authority or a draft environmental management program concerning an activity that may adversely affect the environmental values.

Evaluation procedure

13. This section outlines the evaluation procedures required by an administering authority making a decision about an environmental authority or environmental management program (EMP) for an environmentally relevant activity.

Matters for consideration

14. This section sets out the various matters that an administering authority must consider when making its decision on an environmental authority or draft environmental management program.

Planning levels

15. Criteria for certain beneficial assets are stated in schedule 1. An acoustic environment for a beneficial asset can be identified in terms of ‘planning levels’ criteria under an environmental management program. The criteria do not presume to protect the environmental values of the human environment. This means that people living within an environment exposed to noise from a beneficial asset will be affected by noise.

Specific requirements—draft environmental management program

16. Environmental management programs are of benefit for an activity that is not an environmentally relevant activity. This section sets out the various matters to be addressed in preparing a draft environmental management program. A balance must be struck between the operation of an activity (such as a beneficial asset) and the well-being of individuals.

Plan as a condition—environmental authority

17. A noise management plan can be requested as part of a condition for an environmental authority. A noise management plan would normally be required only for an activity that will have a significant adverse effect on the acoustic environment. A plan, if required, should identify the known and potential noise effects of the activity and identify measures to avoid, remedy or mitigate such effects.

PART 4—ABATEMENT OF UNREASONABLE NOISE**Definitions for pt 4**

18. This section defines certain terms such as ‘unreasonable noise’.

Dispute resolution by agreement

19. Dispute resolution processes are a fundamental part of the policy’s framework. Dispute resolution should allow parties in dispute about an alleged or potential noise nuisance to discuss the matter without threat of legal action. The policy is concerned with negotiation to reduce the need to commit limited industry and government resources to dealing with prosecutions for relatively minor matters.

Complaint about unreasonable noise

20. A complaint can be made orally or in writing. Often, however, a person does not know what information is needed in order for a complaint to be given the attention it needs. This section sets out basic information requirements, although the list is not exhaustive.

Administering authority must respond to complaint

21. A complaint that is made in writing must be investigated. However, there are times when a complaint may be better dealt with under other legislation. For example, local laws relating to noise nuisance are not

replaced by the policy.

The Chief Executive may refer a complaint to another authority if he or she reasonably believes that the complaint is more appropriately dealt with by that authority; for example—

- (a) a local law of a local government;
- (b) workplace issues under the *Workplace Health and Safety Act 1995*;
- (c) complaints concerning premises licensed under the *Liquor Act 1992*;
- (d) issues for the police under the *Environmental Protection Act 1994*;
- (e) issues delegated to a local government, the Department of Primary Industries or the Department of Mines and Energy.

The policy provides guidelines on noise assessment for use by other Queensland Government departments. The Department of Environment does not administer or replace other jurisdictions.

Show cause notice

22. This section provides a person the opportunity to respond to an administering authority about a potential unreasonable noise problem.

Noise abatement notice

23. The issuing of a noise abatement notice would normally follow after a warning about a potential infringement had been given. The noise abatement notice advises the recipient of the problem and requests some form of abatement. The notice must be complied with within the specific time period.

Review of decision and appeal

24. Under the Act, an appeal can be made against a decision made by an administering authority concerning a noise abatement notice.

PART 5—PRODUCT LABELLING REQUIREMENTS

Products to which this part applies

25. This part applies to specified classes of machines manufactured and sold in Queensland. Product noise labelling is required for chainsaws, domestic air conditioners, domestic pool pumps, grass-cutting machines, mobile air compressors, mobile garbage compactors and pavement breakers.

Prescribed products to be labelled

26. The criteria for the size, design and fixing of a noise label are stated in this section.

The procedures for measuring and testing the machines are based on existing standards and technical criteria.

PART 6—NOISE ASSESSMENT

Division 1—Preliminary

Explanation

27. This section provides in general terms the reasons for making a noise assessment. The policy does not specify any preferred way to carry out a noise assessment.

Other information in users guide

28. The users guide sets out information about making accurate noise assessments. Generally the provisions of Australian Standards are used.

Division 2—Instruments

Prescribed instruments—Act, s 180(8)

29. Instruments acceptable for general sound level measurements meet the characteristics for sound level meters of Type 2 or better, as specified in AS1259.

Division 3—Procedure

Application

30. This division relates to the investigation of a noise.

General

31. This section states the general ways a noise should be investigated.

Emission and immission levels

32. This section provides for noise levels to be measured at the source of the noise or at the receptor.

Measuring long-term background level

33. For planning purposes, background levels need to be assessed over a long period of time, compared to random surveys or complaint investigations. This is so average levels and their variation can be assessed. Long-term levels are also needed to assess the character of an environment. The assessment of changes in background levels over time, or ‘background creep’, also depends on long-term levels.

Noise modelling

34. Noise models may be used to assess noise impact. Because different models have different assumptions in their calculation methods, the methods, assumptions and uncertainties of the model used must be stated.

Variations to a standard model are permitted if the variations are more closely relevant to Queensland conditions or differing noise assessment methods.

PART 7—MISCELLANEOUS

Division 1—Whole of government management of the acoustic environment

Programs to enhance or protect the environmental values

35. This section defines the main direction of the policy; that is, to develop and promote a co-ordinated strategy (or strategies) to reduce noise in the environment. It recognises that the strategy can only be effective with the broad support of the community. Many different organisations have developed, or are in the process of developing, strategies dealing with environmental noise. Some strategies are state-wide, while others deal with specific areas or activities.

The minimum level of information needed to prepare an effective strategy is outlined in this section. For example—

- areas of the environment needing enhancing or protecting;
- activities that harm or may harm environmental values; and
- ways to avoid, remedy or mitigate noise impact on individuals or the community.

Programs to inform and involve the community

36. The Chief Executive, in co-operation with other administering authorities and organisations, may promote a co-ordinated strategy to consult, educate and inform the community about ‘noise in the environment’. The Chief Executive may research issues in order to educate and inform the community about noise management.

Division 2—Other matters**Publication requirements**

37. Certain publications stated in the policy must be made available to the public for a reasonable cost or for inspection free of charge.

Users guide

38. The users guide for the policy must be made available as soon as possible after the policy commences.

Review of policy

39. The Chief Executive is required by the Act to assess this policy's environmental effectiveness and economic efficiency using measurable performance indicators. The policy sets out a variety of standard performance indicators for this task.

Amendment of certain provisions—Act, s 32

40. Schedule 1 and schedule 4 may be amended without full rounds of public consultation.

Transitional provision for rail noise

41. The *Guidelines for Railway Noise* are authorised under the policy for a period of two years.

SCHEDULES

Schedule 1 sets out the planning levels for airports, railways and public roads that are recognised as reasonable under an environmental management program.

Schedule 2 sets out the noise levels that are recognised as being reasonable for—

- certain residential noises (building works, domestic air conditioner, power tool, domestic pool pump, television or sound equipment or a musical instrument);
- domestic animals;
- blasting;
- activities at certain indoor venues;
- outdoor concerts;
- public address systems etc.;
- refrigeration plants on vehicles;
- power boats;
- rowing activities on the Brisbane River;
- outdoor shooting ranges;
- indoor shooting ranges.

Schedule 3 sets out prescribed information for product labelling.

Schedule 4 sets out the standard models used to assess the effect of noise from airports, railways and public roads.

Schedule 5 defines terms used in the policy.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Environment.