



Queensland

Environmental Protection (Noise) Policy 2008

Explanatory Notes for SL 2008 No. 442

made under the

Environmental Protection Act 1994

General outline

Short title

Environmental Protection (Noise) Policy 2008.

Authorising law

Chapter 2 of the *Environmental Protection Act 1994*.

Policy objectives of the legislation

The object of the *Environmental Protection Act 1994* is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends.

The objective of the *Environmental Protection (Noise) Policy 2008* is to identify the environmental values of the acoustic environment to be enhanced or protected and to achieve the object of the *Environmental Protection Act 1994*, i.e. ecologically sustainable development.

How policy objectives are to be achieved

The policy objectives of this policy are to be met by—

- 1 identifying environmental values to be enhanced or protected
- 2 stating acoustic quality objectives for enhancing or protecting the environmental values
- 3 providing a framework for making consistent, equitable and informed decisions about the acoustic environment.

Consistency with other legislation

This policy is consistent with the policy objectives of other legislation.

The *Statutory Instruments Act 1992* requires that a Regulatory Impact Statement be prepared if the subordinate legislation is likely to impose appreciable costs on the community or part of the community. The Queensland Office of Regulatory Efficiency advised that this policy (subordinate legislation) will not impose appreciable costs and therefore a Regulatory Impact Statement is not required.

Consistency with authorising Act

This policy is consistent with the *Environmental Protection Act 1994* and the object of that Act.

Possible alternative approach

Alternative means of achieving the policy objectives were considered. No suitable alternative was identified.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* outlines a number of fundamental legislative principles. These principles require that the legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament. This policy is consistent with these and the other fundamental legislative principles, including natural justice, appropriate review and delegation of administrative power, clarity and precision of

legislation, adequacy of the head of power to make subordinate legislation and consistency with its primary Act.

Benefits and costs of implementation

The implementation of the policy is undertaken as part of the administration and enforcement of the *Environmental Protection Act 1994*. There are no costs directly associated with the implementation of the policy. Costs occur through the implementation of the *Environmental Protection Act 1994* and the *Environmental Protection Regulation 2008*.

A Regulatory Impact Statement was not required for this policy.

Consultation

Information on the broad proposals for the remake of the *Environmental Protection (Noise) Policy 1997* was released for public comment. Key stakeholders including local governments and industry peak bodies were consulted on the proposals for the new policy. All comments made during consultation were considered and, where appropriate, this policy reflects these comments.

Notes on Provisions

Part 1 Preliminary

Section 1 Short title

This section states the short title of this legislation is the *Environmental Protection (Noise) Policy 2008*.

Section 2 Commencement

This section states that the commencement date of this policy is 1 January 2009.

Section 3 Definitions

This section states that words in this policy are defined in the dictionary in schedule 2.

Part 2 Application and purpose of policy

This part identifies where the policy applies, the purpose of the policy and how the purpose of the policy is to be achieved

Section 4 Application of policy

This section states that the policy applies to the whole of Queensland's acoustic environment. Acoustic environment is defined in the dictionary in schedule 2 as the part of the environment of an area or place characterised by the total amount of noise that may be experienced there. This means that different areas may have different acoustic environments.

The *Environmental Protection (Noise) Policy 2008* as a whole is to be considered when considering the standard criteria under the *Environmental Protection Act 1994*. The standard criteria are considered when assessing whether—

- an environmental impact statement is required
- the environmental impact statement is sufficient
- an environmental management plan is required
- the environmental management plan is sufficient
- to approve or refuse a development application and on what conditions
- to approve or refuse an environmental authority and on what conditions
- to approve or refuse an application to amend an environmental authority
- to approve the surrender of a registration certificate or environmental authority

- to approve or refuse a transitional environmental program
- to issue an environmental protection order
- to approve or refuse a disposal permit and on what conditions.

Section 5 Purpose of policy

The purpose of the policy is to achieve the object of the *Environmental Protection Act 1994* in relation to the acoustic environment.

The object of the *Environmental Protection Act 1994* is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends.

Consequently, the objective of this policy is to identify the environmental values of the acoustic environment to be enhanced or protected to achieve the object of the *Environmental Protection Act 1994*, i.e. ecologically sustainable development.

Section 6 How purpose of policy is achieved

The purpose of the policy is achieved by—

- identifying environmental values to be enhanced or protected
- stating acoustic quality objectives for enhancing or protecting the environmental values
- providing a framework for making consistent, equitable and informed decisions about the acoustic environment.

Part 3 Environmental values and acoustic quality objectives

An environmental value is defined in section 9 of the *Environmental Protection Act 1994* to be a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety, or another quality of the environment identified and declared to be an environmental value under an environmental protection policy or

regulation. This part identifies the environmental values for the acoustic environment to be enhanced and protected and the acoustic quality objectives for helping to protect the environmental values.

Section 28 of the *Environmental Protection Act 1994* states that an environmental protection policy must identify the environmental values to be enhanced or protected under the policy. The *Environmental Protection Act 1994* also states that an environmental protection policy may state the objectives to be achieved and maintained under the policy or the indicators to be used in deciding any quality or condition of the environment.

The environmental values in this policy are to inform whether environmental harm under the *Environmental Protection Act 1994* has been caused, as environmental harm is an adverse impact on an environmental value.

The environmental values and acoustic quality objectives are also considered when complying with a regulatory requirement under the *Environmental Protection Act 1994*. Regulatory requirements are defined in the *Environmental Protection Regulation 2008* and include a requirement to consider the environmental values and quality objectives in any relevant environmental protection policy.

As mentioned in the explanatory notes to section 4 of this policy (above), this policy as a whole (including this section) is to be considered when considering the standard criteria under the *Environmental Protection Act 1994*.

Specifically, the acoustic quality objectives must be considered in assessment processes and help inform the decision, including any conditions that may be placed on approvals for environmentally relevant activities. The acoustic quality objectives are not individual point source emission standards but are total levels of noise in the surrounding environment.

The *Environmental Protection Act 1994* defines a regulatory requirement as a requirement under a regulation for the administering authority to—

- (a) grant or refuse to grant, or follow stated procedures for evaluating, any of the following applications—
 - (i) a development application for which the administering authority is the assessment manager or a referral agency under the *Integrated Planning Act 1997*
 - (ii) an environmental authority application

- (iii) an application for approval of a transitional environmental program
- (b) impose, change or cancel a condition on a development approval for a chapter 4 activity, an environmental authority or an approval of a transitional environmental program.

Chapter 4 of the *Environmental Protection Regulation 2008* prescribes the regulatory requirements with which the administering authority is required to comply for making environmental management decisions. The *Environmental Protection Regulation 2008* defines an environmental management decision as a decision under the *Environmental Protection Act 1994* for which the administering authority making the decision is required to comply with regulatory requirements. Under section 51 of the *Environmental Protection Regulation 2008* the administering authority must consider—

- (a) each of the following under any relevant environmental protection policies—
 - (i) the management hierarchy
 - (ii) environmental values
 - (iii) quality objectives
 - (iv) the management intent.

Under section 52 of the *Environmental Protection Regulation 2008* the administering authority must, for making an environmental management decision relating to an activity, consider whether to impose conditions about—

- (i) protecting environmental values, and meeting quality objectives, under relevant environmental protection policies.

The environmental values and acoustic quality objectives recognise the need for protection of health and biodiversity of ecosystems; human health and wellbeing; and community amenity. The values and objectives were developed following research of national and international approaches to the managing the acoustic environment. After considering the unique characteristics of Queensland's acoustic environment, the EPA developed objectives informed by World Health Organisation recommendations.

Section 7 Environmental values for acoustic environment

Section 28 of the *Environmental Protection Act 1994* states that an environmental protection policy must identify the environmental values to be enhanced or protected under the policy. This section outlines the environmental values of the acoustic environment to be enhanced or protected.

The environmental values of the acoustic environment to be enhanced or protected under this policy are—

- the qualities of the acoustic environment that are conducive to protecting the health and biodiversity of ecosystems
- the qualities of the acoustic environment that are conducive to human health and wellbeing, including by ensuring a suitable acoustic environment for individuals to do any of the following—
 - sleep
 - study or learn
 - be involved in recreation, including relaxation and conversation
- the qualities of the acoustic environment that are conducive to protecting the amenity of the community.

The environmental values apply across Queensland's acoustic environment.

This policy has expanded the list of environmental values from the *Environmental Protection (Noise) Policy 1997* to provide a more prescriptive list of the values that are important to Queenslanders.

As mentioned above, the environmental values are—

- considered when complying with regulatory requirements including when assessing environmentally relevant activities
- to inform decisions when identifying environmental harm

under the *Environmental Protection Act 1994*.

As mentioned in the explanatory notes to section 4 of this policy (above), this policy as a whole (including this section) is to be considered when considering the standard criteria under the *Environmental Protection Act 1994*.

Section 8 Acoustic quality objectives for sensitive receptors

Acoustic quality objective (as defined in the dictionary), for an area or place, means the maximum level of noise that should be experienced in the acoustic environment of the area or place.

The acoustic quality objectives for enhancing or protecting the environmental values are outlined in schedule 1.

Acoustic quality objectives are stated in schedule 1, column 3 for sensitive receptors. Sensitive receptors are in schedule 1, column 1. The acoustic quality objectives are measured for the time of day stated in schedule 1, column 2. The acoustic quality objectives are prescribed for enhancing or protecting the environmental values in schedule 1, column 4.

An acoustic quality objective stated in schedule 1 is expressed as a measurement of an acoustic descriptor.

The acoustic quality objectives have been revised to better reflect the different impacts that noise can have on sensitive receptors such as dwellings versus commercial premises. Research undertaken for the new set of acoustic quality objectives revealed a necessity to update the list of descriptors and revise the acoustic quality objectives in line with national and international trends. The acoustic quality objectives adopted in schedule 1 have been informed by the World Health Organisation community noise guidelines.

It is not intended that, as part of achieving the acoustic quality objectives, any part of the existing acoustic environment be allowed to deteriorate. It is intended that the acoustic quality objectives be progressively achieved as part of achieving the purpose of this policy over the long term.

As mentioned above, the acoustic quality objectives are—

- considered when complying with regulatory requirements including when assessing environmentally relevant activities
- to inform decisions when identifying environmental harm

under the *Environmental Protection Act 1994*.

As mentioned in the explanatory notes to section 4 of this policy (above), this policy as a whole (including this section) is to be considered when considering the standard criteria under the *Environmental Protection Act 1994*.

The acoustic quality objectives are not point source noise levels but rather inform what the point source noise level as a condition of approval for a particular activity at a site may be.

The acoustic quality objectives are to inform the decision making process including any conditions relating to noise levels in relation to the decision. The objectives assist in identifying whether the environmental values are protected. However, meeting the objectives does not always mean that the environmental values are protected and not meeting the objectives does not always mean that the environmental values are not protected.

The acoustic quality objectives are levels of total noise, which means the objectives include the surrounding noise associated with any given environment and therefore includes the range of noise that may be experienced in the environment.

The acoustic quality objectives do not apply to a noise mentioned in schedule 1, part 1, section 1 the *Environmental Protection Act 1994*. Noise mentioned in that section of the Act relates to noise from safety or transport noise including noise from a warning signal for a railway crossing, noise from operating a ship, noise from aircraft movement, noise from the ordinary use of a public road or State-controlled road and noise from the ordinary use of a busway, light rail or rail transport infrastructure. For a full list of the matters that relate to this exclusion and definition of terms used refer to the *Environmental Protection Act 1994*.

Queensland Transport has advised that audible traffic signal noise (including noise from railway crossing bells and any transport related safety warning horns) and audible safety signal noise (including whistles, horns, bells and gongs from ships for manoeuvring especially during periods of reduced visibility) should be excluded as these noises are necessary for the safety of transport.

Queensland Transport also advised that shipping noise, aircraft noise, busway noise and rail noise should be excluded because it is unavoidable and best managed by the appropriate location of ports, airports, busways and rail infrastructure. The Department of Main Roads sought similar exemptions for roads for the same reasons.

This exclusion does not remove those activities from meeting their general environmental duty under the *Environmental Protection Act 1994* or from the need to protect the environmental values under this policy.

The acoustic quality objectives do not apply for a noise that may be experienced within a dwelling or workplace if the noise is made within the dwelling or workplace. Workplace is defined by reference to section 9 of the *Workplace Health and Safety Act 1995*.

It is intended that the acoustic quality objectives be progressively achieved as part of achieving the purpose of this policy over the long term.

Part 4 Avoiding, minimising or managing noise

This part sets out the management hierarchy for noise and a management intent for noise.

Chapter 4 of the *Environmental Protection Regulation 2008* prescribes the regulatory requirements with which the administering authority is required to comply for making environmental management decisions. The *Environmental Protection Regulation 2008* defines an environmental management decision as a decision under the *Environmental Protection Act 1994* for which the administering authority making the decision is required to comply with regulatory requirements. Under section 51 of the *Environmental Protection Regulation 2008* the administering authority must consider—

- (a) each of the following under any relevant environmental protection policies—
 - (i) the management hierarchy
 - (ii) environmental values
 - (iii) quality objectives
 - (iv) the management intent.

As mentioned in the explanatory notes to section 4 of this policy (above), this policy as a whole (including this part) is to be considered when considering the standard criteria under the *Environmental Protection Act 1994*.

Section 9 Management hierarchy for noise

This section sets out the management hierarchy for an activity involving noise. The management hierarchy is referred to in section 51 of the *Environmental Protection Regulation 2008* as a matter that must be considered by the administering authority when making an environmental management decision.

The management hierarchy establishes an approach to avoiding, minimising or managing noise. Noise must be dealt with, to the extent it is reasonable to do so, in the following order of preference—

- 1 avoid—emphasis should be placed on avoiding noise by locating an activity in an area to minimise noise such as locating the activity away from a sensitive receptor
- 2 minimise in the following order of preference—
 - a orientate, design and layout of land uses and equipment including placing a part of the activity that makes noise away from a sensitive receptor
 - b using best available technology
- 3 manage—operational management measures to avoid or minimise noise impacts (e.g. using heavy machinery only during business hours).

The purpose of the noise management hierarchy is to—

- manage behaviours in the context of protecting the environment and promoting the achievement of ecologically sustainable development
- provide high level principles to guide decision making
- describe preferred pathways in decision making to—
 - enhance the environment
 - protect the environment
 - minimise harm to the environment.

Section 10 Controlling background creep

This section sets out a management intent for an activity involving noise. The management intent is referred to in section 51 of the *Environmental*

Protection Regulation 2008 as a matter that must be considered by the administering authority when making an environmental management decision.

Background creep occurs when noise levels creep higher and higher over time with the establishment of new development in or near an area. To ensure that the level of noise in an area does not continue to increase unreasonably, background creep needs to be controlled.

To the extent that it is reasonable to do so, noise from an activity must not be—

- for noise that is continuous noise measured by LA90,T—more than nil dB(A) greater than the existing acoustic environment measured by LA90,T
- for noise that varies over time measured by LAeq,adj,T—more than 5dB(A) greater than the existing acoustic environment measured by LA90,T.

Part 5 Miscellaneous

Section 11 Repeal

This section repeals the *Environmental Protection (Noise) Policy 1997*—SL No. 342.

Schedule 1 Acoustic quality objectives

The acoustic quality objectives for enhancing or protecting the environmental values are outlined in schedule 1.

Acoustic quality objectives are stated in schedule 1, column 3 for sensitive receptors. Sensitive receptors are in schedule 1, column 1. The acoustic quality objectives are measured for the time of day stated in schedule 1, column 2. The acoustic quality objectives are prescribed for enhancing or protecting the environmental values in schedule 1, column 4.

An acoustic quality objective stated in schedule 1 is expressed as a measurement of an acoustic descriptor.

The acoustic descriptors must be adjusted for noise characteristics. Noise characteristics include tonality and impulsiveness.

The acoustic quality objectives have been revised to better reflect the different impacts that noise can have on sensitive receptors such as dwellings versus commercial premises.

It is not intended that, as part of achieving the acoustic quality objectives, any part of the existing acoustic environment be allowed to deteriorate.

As previously mentioned, Chapter 4 of the *Environmental Protection Regulation 2008* prescribes the regulatory requirements with which the administering authority is required to comply for making environmental management decisions. The *Environmental Protection Regulation 2008* defines an environmental management decision as a decision under the *Environmental Protection Act 1994* for which the administering authority making the decision is required to comply with regulatory requirements. Under section 51 of the *Environmental Protection Regulation 2008* the administering authority must consider—

- (a) each of the following under any relevant environmental protection policies—
 - (i) the management hierarchy
 - (ii) environmental values
 - (iii) quality objectives
 - (iv) the management intent.

Under section 52 of the *Environmental Protection Regulation 2008*, the administering authority must, for making an environmental management decision relating to an activity, consider whether to impose conditions about—

- (i) protecting environmental values, and meeting quality objectives, under relevant environmental protection policies.

As mentioned in the explanatory notes to section 4 of this policy, this policy as a whole (including the objectives in schedule 1) is to be considered when considering the standard criteria under the *Environmental Protection Act 1994*.

The acoustic quality objectives are not point source noise levels but rather inform what the point source noise level as a condition of approval for a particular activity at a site may be.

The acoustic quality objectives are to inform the decision making process including any conditions relating to noise levels in relation to the decision. The objectives assist in identifying whether the environmental values are protected. However, meeting the objectives does not always mean that the environmental values are protected and not meeting the objectives does not always mean that the environmental values are not protected.

Schedule 2 Dictionary

Schedule 2 defines certain terms for the purposes of this policy.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Environmental Protection Agency.

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