

Regulatory action for noise issues

Council has a range of powers to deal with noise problems which are outlined below.

Protection of the Environment Operations Act 1997

Noise control notices

Council can issue a noise control notice to prohibit the emission of noise above a specified level from a specified equipment or activity. For example, Council may use a noise control notice to limit the level of noise from pump. The notice commences on the day specified in the notice or, if an appeal is lodged against the notice, when the Court confirms the notice.

Noise abatement directions

A noise abatement direction is a directive to cease the emission of offensive noise. The direction can be given verbally or in writing and remains in force for up to 28 days. Noise abatement directions are commonly used to control noise from activities such as late-night parties, where a quick response is required.

Prevention notices

Council can issue prevention notices to control activities that are being carried on in an environmentally unsatisfactory manner. A prevention notice must specify the action to be taken to remedy the problem. Examples of the types of actions that could be specified in a prevention notice include:

- installing, repairing, altering, replacing, maintaining or operating control equipment or other plant (for example, installing an acoustic enclosure around a noisy pool pump)
- ceasing to use equipment or altering the way that equipment is used (for example, keeping doors and windows closed when using power tools)
- undertaking an activity only during particular times.

Restricted times

The *Protection of the Environment Operations (Noise Control) Regulation 2017* restricts the times that certain articles can be used on residential premises if the noise can be heard inside a habitable room of a neighbouring residence. Under the Noise Regulation it is an offence to contravene the restrictions after a warning has been given by an authorised officer. The warning must be given within seven days of the noise occurring and remains in force for 28 days. If an article is used during the restricted times within 28 days of a warning being given, and the noise is audible inside a habitable room of a neighbouring residence, an offence has been committed.

Environmental Planning and Assessment Act 1979

Where development consent is required under Section 76A of the *Environmental Planning and Assessment Act 1979* to carry out a development, a person must not carry out the development without consent or fail to comply with consent conditions for the development.

Under Section 121B of the *Environmental Planning and Assessment Act 1979*, Council can order a person who is using premises without consent to stop the use. Council can also order a person contravening a development consent to comply with the consent conditions. Before serving an order, Council must give notice of its intention to do so and consider any representations received.

Local Government Act 1993

Under Section 124 of the *Local Government Act 1993*, Council may order a person to do or refrain from doing certain things. In particular, Council may order a person who is keeping animals or birds inappropriately to keep them in a specified manner or to cease keeping them. For example, Council may order the owner of a rooster that is causing a nuisance by crowing to cease keeping the rooster. Before serving an order, Council must give notice of its intention to do so and consider any representations received.

Companion Animals Act 1998

Under Section 21 and 31 of the *Companion Animals Act 1998* an authorised officer can serve a nuisance dog or cat order if the dog or cat makes persistent noise that unreasonably interferes with the peace, comfort or convenience of any person in any other premises.

Before serving an order, Council must give notice of its intention to do so and consider any objections made. The order remains in force for six months after it is issued and failure to comply with the order is an offence.