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ENVIRONMENTAL PROTECTION ACT 1986

**ENVIRONMENTAL
PROTECTION (NOISE)
AMENDMENT
REGULATIONS 2013**

Western Australia

Environmental Protection (Noise) Amendment Regulations 2013

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Environmental Protection Act 1986

Environmental Protection (Noise) Amendment Regulations 2013

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Environmental Protection (Noise) Amendment Regulations 2013*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) regulations other than regulations 1, 2, 14, 27, 30 to 33 and 36 to 39 — on the day after that day;
- (c) regulations 14, 27, 30 to 33 and 36 to 39 — on the day after the period of 3 months that begins on the day on which these regulations are published in the *Gazette*.

3. Regulations amended

These regulations amend the *Environmental Protection (Noise) Regulations 1997*.

4. Regulation 2 amended

- (1) In regulation 2(1) delete the definitions of:

caravan park or camping ground

L_A Slow

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noise-sensitive premises

- (2) In regulation 2(1) insert in alphabetical order:

caravan park or camping ground means —

- (a) a caravan park or camping ground licensed or taken to be licensed under the *Caravan Parks and Camping Grounds Act 1995*; or
- (b) a caravan park or camping ground that is operated by a public sector body as defined in the *Public Sector Management Act 1994* section 3(1); or
- (c) a camping area as defined in the *Conservation and Land Management Regulations 2002* regulation 2;

L_A Slow means the reading in decibels (dB) obtained using the “A” frequency weighting characteristic and the “S” time weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, for class 1 and class 2 meters, with sound measuring equipment that complies with the requirements of Schedule 4;

noise sensitive premises means premises that —

- (a) are referred to in Schedule 1 Part C; and
- (b) are not premises, or part of premises, referred to in Schedule 1 Part A or Part B;

noise sensitive purpose, in relation to a building, or part of a building, on noise sensitive premises, means —

- (a) a residential or accommodation purpose; or
- (b) a purpose set out in Schedule 1 Part C item 3;

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- (3) In regulation 2(1) in the definition of *rural premises* delete “town planning scheme prepared or adopted under the *Town Planning and Development Act 1928*.” and insert:

planning scheme as defined in the *Planning and Development Act 2005* section 4(1).

- (4) In regulation 2(2):

- (a) in paragraph (a) delete “the Standards Association of Australia” and insert:

Standards Australia

- (b) delete paragraph (b);

- (c) in paragraph (c) delete “an IEC Standards Publication” and insert:

IEC

5. Regulation 3 replaced

Delete regulation 3 and insert:

3. Regulations do not apply to certain noise emissions

- (1) Nothing in these regulations applies to the following noise emissions —
- (a) noise emissions from the propulsion and braking systems of motor vehicles operating on a road;
 - (b) noise emissions from a safety warning device, other than a reversing alarm, fitted to a motor vehicle operating on a road;

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- (c) noise emissions from trains or aircraft (other than model aircraft and trains operating on railways with a gauge of less than 70 centimetres);
- (d) noise emissions from a safety warning device fitted to a train or vessel;
- (e) noise emissions from an emergency vehicle as defined in the *Road Traffic Code 2000* regulation 3(1);
- (f) noise emissions from the propulsion system or the movement through the water of a vessel operating in water other than water on private premises;
- (g) noise emissions —
 - (i) from a device for warning pedestrians installed at a pedestrian crossing on a road; or
 - (ii) from a device for warning of the passage of a train installed at a level crossing; or
 - (iii) from a safety warning device fitted to a building as a requirement of the Building Code as defined in the *Building Regulations 2012* regulation 3; or
 - (iv) for the purpose of giving a warning required under the *Mines Safety and Inspection Regulations 1995* regulation 8.26,

if every reasonable and practicable measure has been taken to reduce the effect of the noise emission consistent with providing an audible warning to people;

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- (h) noise emissions from —
 - (i) a reversing alarm fitted to a motor vehicle, mobile plant, or mining or earthmoving equipment; or
 - (ii) a startup or movement alarm fitted to plant,
 - if —
 - (iii) it is a requirement under another written law that such an alarm be fitted; and
 - (iv) it is not practicable to fit an alarm that complies with the written law under which it is required to be fitted and emits noise that complies with these regulations;
 - (i) noise emissions from an engine, equipment, machinery or plant on a vessel while the vessel is in a port.
- (2) In subregulation (1)(i) —
 - port** means —
 - (a) a port as defined in the *Port Authorities Act 1999* section 3(1); or
 - (b) a port as defined in the *Shipping and Pilotage Act 1967* section 3.

6. Part 2 Division 1 heading inserted

At the beginning of Part 2 insert:

Division 1 — General provisions

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7. Regulation 4 amended

- (1) In regulation 4(1) delete “section 51, 62(4)(c), 65, 74(3)(a), and clause 22 of Schedule 4 of the Act.” and insert:

sections 51, 59(1)(i), 60(3)(a), 62(3), 65 and 74A of the Act.

- (2) In regulation 4(2) delete “section 3(1)” and insert:

section 3A(1)

8. Regulation 5 replaced

Delete regulation 5 and insert:

5. Unreasonable noise

- (1) Without limiting section 3(3)(a) of the Act and subject to subregulation (2), noise emitted in contravention of a standard prescribed under regulation 7 or 11 is to be taken to be unreasonable.
- (2) Noise is not to be taken to be unreasonable under subregulation (1) if the person causing the noise emission shows that —
- (a) by virtue of regulation 12, 13, 14A, 14, 15, 16AA(9), 16BA(9) or 16(3), regulation 7 does not apply to the noise emitted; or
 - (b) the noise is emitted in accordance with an approval granted under regulation 18B, 18 or 19B.

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9. Regulation 6 amended

In regulation 6(1):

- (a) delete “item 14” and insert:

item 15

- (b) in paragraph (a) delete “sections 51, 79, 80, 81, 81A, 82 and 99” and insert:

sections 51, 75, 79, 80, 81, 81A, 82, 90, 92, 93, 95 and 99

- (c) in paragraph (b) delete “section 51” and insert:

sections 51, 75, 90, 92, 93 and 95

10. Regulation 8 replaced

Delete regulation 8 and insert:

8. Assigned levels

- (1) In this regulation —

building includes a camp, caravan, or park home, as those terms are defined in the *Caravan Parks and Camping Grounds Act 1995*, that is located —

- (a) in a caravan park or camping ground; or
(b) on other land in accordance with an approval under the *Caravan Parks and Camping Grounds Regulations 1997* regulation 11(2) or 12(2),

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but does not include a veranda, patio, pergola, balcony or other similar outdoor area;

highly sensitive area means that area (if any) of noise sensitive premises comprising —

- (a) a building, or a part of a building, on the premises that is used for a noise sensitive purpose; and
- (b) any other part of the premises within 15 metres of that building or that part of the building;

influencing factor, in relation to noise received at noise sensitive premises, means the influencing factor determined under Schedule 3;

Kwinana Industrial Area means the area referred to in the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1999* as Area A;

L_{A1} assigned level means an assigned level which, measured as an $L_{A\text{ Slow}}$ value, is not to be exceeded for more than 1% of the representative assessment period;

L_{A10} assigned level means an assigned level which, measured as an $L_{A\text{ Slow}}$ value, is not to be exceeded for more than 10% of the representative assessment period;

$L_{A\text{ max}}$ assigned level means an assigned level which, measured as an $L_{A\text{ Slow}}$ value, is not to be exceeded at any time.

- (2) For the purposes of paragraph (a) of the definition of **highly sensitive area** in subregulation (1), a building, or a part of a building, that is inhabited in contravention of the *Health Act 1911* section 136 or 144, or any other enactment relating to the use of buildings for human habitation, is taken not to be used for a noise sensitive purpose.
- (3) The assigned level for all premises is to be determined by reference to Table 1.

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Table 1

Type of premises receiving noise	Time of day	Assigned level (dB)		
		L _{A 10}	L _{A 1}	L _{A max}
Noise sensitive premises: highly sensitive area	0700 to 1900 hours Monday to Saturday	45 + influencing factor	55 + influencing factor	65 + influencing factor
	0900 to 1900 hours Sunday and public holidays	40 + influencing factor	50 + influencing factor	65 + influencing factor
	1900 to 2200 hours all days	40 + influencing factor	50 + influencing factor	55 + influencing factor
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 + influencing factor	45 + influencing factor	55 + influencing factor
Noise sensitive premises: any area other than highly sensitive area	All hours	60	75	80
Commercial premises	All hours	60	75	80
Industrial and utility premises other than those in the Kwinana Industrial Area	All hours	65	80	90

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Type of premises receiving noise	Time of day	Assigned level (dB)		
		L _{A 10}	L _{A 1}	L _{A max}
Industrial and utility premises in the Kwinana Industrial Area	All hours	75	85	90

11. Regulation 9 amended

- (1) In regulation 9(1) in the definition of *impulsiveness* delete “L_{A Max slow}” and insert:

L_{A Slow max}

- (2) Delete regulation 9(2) and insert:

- (2) In subregulation (1) —

L_{A Fast} means the reading in decibels (dB) obtained using the “A” frequency weighting characteristic and the “F” time weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

L_{A peak} means the peak sound pressure level in decibels (dB) obtained using the “A” frequency weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

L_{A Slow max} means the maximum reading in decibels (dB) obtained using the “A” frequency weighting characteristic and the “S” time weighting characteristic, as specified in AS IEC 61672.1-2004

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Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

L_{AeqT} means the equivalent continuous sound pressure level in decibels (dB) using the “A” frequency weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, determined over measurement time period T with sound measuring equipment that complies with the requirements of Schedule 4;

one-third octave band means a band of frequencies spanning one-third of an octave and having a centre frequency between 25 Hz and 20 000 Hz inclusive as incorporated in a filter that complies with the requirements of Schedule 4.

12. Regulation 10 amended

(1) Delete regulation 10(1) and insert:

(1) In this regulation —

non-conforming use has the meaning given in the *Planning and Development Act 2005* section 172;

planning scheme means —

- (a) a planning scheme in force under the *Planning and Development Act 2005*; or
- (b) an approved redevelopment scheme in operation under the *Metropolitan Redevelopment Authority Act 2011*; or
- (c) the master plan in force under the *Hope Valley-Wattleup Redevelopment Act 2000*.

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- (2) In regulation 10(2):
- (a) delete “purpose” and insert:

use
 - (b) delete “town”.
- (3) In regulation 10(3) delete “town” (each occurrence).
- (4) In regulation 10(4)(c) delete “Authority’s” and insert:

CEO’s
- (5) In regulation 10(5)(b)(i) and (ii) delete “town”.
- (6) In regulation 10(6)(a)(i) and (ii), (b)(i) and (c) delete “town” (each occurrence).
- (7) In regulation 10(9) delete “if it” and insert:

if the CEO
- (8) In regulation 10(10) delete “Authority’s” and insert:

CEO’s
- (9) After regulation 10(10) insert:
- (11) Any acknowledgment from the Authority under subregulation (8) issued before the coming into operation of the *Environmental Protection (Noise) Amendment Regulations 2013* regulation 12 has effect as if it were an acknowledgment from the CEO.

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- (10) In regulation 10 in the provisions listed in the Table delete “Authority” (each occurrence) and insert:

CEO

Table

r. 10(4)(a) and (b)	r. 10(5)
r. 10(8)	r. 10(9)
r. 10(10)	

13. Part 2 Division 2 heading inserted

After regulation 10 insert:

Division 2 — Various premises and activities**14. Regulation 11 replaced**

Delete regulation 11 and insert:

11. Airblast levels due to blasting

- (1) In this regulation —

airblast level means a noise level resulting from blasting;

blaster, in relation to blasting on any premises or public place, means —

- (a) in the case of premises — the occupier of the premises; or

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- (b) in the case of a public place — the person who under regulation 6(1)(b) is to be treated as the occupier of the public place;

building has the meaning given in regulation 8(1);

L_Z peak means the peak sound pressure level in decibels (dB) obtained using the “Z” frequency weighting characteristic as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

sensitive site, in relation to noise sensitive premises, means —

- (a) a building, or a part of a building, on the premises that is used for a noise sensitive purpose; or
- (b) any other location on the premises within 30 metres of that building or that part of the building.
- (2) For the purposes of paragraph (a) of the definition of **sensitive site** in subregulation (1), a building, or a part of a building, that is inhabited in contravention of the *Health Act 1911* section 136 or 144, or any other enactment relating to the use of buildings for human habitation, is taken not to be used for a noise sensitive purpose.
- (3) The provisions of this regulation have effect in relation to airblast levels in place of regulation 7.

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- (4) Subject to subregulation (5), no airblast level resulting from blasting on any premises or public place, when received at any other premises between 0700 hours and 1800 hours on any day, may exceed —
- (a) for an airblast level received at noise sensitive premises —
 - (i) when received at a sensitive site — 120 dB $L_{Z\ peak}$; or
 - (ii) when received at a location other than a sensitive site — 125 dB $L_{Z\ peak}$;
 - or
 - (b) for an airblast level received at any other premises — 125 dB $L_{Z\ peak}$.
- (5) The levels specified in subregulation (4) do not apply in respect of an airblast level when received at premises, or a part of premises, on which the blaster believes on reasonable grounds no person is present at the time of the blast.
- (6) Despite subregulation (4), airblast levels for 9 in any 10 consecutive blasts (regardless of the interval between each blast), when received at any other single premises between 0700 hours and 1800 hours on any day, must not exceed —
- (a) for airblast levels received at noise sensitive premises —
 - (i) when received at a sensitive site — 115 dB $L_{Z\ peak}$; or
 - (ii) when received at a location other than a sensitive site — 120 dB $L_{Z\ peak}$;
 - or
 - (b) for airblast levels received at any other premises — 120 dB $L_{Z\ peak}$.

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- (7) For the purposes of subregulation (6), an airblast level for a blast that would, but for this subregulation, exceed a level specified in subregulation (6)(a)(i) or (ii) or (b) is taken not to exceed that level when received at premises, or a part of premises, on which the blaster believes on reasonable grounds no person is present at the time of the blast.
- (8) Subject to subregulation (9), no airblast level resulting from blasting on any premises or public place, when received at other premises outside the periods between 0700 hours and 1800 hours on any day, may exceed 90 dB $L_{Z_{peak}}$ except where that blasting is carried out in accordance with the *Mines Safety and Inspection Regulations 1995* regulation 8.28(4).
- (9) The level specified in subregulation (8) does not apply in respect of an airblast level when received at premises, or a part of premises, on which the blaster believes on reasonable grounds no person is present at the time of the blast.
- (10) Where blasting is carried out in accordance with the *Mines Safety and Inspection Regulations 1995* regulation 8.28(4) outside the periods between 0700 hours and 1800 hours on any day —
 - (a) the blasting is taken to be carried out between 0700 hours and 1800 hours; and
 - (b) subregulations (4), (5), (6) and (7) apply accordingly.
- (11) For the purposes of this regulation, an airblast level may be determined by —
 - (a) measurement at its point of reception when, to the extent practicable, other noises that would contribute to the measured airblast level are not present; or

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- (b) calculation of the airblast level at its point of reception based on measurement of the airblast level at a reference point determined by the inspector or authorised person to be a point where the relationship between the airblast level as measured at the reference point and at the point of reception can be established.

15. Regulation 12 amended

Delete regulation 12(5) and insert:

- (5) A farming vehicle complies with this subregulation if the occupier of the premises shows that the vehicle, including its noise reduction system, has been maintained to a reasonable standard.

16. Regulation 13 amended

- (1) In regulation 13(1) insert in alphabetical order:

ancillary measure means a measure designated to be an ancillary measure under subregulation (7);

- (2) In regulation 13(1) in the definition of *construction work* delete paragraph (f) and insert:
 - (f) reclamation or site works including road works and earth works; or
 - (g) the removal or reinstatement of vegetation or topsoil for the purpose of or in relation to a mining operation; or
 - (h) tunnelling.

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- (3) Delete regulation 13(2) and insert:
- (2) Regulation 7 does not apply to noise emitted from a construction site as a result of construction work carried out between 0700 hours and 1900 hours on any day which is not a Sunday or public holiday if the occupier of the premises or public place, shows that —
- (a) the construction work was carried out in accordance with control of environmental noise practices set out in section 4 of AS 2436-2010 Guide to noise and vibration control on construction, maintenance and demolition sites; and
 - (b) the equipment used on the premises was the quietest reasonably available; and
 - (c) if the occupier was required to prepare a noise management plan under subregulation (4) in respect of the construction site —
 - (i) the noise management plan was prepared and given in accordance with the requirement, and approved by the CEO; and
 - (ii) the construction work was carried out in accordance with the noise management plan, excluding any ancillary measure; and
 - (d) if the occupier was required to prepare a noise management plan under subregulation (5A)(a) or (b) —
 - (i) the noise management plan was prepared and given in accordance with the requirement, and approved by the CEO; and

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- (ii) the construction work was carried out in accordance with the noise management plan, excluding any ancillary measure.

- (4) In regulation 13(3):
 - (a) delete paragraph (a) and insert:
 - (a) the construction work was carried out in accordance with control of environmental noise practices set out in section 4 of AS 2436-2010 Guide to noise and vibration control on construction, maintenance and demolition sites; and

 - (b) delete paragraph (c) and insert:
 - (c) the construction work was carried out in accordance with a noise management plan, excluding any ancillary measure, in respect of the construction site —
 - (i) prepared and given to the CEO not later than 7 days before the construction work commenced; and
 - (ii) approved by the CEO;

 - and

- (5) In regulation 13(4) delete “Chief Executive Officer” and insert:

CEO

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- (6) After regulation 13(4) insert:
- (5A) The CEO may require an occupier of a construction site on which construction work is being carried out to prepare a noise management plan in respect of —
- (a) the premises or a part of the premises specified in the requirement; or
 - (b) a type of construction work being carried out on the construction site and specified in the requirement.
- (7) In regulation 13(5) delete “subregulation (4) must provide the Chief Executive Officer,” and insert:
- subregulation (4) or (5A) must provide the CEO,
- (8) In regulation 13(6):
- (a) delete “subregulation (3)(c) or (4)” and insert:

subregulation (3)(c), (4) or (5A)
 - (b) delete paragraph (a) and insert:
 - (a) details of, and reasons for, construction work on the construction site; and
- (9) After regulation 13(6) insert:
- (7) The CEO may, by written notice given to an occupier who provides the CEO with a noise management plan under this regulation, designate a measure in the plan

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to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.

- (8) An occupier of a construction site must ensure that any ancillary measure relating to the site is implemented.

Penalty for an offence under subregulation (8): a fine of \$5 000.

- (10) In regulation 13:

- (a) in subregulation (1) in the definition of **construction work** after each of paragraphs (a), (b), (c) and (d) insert:

or

- (b) after each of subregulations (3)(b) and (6)(b), (c) and (d) insert:

and

17. Regulations 14A and 14B inserted

After regulation 13 insert:

14A. Waste collection and other works

- (1) In this regulation —

ancillary measure means a measure designated to be an ancillary measure under regulation 14B;

class 1 works means specified works carried out between —

- (a) 0700 hours and 1900 hours on any day that is not a Sunday or a public holiday; or

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- (b) 0900 hours and 1900 hours on a Sunday or public holiday;

class 2 works means specified works carried out otherwise than between the hours specified in the definition of **class 1 works** paragraphs (a) and (b);

specified works means —

- (a) the collection of waste; or
- (b) the cleaning of a road or the drains for a road; or
- (c) the cleaning of public places, including footpaths, cycle paths, car parks and beaches; or
- (d) the maintenance of road verges and public open space (including the collection of rubbish and the planting, trimming, watering or removal of trees); or
- (e) the periodic collection of household items or other things placed on street verges by residents for the purpose of such a collection; or
- (f) activities associated with hazard or emergency management;

waste means waste from domestic or commercial sources and includes —

- (a) putrescible waste; and
 - (b) non-putrescible waste; and
 - (c) recyclable materials.
- (2) Regulation 7 does not apply to noise emitted in the course of carrying out class 1 works if —
- (a) the works are carried out in the quietest reasonable and practicable manner; and
 - (b) the equipment used to carry out the works is the quietest reasonably available; and

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- (c) in a case where a person has been required to prepare a noise management plan under subregulation (4) in relation to the works —
 - (i) the noise management plan has been prepared and submitted in accordance with the requirement, and approved in writing by the CEO; and
 - (ii) the works are carried out in accordance with the noise management plan, excluding any ancillary measure.
- (3) Regulation 7 does not apply to noise emitted in the course of carrying out class 2 works if the works are carried out in accordance with a noise management plan, excluding any ancillary measure, for class 2 works approved in writing by the CEO.
- (4) The CEO may by written notice require a person who carries out class 1 works —
 - (a) to prepare a noise management plan; and
 - (b) within the time specified in the notice, to submit the plan to the CEO, or another person specified in the notice, for the approval of the CEO.
- (5) A noise management plan for class 1 works is to include —
 - (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and

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- (c) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (d) operator training programmes; and
 - (e) community information on the manner in which the specified works will be carried out; and
 - (f) a complaints response procedure.
- (6) A noise management plan for class 2 works is to include, but is not limited to —
- (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and
 - (c) justification for carrying out the works during the times of day to which the class relates; and
 - (d) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (e) operator training programmes; and
 - (f) community information on the manner in which the specified works will be carried out; and
 - (g) a complaints response procedure.
- (7) An application by a person, other than a local government, for the approval of a noise management plan under subregulation (3) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.

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- (8) Before approving a noise management plan under subregulation (3) or (4), the CEO must —
- (a) if the plan was submitted by a local government, require the local government to give local public notice, as defined in the *Local Government Act 1995* section 1.7, of the plan; or
 - (b) if the plan was submitted by a person other than a local government, require the person to publish notice of the plan at least once in a newspaper circulating generally throughout the district where the plan will have effect.
- (9) A notice under subregulation (8) must specify the following —
- (a) the purpose and effect of the noise management plan;
 - (b) the places at which the noise management plan may be inspected or obtained;
 - (c) the period (being not less than 30 days after the notice is published in a newspaper) within which submissions about the plan may be made to the CEO.
- (10) After considering any submissions made under subregulation (9)(c), the CEO may —
- (a) approve the noise management plan as proposed; or
 - (b) approve a noise management plan that is not significantly different from what was proposed; or
 - (c) refuse to approve the noise management plan as proposed and require a new plan to be prepared and submitted for approval.

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- (11) A noise management plan for class 1 works or class 2 works expires —
- (a) 3 years after the day on which it is approved by the CEO; or
 - (b) on such other day, not more than 3 years after the day on which it is approved by the CEO, as the CEO specifies in the approval of the plan.

14B. Ancillary measures: waste collection and other works

- (1) The CEO may, by written notice to a person who submits a noise management plan under regulation 14A, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (2) A person who carries out class 1 works or class 2 works, as those terms are defined in regulation 14A, must ensure that any ancillary measure relating to the works is implemented.

Penalty: a fine of \$5 000.

18. Regulation 15 amended

In regulation 15(3)(c)(vi) delete “Chief Executive Officer,” and insert:

CEO,

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19. Part 2 Divisions 3 and 4 inserted

After regulation 15 insert:

Division 3 — Motor sport venues**16A. Terms used**

In this Division —

ancillary measure means a measure designated to be an ancillary measure under regulation 16AB(1);

approved noise management plan means a noise management plan approved under regulation 16AA, as amended from time to time, that has effect;

motor sport organisation means any of the following organisations —

- (a) Australian National Drag Racing Association;
- (b) Australian Power Boat Racing Association;
- (c) Confederation of Australian Motor Sport Limited;
- (d) Motorcycling Australia;
- (e) Motorcycling Western Australia;
- (f) National Association of Drag Racing Inc.;
- (g) National Association of Speedway Racing;
- (h) Western Australian Speedway Commission;
- (i) any other motor sport organisation approved by the CEO for the purposes of this regulation;

motor sport venue means premises approved or recognised by a motor sport organisation as premises at which racing activities may be conducted;

racing activity means racing of motor vehicles or motor vessels conducted as part of a competition day,

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practice or training session, exhibition run, trial, test, entertainment event, promotion or other similar activity.

16AA. Approval of noise management plan: motor sport venue

- (1) The occupier of a motor sport venue may apply to the CEO for approval of —
 - (a) a noise management plan for the venue; or
 - (b) an amendment of an approved noise management plan for the venue.
- (2) An application for approval under subregulation (1) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.
- (3) The CEO may, in writing —
 - (a) if the application is for the approval of a noise management plan — approve, or refuse to approve, the noise management plan for the motor sport venue; or
 - (b) if the application is for an amendment of an approved noise management plan — approve, or refuse to approve, the amendment.
- (4) Before making a decision under subregulation (3) the CEO —
 - (a) must give the following a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved —
 - (i) the occupier of any noise sensitive premises within 1 km of the motor sport venue;

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- (ii) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;
 - and
 - (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved.
- (5) An approval of a noise management plan under subregulation (3) —
- (a) may be granted subject to conditions imposed by the CEO; and
 - (b) subject to subregulation (6) and regulation 16AC, has effect for the period specified in the approval.
- (6) If the occupier of a motor sport venue for which an approved noise management plan (the **current plan**) has effect applies for approval of a new noise management plan for the venue not later than 3 months before the current plan would, apart from this regulation, cease to have effect (the **expiry day**), the current plan is taken to continue in effect from the expiry day until —
- (a) if the CEO approves the new noise management plan — the day on which the new plan has effect; or
 - (b) if —
 - (i) the CEO refuses to approve the new noise management plan; and

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- (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 16AE, no appeal has been lodged,
the day after that period ends; or
 - (c) if —
 - (i) the CEO refuses to approve the new noise management plan; and
 - (ii) an appeal is lodged under regulation 16AE against the decision to refuse to approve the new noise management plan,
the day the appeal is concluded.
- (7) The CEO must not approve a noise management plan for a motor sport venue unless the plan —
 - (a) contains a map (current at the time of the application) showing the motor sport venue, including the area where motor vehicles or motor vessels are raced or prepared for racing and car parks used by competitors in races at and visitors to the venue; and
 - (b) contains a description of the types of racing activities that can reasonably be expected to be conducted at the venue and classes of vehicles or vessels that can reasonably be expected to race at the venue; and
 - (c) sets out limitations on the racing activities to be conducted and the times during which racing activities may be conducted; and
 - (d) contains details of reasonable and practicable measures to be implemented to control noise emissions from the venue during the conduct of a racing activity at the venue; and

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- (e) contains details of when and the manner in which notice of racing activities at the venue is to be published or distributed to members of the public; and
 - (f) specifies the persons who will be responsible for implementing the approved noise management plan and sets out each person's responsibilities; and
 - (g) contains a complaint response procedure.
- (8) For the purposes of subregulation (7)(f), the plan may —
- (a) specify a person by name; or
 - (b) specify a particular officer, or the holder of a particular office, by reference to the title of the office concerned.
- (9) Regulation 7 does not apply to noise emitted from a motor sport venue during the conduct of a racing activity at the venue if the racing activity is conducted in accordance with an approved noise management plan, excluding any ancillary measure, for the venue.

16AB. Ancillary measures: motor sport venue

- (1) If the CEO approves or amends a noise management plan under regulation 16AA, the CEO may, by written notice given to the person whose plan was approved or amended, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (2) An occupier of a motor sport venue must ensure that any ancillary measure relating to the venue is implemented.

Penalty: a fine of \$5 000.

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16AC. Revocation of noise management plan for motor sport venue

- (1) An approved noise management plan for a motor sport venue ceases to have effect if approval of the plan is revoked under this regulation.
- (2) The CEO may revoke the approval of a noise management plan for a motor sport venue by written notice given to the occupier of the venue.
- (3) The grounds for revocation of a noise management plan for a motor sport venue are that the CEO is satisfied that —
 - (a) there has been a breach of a measure, other than an ancillary measure, in the plan; or
 - (b) there has been a breach of a condition imposed by the CEO under regulation 16AA(5)(a); or
 - (c) information contained in the plan, or contained in or supporting the application for approval of the plan, was false or misleading in a material respect; or
 - (d) the noise emissions from the venue have increased during the period the noise management plan has been in effect.
- (4) The CEO, before exercising the power of revocation under subregulation (2), must —
 - (a) give the occupier of the motor sport venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 16AA(4)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.

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- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that subregulation not less than 90 days before the day on which the CEO exercises the power in question.

16AD. Notice of appellable decision

- (1) In this regulation —
appellable decision has the meaning given in regulation 16AE(1).
- (2) The CEO —
- (a) must give a written notice of an appellable decision in respect of a noise management plan for a motor sport venue to the occupier of the motor sport venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

16AE. Appeals against decisions in respect of noise management plan for motor sport venue

- (1) A person aggrieved by any of the following decisions (an *appellable decision*) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —
- (a) the approval of a noise management plan for a motor sport venue;
 - (b) the refusal to approve a noise management plan for a motor sport venue;

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- (c) the approval of an amendment to an approved noise management plan for a motor sport venue;
 - (d) the refusal to approve an amendment to an approved noise management plan for a motor sport venue;
 - (e) the imposition of a condition on the approval of a noise management plan for a motor sport venue;
 - (f) the specification under regulation 16AA(5) of a period as the period for which the approval of a noise management plan for a motor sport venue has effect;
 - (g) the revocation of the approval of a noise management plan.
- (2) The appeal must be lodged within 21 days of publication of notice of the decision under regulation 16AD(2)(c).
 - (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b) or (f), the decision against which that appeal is lodged continues to have effect.
 - (4) Pending the determination of an appeal lodged under subregulation (1)(c), (d), (e) or (g) the decision is to be taken not to have been made.
 - (5) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1) as if that appeal were an appeal referred to in section 102(1) of the Act.

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Division 4 — Shooting venues**16B. Terms used**

In this Division —

ancillary measure means a measure designated to be an ancillary measure under regulation 16BB(1);

approved noise management plan means a noise management plan approved under regulation 16BA, as amended from time to time, that has effect;

shooting activity means shooting conducted as part of a competition day, practice or training session, exhibition, trial, test, entertainment event, promotion or other similar activity;

shooting venue means premises that are a range approved under the *Firearms Act 1973*.

16BA. Approval of noise management plan: shooting venue

- (1) The occupier of a shooting venue may apply to the CEO for approval of —
 - (a) a noise management plan for the venue; or
 - (b) an amendment of an approved noise management plan for the venue.
- (2) An application for approval under subregulation (1) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.
- (3) The CEO may, in writing —
 - (a) if the application is for the approval of a noise management plan — approve, or refuse to approve, the noise management plan for the shooting venue; or

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- (b) if the application is for an amendment of an approved noise management plan, approve, or refuse to approve, the amendment.
- (4) Before making a decision under subregulation (3) the CEO —
 - (a) must give the following a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved —
 - (i) the occupier of any noise sensitive premises within 1 km of the shooting venue;
 - (ii) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;
 - and
 - (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved.
- (5) An approval of a noise management plan under subregulation (3) —
 - (a) may be granted subject to conditions imposed by the CEO; and
 - (b) subject to subregulation (6) and regulation 16BC, has effect for the period specified in the approval.
- (6) If the occupier of a shooting venue for which an approved noise management plan (the *current plan*) has effect applies for approval of a new noise

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management plan for the venue not later than 3 months before the current plan would, apart from this regulation, cease to have effect (the *expiry day*), the current plan is taken to continue in effect from the expiry day until —

- (a) if the CEO approves the new noise management plan — the day on which the new plan has effect; or
 - (b) if —
 - (i) the CEO refuses to approve the new noise management plan; and
 - (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 16BE, no appeal has been lodged,
the day after that period ends; or
 - (c) if —
 - (i) the CEO refuses to approve the new noise management plan; and
 - (ii) an appeal is lodged under regulation 16BE against the decision to refuse to approve the new noise management plan,
the day the appeal is concluded.
- (7) The CEO must not approve a noise management plan for a shooting venue unless the plan —
- (a) contains a map (current at the time of the application) showing the shooting venue, including all shooting ranges and buildings within the venue; and
 - (b) contains a description of the types of shooting disciplines that can reasonably be expected to be conducted on each range at the venue; and

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- (c) sets out limitations on shooting activities to be conducted at the venue and the times during which shooting activities may be conducted; and
 - (d) contains details of reasonable and practicable measures to be implemented to control noise emissions at the venue during a shooting activity at the venue; and
 - (e) contains details of when and the manner in which notice of shooting activities at the venue is to be published or distributed to members of the public; and
 - (f) specifies the persons who will be responsible for implementing the approved noise management plan and sets out each person's responsibilities; and
 - (g) contains a complaint response procedure.
- (8) For the purposes of subregulation (7)(f), the plan may —
- (a) specify a person by name; or
 - (b) specify a particular officer, or the holder of a particular office, by reference to the title of the office concerned.
- (9) Regulation 7 does not apply to noise emitted from a shooting venue during the conduct of a shooting activity at the venue if the shooting activity is conducted in accordance with an approved noise management plan, excluding any ancillary measure, for the venue.

16BB. Ancillary measures: shooting venue

- (1) If the CEO approves or amends a noise management plan under regulation 16BA, the CEO may, by written

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notice given to the person whose plan was approved or amended, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.

- (2) An occupier of a shooting venue must ensure that any ancillary measure relating to the venue is implemented.
Penalty: a fine of \$5 000.

16BC. Revocation of noise management plan for shooting venue

- (1) An approved noise management plan for a shooting venue ceases to have effect if approval of the plan is revoked under this regulation.
- (2) The CEO may revoke the approval of a noise management plan for a shooting venue by written notice given to the occupier of the venue.
- (3) The grounds for revocation of a noise management plan for a shooting venue are that the CEO is satisfied that —
- (a) there has been a breach of a measure, other than an ancillary measure, in the plan; or
 - (b) there has been a breach of a condition imposed by the CEO under regulation 16BA(5)(a); or
 - (c) information contained in the plan, or contained in or supporting the application for approval of the plan, was false or misleading in a material respect; or
 - (d) the noise emissions from the venue have increased during the period the noise management plan has been in effect.

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- (4) The CEO, before exercising the power of revocation under subregulation (2), must —
 - (a) give the occupier of the shooting venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 16BA(4)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.
- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that subregulation not less than 90 days before the day on which the CEO exercises the power in question.

16BD. Notice of appellable decision

- (1) In this regulation —
appellable decision has the meaning given in regulation 16BE(1).
- (2) The CEO —
 - (a) must give a written notice of an appellable decision in respect of a noise management plan for a shooting venue to the occupier of the shooting venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

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16BE. Appeals against decisions in respect of noise management plan for shooting venue

- (1) A person aggrieved by any of the following decisions (an *appellable decision*) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —
 - (a) the approval of a noise management plan for a shooting venue;
 - (b) the refusal to approve a noise management plan for a shooting venue;
 - (c) the approval of an amendment to an approved noise management plan for a shooting venue;
 - (d) the refusal to approve an amendment to an approved noise management plan for a shooting venue;
 - (e) the imposition of a condition on the approval of a noise management plan for a shooting venue;
 - (f) the specification under regulation 16BA(5) of a period as the period for which the approval has effect;
 - (g) the revocation of the approval of a noise management plan for a shooting venue,may lodge with the Minister an appeal in writing setting out the grounds of that appeal.
- (2) The appeal must be lodged within 21 days of publication of notice of the decision under regulation 16BD(2)(c).
- (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b) or (f), the decision against which that appeal is lodged continues to have effect.

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- (4) Pending the determination of an appeal lodged under subregulation (1)(c), (d), (e) or (g), the decision is to be taken not to have been made.
- (5) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1) as if that appeal were an appeal referred to in section 102(1) of the Act.

20. Part 2 Division 5 heading inserted

Before regulation 16 insert:

Division 5 — Community activities**21. Regulation 16 amended**

- (1) In regulation 16(1) delete the definition of *exempt noise*.
- (2) In regulation 16(1) insert in alphabetical order:

community noise means a noise of a type listed in Schedule 2;

- (3) In regulation 16(2) delete “regulation 17” and insert:

regulation 18B

- (4) In regulation 16(3) delete “exempt noise.” and insert:

community noise.

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- (5) In regulation 16(4):
- (a) in paragraphs (a) and (b) delete “exempt noise” and insert:

community noise
 - (b) delete “exempt noise.” and insert:

community noise.
- (6) Delete regulation 16(5)(c) and insert:
- (c) may include a direction that any person bound by it is to make one of the following applications, as specified in the direction —
 - (i) an application under regulation 17 for approval to allow the emission of noise to exceed or vary from the standard prescribed under regulation 7;
 - (ii) an application under regulation 18 for approval to conduct an event that is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7.

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- (7) In regulation 16(8):
- (a) after paragraph (a) insert:
 - (ba) a person bound by a noise control notice who has prepared a noise management plan under subregulation (6) —
 - (i) allows an emission of noise to exceed the level of noise emission specified in the plan; or
 - (ii) does not follow the strategies specified in the plan;
 - or
 - (b) in paragraph (c) delete ““exempt noise”” and insert:

community noise
- (8) In regulation 16(13) delete “Part VII of the Act applies” and insert:

Sections 105 to 110 of the Act apply
- (9) In regulation 16 in the provisions listed in the Table delete “Chief Executive Officer” (each occurrence) and insert:

CEO

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r. 16(4)	r. 16(5)(b)(i)
r. 16(6)	r. 16(9)
r. 16(10)	r. 16(11)

Note: The heading to amended regulation 16 is to read:

Community noise**22. Part 2 Division 6 heading inserted**

After regulation 16 insert:

Division 6 — Where standard cannot reasonably be met**23. Regulation 17 replaced**

Delete regulation 17 and insert:

17. Approval to allow emission of noise to exceed or vary from standard: application and referral

- (1) If a person is of the opinion that —
- (a) the person cannot reasonably or practicably comply with a standard prescribed under these regulations; or
 - (b) that a proposal of that person will not be reasonably or practicably capable of complying with that standard,

that person may apply to the Minister for approval to allow the emission of noise in that case to exceed or vary from the standard.

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- (2) The Minister must refer the application to the Authority for assessment if —
- (a) the application relates to a proposal mentioned in subregulation (1)(b); and
 - (b) the Authority —
 - (i) has made a public record of —
 - (I) the proposal under section 39 of the Act setting out that the proposal is to be assessed under Part IV of the Act; or
 - (II) a request in relation to the proposal under section 46(1) of the Act;
 - and
 - (ii) has not prepared and given a report on the outcome of its assessment of the proposal under section 44 of the Act or a report on the inquiry under section 46(6) of the Act.
- (3) If subregulation (2) does not apply, the Minister must refer the application to the CEO for assessment.
- (4) If the Authority in the course of assessing a proposal under Part IV of the Act, or carrying out an inquiry under section 46(3) of the Act, forms the opinion that the proposal is not reasonably or practicably capable of complying with a standard prescribed under these regulations, the Authority may make a determination that the proponent is taken to have made an application under subregulation (1) that has been referred to the Authority under subregulation (2).
- (5) The report of the Authority under section 44 of the Act on a proposal mentioned in subregulation (1)(b) or (4), or under section 46 of the Act on an inquiry mentioned

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in subregulation (1)(b) or (4), is taken to also be the report of the Authority for the purposes of regulation 18B.

18A. Assessment by CEO

- (1) When an application is referred to the CEO under regulation 17(3), the CEO may —
 - (a) advise the Minister that the CEO considers that the application should not be assessed because —
 - (i) the emission of noise in that case will not exceed or vary from a standard prescribed under these regulations; or
 - (ii) the emission of noise is reasonably and practicably capable of complying with a standard prescribed under these regulations; or
 - (iii) an approval to allow the emission of noise to exceed or vary from the standard is not an appropriate means of regulating the emission of noise;
 - or
 - (b) if the CEO does not consider that any of the circumstances mentioned in paragraph (a) apply and considers that the emission of noise exceeds or will exceed or vary from a standard prescribed under these regulations —
 - (i) inform the Minister and the applicant; and
 - (ii) assess the application and report to the Minister.

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- (2) In the case of an application in respect of which the CEO provides advice under subregulation (1)(a), the Minister may —
 - (a) direct the CEO to assess the application under subregulation (1)(b)(ii); or
 - (b) inform the applicant that the application will not be assessed.
- (3) The CEO may, for the purposes of assessing an application under subregulation (1)(b)(ii), require the applicant to provide the CEO with such information as is specified in the requirement.
- (4) The CEO may end the assessment of an application if the applicant has failed to comply with a requirement under subregulation (3) within such period as the CEO considers to be reasonable in the circumstances.
- (5) Subject to any direction given under subregulation (9), the CEO is to determine the form, content, timing and procedure of any assessment undertaken under this regulation.
- (6) After a determination is made under subregulation (5), the CEO is to estimate the cost of conducting the assessment.
- (7) The fee payable for conducting an assessment is —
 - (a) an amount equal to the cost estimated under subregulation (6); or
 - (b) if that amount exceeds \$100 000, \$100 000.
- (8) The fee must be paid before the assessment of the application commences.
- (9) The Minister may, during or after the assessment by the CEO of an application referred to the CEO, and after consulting the CEO, direct the CEO to assess or

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re-assess, as the case requires, the application more fully or more publicly or both in accordance with that direction, and the CEO must comply with the direction.

18B. Decision by Minister

- (1) After receiving the report of the Authority or the CEO in relation to an application for approval under regulation 17, the Minister may grant, or may refuse to grant, the approval.
- (2) An approval under subregulation (1) may be made —
 - (a) to have effect for a specified time; and
 - (b) subject to any condition.
- (3) Despite any other of these regulations, an approval under subregulation (1) has effect according to its terms.

18C. Notification of approval, amendment or revocation

Notice of an approval under regulation 18B(1), and any amendment or revocation of an approval under regulation 18E(3), is to be published in the *Gazette*.

18D. Ancillary conditions

- (1) If an approval under regulation 18B(1) is made subject to a condition, the CEO may, by written notice given to the person to whom the approval was given, designate the condition as an ancillary condition (an ***ancillary condition***) if the condition does not directly influence the level, duration or time of day of a noise emission.
- (2) A person to whom an approval under regulation 18B(1) is given must ensure that an ancillary condition relating to the approval is implemented.

Penalty: a fine of \$5 000.

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18E. Amendment or revocation of approval

- (1) The Minister may, if the Minister considers that any approval under regulation 18B(1) should be amended or revoked, request the CEO to inquire into and report on the proposed amendment or revocation and for that purpose regulation 18A(3) to (5) applies as if the proposed amendment or revocation were an application referred to the CEO under regulation 17(3).
- (2) If the holder of an approval under regulation 18B(1) applies to the Minister to amend the approval, regulation 18A applies as if the proposed amendment were an application referred to the CEO under regulation 17(3).
- (3) After receiving the report of the CEO on the proposed amendment or revocation the Minister may amend or refuse to amend, or may revoke, the approval.

18F. Effect of breach of condition or revocation of approval

- (1) If a condition, other than a condition designated as an ancillary condition under regulation 18D, subject to which an approval under regulation 18B(1) is given is breached —
 - (a) the approval is suspended and of no effect for so long as the breach continues; and
 - (b) the standards prescribed under these regulations apply to the emission of noise to which the approval applied.
- (2) If an approval is revoked under regulation 18E —
 - (a) the approval ceases to have effect; and
 - (b) the standards prescribed under these regulations apply to the emission of noise to which the approval applied.

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- (1) A person granted an approval under regulation 18B(1) must pay the CEO an annual noise monitoring fee of \$5 000 (reduced pro rata if the approval is for a part of the year) —
 - (a) within one month after the day on which notice of the approval is published under regulation 18C; and
 - (b) before each anniversary of the day on which notice of the approval is published under regulation 18C while the approval has effect.
- (2) If a fee is not paid under subregulation (1) within 2 weeks of —
 - (a) the end of the period referred to in subregulation (1)(a); or
 - (b) the anniversary date referred to in subregulation (1)(b),the approval is suspended and of no effect until the fee is paid, and the standards prescribed under these regulations apply to the emission of noise to which the approval applied.
- (3) The CEO may waive or reduce, in whole or in part, a fee payable under this regulation.

18H. Appeals against decisions under this Division

- (1) A person aggrieved by any of the following decisions of the Minister may lodge with the Minister an appeal in writing setting out the grounds of the appeal —
 - (a) in the case of an application referred to the CEO under regulation 17(3) — the grant of approval under regulation 18B(1);

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- (b) the imposition of a condition on an approval under regulation 18B(2) (including specifying the period for which an approval has effect);
 - (c) the amendment of an approval under regulation 18E(3);
 - (d) the revocation of an approval under regulation 18E(3).
- (2) An applicant for approval under regulation 17(1) who is aggrieved by either of the following decisions of the Minister may lodge with the Minister an appeal in writing setting out the grounds of the appeal —
 - (a) the refusal under regulation 18A(2) to assess the application;
 - (b) the refusal under regulation 18B(1) to grant the approval.
- (3) The holder of an approval under regulation 18B(1) who is aggrieved by the decision of the Minister under regulation 18E(3) to refuse to amend the approval may lodge with the Minister an appeal in writing setting out the grounds of the appeal.
- (4) The appeal must be lodged —
 - (a) in the case of an appeal referred to in subregulation (2) or (3) — within 21 days of the applicant being notified of the decision;
 - (b) otherwise — within 21 days of publication of notice of the decision under regulation 18C.
- (5) Pending the determination of an appeal lodged under subregulation (1)(a) or (b), (2) or (3), the decision against which that appeal is lodged continues to have effect.

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- (6) Pending the determination of an appeal lodged under subregulation (1)(c) or (d), the decision is to be taken not to have been made.
- (7) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1), (2) or (3) as if that appeal were an appeal referred to in section 102(1) of the Act.

18I. Transitional provisions

- (1) In this regulation —
amending provision means the *Environmental Protection (Noise) Amendment Regulations 2013* regulation 23;
former regulation 17 means regulation 17 as in force immediately before the coming into operation of the amending provision.
- (2) An application made under former regulation 17 that has not been referred under that regulation is to be taken to be an application made under regulation 17(1) as inserted by the amending provision.
- (3) Subregulations (3) to (8) and (11) of former regulation 17 continue to apply in relation to an application made under former regulation 17 that has been referred to the Authority but in respect of which a decision has not been made by the Minister as if the amending provision had not come into operation.
- (4) Regulations 5(2)(b), 16(2)(b) and 18D to 18G apply in relation to any approval granted under former regulation 17 as if the approval were granted under regulation 18B.
- (5) Subregulations (13) and (14) of former regulation 17 continue to apply in relation to a decision made under former regulation 17.

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24. Part 2 Division 7 heading and regulation 18J inserted

Before regulation 18 insert:

Division 7 — Sporting, cultural and entertainment events

18J. Terms used

In this Division —

approved event means an event approved under regulation 18(3);

approved venue means a venue approved under regulation 19B(7);

venue means any premises or public place;

venue approval means an approval granted under regulation 19B(7), as amended from time to time, that has effect.

25. Regulation 18 amended

(1) Delete regulation 18(1) and insert:

(1) In this regulation —

ancillary condition means a condition designated as an ancillary condition under regulation 19A(1);

noise means noise associated directly with an approved event and does not include noise normally emitted from a venue (such as noise from plant, pumps and machinery) when it is not being used for the purposes of an approved event.

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- (2) In regulation 18(2)(b) delete “approved non-complying event.” and insert:
- approved event.
- (3) Delete regulation 18(4) and insert:
- (4) If a condition, other than an ancillary condition, imposed on an approved event under subregulation (3) or (8) is breached —
- (a) the event ceases to be an approved event; and
 - (b) regulation 7 has effect in relation to that event.
- (4) In regulation 18(6) delete “\$500.” and insert:
- \$1 000.
- (5) After regulation 18(6) insert:
- (7A) Despite subregulation (6)(a), an application may be made between 59 and 21 days before the event to which the application relates is proposed to commence if, in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.
- (7B) Despite subregulation (6)(a), an application may be made less than 21 days before the event to which the application relates is proposed to commence if —
- (a) the CEO is satisfied that there are exceptional circumstances for the application not being made earlier than within that period; and

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- (b) in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.

- (6) In regulation 18(8) delete “every event approved under subregulation (3)” and insert:

an approved event

- (7) In regulation 18(9) delete “approved non-complying event” and insert:

approved event

- (8) In regulation 18(11) delete “approved non-conforming events” and insert:

approved events

- (9) Delete regulation 18(12) and (13) and insert:

(12) An approval must not be granted unless —
 - (a) the chief executive officer of the local government (the *local government CEO*) of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 has no objection to the proposed conditions applicable to the approval; or
 - (b) if there is such an objection, the objection has been resolved under subregulation (13).

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- (13) An objection of a local government CEO may be resolved by —
- (a) the CEO and the local government CEO agreeing on the conditions applicable to the approval; or
 - (b) if an agreement cannot be reached, the Minister determining the conditions after receiving the advice of the CEO.
- (10) In regulation 18(14):
- (a) delete “approved non-conforming events” and insert:

approved events
 - (b) delete “noise-sensitive” and insert:

noise sensitive
- (11) Delete regulation 18(15) and insert:
- (15) Despite subregulation (6)(b), the CEO may, in his or her discretion, waive or reduce the application fee payable under subregulation (6).
- (12) In regulation 18 in the provisions listed in the Table delete “Chief Executive Officer” (each occurrence) and insert:
- CEO

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r. 18(3)	r. 18(8)
r. 18(9)	r. 18(11)
r. 18(14)	

Note: The heading to amended regulation 18 is to read:

Approved sporting, cultural and entertainment events

26. Regulations 19A to 19G inserted

At the end of Part 2 insert:

19A. Ancillary conditions: approved events

- (1) If an approval under regulation 18(3) is made subject to a condition, the CEO may, by written notice given to the person who applied for approval of the event, designate the condition as an ancillary condition if the condition does not directly influence the level, duration or time of day of a noise emission.
- (2) A person who holds an approved event at a venue must ensure that any ancillary condition relating to the event is implemented.

Penalty: a fine of \$5 000.

19B. Approved venues for sporting, cultural or entertainment events

- (1) In this regulation —
notifiable event means a sporting, cultural or entertainment event that —
 - (a) is open to the public; and

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- (b) is likely to result in noise emissions, other than community noise, that do not comply with the standard prescribed under regulation 7; and
 - (c) is not an approved event or an event for which application for approval under regulation 18 has been made.
- (2) The occupier of a venue may apply to the CEO for —
 - (a) approval of the venue as a venue at which a number of notifiable events may be held during a period specified in the approval; or
 - (b) an amendment of a venue approval (other than an amendment of the period of the approval).
- (3) After the application is made, the CEO is to estimate the cost of assessing and processing the application.
- (4) The fee payable for assessing and processing the application is —
 - (a) an amount equal to the cost estimated under subregulation (3); or
 - (b) if that amount exceeds \$15 000, \$15 000.
- (5) The fee for assessing and processing the application must be paid by the applicant before assessment of the application commences.
- (6) The CEO may require an applicant to carry out such surveys and provide such other information as the CEO may specify in writing to the applicant before the CEO makes a decision under subregulation (7).
- (7) The CEO may, in writing —
 - (a) if the application is for the approval of a venue — approve, or refuse to approve, the venue;

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- (b) if the application is for an amendment of a venue approval — make, or refuse to make, the amendment.
- (8) Before making a decision under subregulation (7) the CEO —
 - (a) must give the following a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made —
 - (i) the Executive Director, Public Health;
 - (ii) the Director of Liquor Licensing;
 - (iii) the occupier of any noise sensitive premises within 1 km of the venue;
 - (iv) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;
 - and
 - (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made.
- (9) A venue approval —
 - (a) is subject to such conditions as the CEO thinks fit or is required to impose under subregulation (12) and sets out in the approval; and
 - (b) subject to subregulation (11) and regulation 19E, has effect for the period specified in the approval.

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- (10) Without limiting subregulation (7), an amendment may vary a condition of a venue approval or impose a new condition on a venue approval.
- (11) If the occupier of a venue for which a venue approval (the *current approval*) has effect applies for a new approval of the venue not later than 3 months before the current approval would, apart from this regulation, cease to have effect (the *expiry day*), the current approval is taken to continue in effect from the expiry day until —
- (a) if the CEO grants a new approval — the day on which the new approval has effect; or
 - (b) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 19G, no appeal has been lodged,the day after that period ends; or
 - (c) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) an appeal is lodged under regulation 19G against the decision to refuse to grant a new approval,the day the appeal is concluded.
- (12) The CEO must not approve a venue under subregulation (7) unless the conditions imposed on the approval —
- (a) specify the maximum number and type of notifiable events that may be held at the venue during a period specified in the approval; and

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- (b) specify the earliest time at which a notifiable event held at the venue may begin and the latest time at which a notifiable event may end; and
- (c) specify the maximum duration of a notifiable event held at the venue; and
- (d) specify the maximum allowable noise level of a notifiable event held at the venue; and
- (e) specify the manner in which occupiers affected by noise emissions from a notifiable event at the venue are to be advised that the event is to be held at the venue; and
- (f) specify the manner in which complaints from members of the public about noise emissions from a notifiable event at the venue are to be managed; and
- (g) provide for the manner in which community consultation is to be conducted by the applicant for approval of the venue.

19C. Ancillary conditions: venue approval

- (1) The CEO may in a venue approval designate a condition imposed on the venue approval under regulation 19B(12)(e), (f) or (g) as an ancillary condition.
- (2) In the case of a condition imposed on a venue approval under regulation 19B(12)(e) or (f) and designated as an ancillary condition under subregulation (1), each of the following must ensure the condition is implemented —
 - (a) the occupier of the venue;
 - (b) a person who holds an event at the venue.Penalty: a fine of \$5 000.
- (3) In the case of a condition imposed on a venue approval under regulation 19B(12)(g) and designated as an

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ancillary condition under subregulation (1), the occupier of the venue must ensure the condition is implemented.

Penalty: a fine of \$5 000.

19D. Notifiable event at approved venue

- (1) A person who proposes to hold an event at an approved venue that is a notifiable event of a type specified in the conditions of approval of the venue under regulation 19B(12)(a) must give the CEO notice of the event in accordance with this regulation.

Penalty: a fine of \$5 000.

- (2) A notice under subregulation (1) must —
- (a) be in a form approved by the CEO; and
 - (b) be given not later than 60 days before the event is proposed to commence; and
 - (c) give details of the event including the date, starting time and ending time of the event.
- (3) Despite subregulation (2)(b), a notice may be given between 59 days and 21 days before the event to which the notice relates is proposed to commence if the notice is accompanied by a late fee of \$500.
- (4) Despite subregulation (2)(b), notice may be given less than 21 days before the event to which the notice relates is proposed to commence if —
- (a) the CEO is satisfied that there are exceptional circumstances for the notice not being given earlier than within that period; and
 - (b) the notice is accompanied by a late fee of \$500.
- (5) The CEO may, by written notice given to a person who gives notice under subregulation (1), impose in relation to the notifiable event an ancillary condition that does

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not directly influence the level, duration or time of day of a noise emission.

- (6) If a notifiable event in respect of which notice has been given under subregulation (1) is held at an approved venue —
 - (a) the event is subject to the conditions imposed under regulation 19B(9)(a) that apply to a notifiable event held at the venue; and
 - (b) the event is subject to the ancillary conditions imposed under subregulation (5); and
 - (c) regulation 7 does not apply to noise resulting from the event at the venue.
- (7) If, at an approved venue during a notifiable event in respect of which notice has been given under this regulation, a condition imposed on the approval of the venue under regulation 19B(9)(a) (other than a condition designated as an ancillary condition under regulation 19C(1)) is breached —
 - (a) subregulation (6)(c) ceases to apply in relation to noise resulting from the event at the venue; and
 - (b) regulation 7 has effect in relation to that event.
- (8) A person who gives the CEO a notice of a notifiable event under subregulation (1) must pay to the CEO, within the time specified by the CEO, any noise monitoring fee specified by the CEO for that event.
- (9) If a fee is not paid under subregulation (8) before the day on which the notifiable event is to be held at the venue, the venue is not an approved venue for the purpose of that event.
- (10) A person who gives the CEO notice of a notifiable event under subregulation (1) must ensure that an

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ancillary condition imposed under subregulation (5) in relation to the event is implemented.

Penalty for an offence under subregulation (10): a fine of \$5 000.

19E. Amendment or revocation of venue approval

- (1) The CEO may, on his or her own initiative, amend a venue approval if the CEO is satisfied that there is reasonable cause for the amendment.
- (2) The CEO may, on his or her own initiative, revoke a venue approval if the CEO is satisfied that —
 - (a) there has been a breach of a condition imposed by the CEO under regulation 19B(9)(a); or
 - (b) information contained in or supporting the application for approval of the venue was false or misleading in a material respect.
- (3) A venue approval ceases to have effect if it is revoked under this regulation.
- (4) The CEO, before exercising the power of amendment under subregulation (1) or revocation under subregulation (2), must —
 - (a) give the occupier of the venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 19B(8)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.
- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that subregulation not less than

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90 days before the day on which the CEO exercises the power in question.

19F. Notice of appellable decision

- (1) In this regulation —
appellable decision has the meaning given in regulation 19G.
- (2) The CEO —
 - (a) must give a written notice of an appellable decision to the occupier of the relevant venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

19G. Appeals against decisions under this Division

- (1) A person aggrieved by any of the following decisions (an *appellable decision*) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —
 - (a) the approval of a venue under regulation 19B(7)(a);
 - (b) the refusal to approve a venue under regulation 19B(7)(a);
 - (c) the imposition of a condition on an approval under regulation 19B(9)(a);
 - (d) the specification under regulation 19B(9)(b) of a period as the period for which the approval has effect;

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- (e) the amendment of an approval under regulation 19B(7)(b);
 - (f) the refusal to amend an approval under regulation 19B(7)(b);
 - (g) the amendment of an approval under regulation 19E(1);
 - (h) the revocation of an approval under regulation 19E(2).
- (2) The appeal must be lodged within 21 days of publication of notice of the decision under regulation 19F(2)(c).
 - (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b), (c) or (d), the decision against which that appeal is lodged continues to have effect.
 - (4) Pending the determination of an appeal lodged under subregulation (1)(e), (f), (g) or (h) the decision is to be taken not to have been made.
 - (5) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1) as if that appeal were an appeal referred to in section 102(1) of the Act.

27. Regulation 22 replaced

Delete regulation 22 and insert:

22. Sound measuring equipment must comply with Schedule 4

- (1) Measurement and assessment of noise emissions for the purposes of these regulations must be made with sound measuring equipment that is calibrated in accordance with and otherwise complies with Schedule 4.

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- (2) Sound measuring equipment for which a certificate has been issued under Schedule 4 clause 2(2) within the 2 year period immediately preceding the date of its use is taken to have been calibrated in accordance with Schedule 4.

28. Regulation 23 amended

Delete regulation 23(b) and insert:

- (b) at the CEO's written request make those results available to the CEO.

29. Part 5 deleted

Delete Part 5.

30. Schedule 1 heading replaced

In Schedule 1:

- (a) delete "**Schedule 1**";
(b) delete "[Regulation 2]";
(c) delete "**Classification of premises**" and insert:

Schedule 1 — Classification of premises

[r. 2]

31. Schedule 1 Part A amended

- (1) Delete Schedule 1 Part A item 1 and insert:

1. Premises used for the purpose of providing sewerage, electricity, gas, drainage, passenger transport or other similar services.

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2A. Premises used for the purpose of providing water other than a water storage dam or catchment for a water storage dam.

(2) In Schedule 1 Part A item 3:

(a) in paragraph (e) delete “vehicle sales yard.” and insert:

vehicle sales yard; or

(b) after paragraph (e) insert:

(f) printing.

(c) after each of paragraphs (a) to (d) insert:

or

32. Schedule 1 Part B amended

After Schedule 1 Part B item 13 insert:

14. Premises used for the purpose of providing communications.

33. Schedule 1 Part C amended

(1) Delete the heading to Schedule 1 Part C and insert:

Part C — Noise sensitive premises

(2) In Schedule 1 Part C item 3:

(a) in paragraph (i) delete “centre.” and insert:

centre; or

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- (b) after paragraph (i) insert:
 - (j) a water storage dam or a catchment for a water storage dam.
- (c) after each of paragraphs (a) to (h) insert:
 - or

34. Schedule 2 heading replaced

In Schedule 2:

- (a) delete “**Schedule 2**”;
- (b) delete “[Regulation 16]”;
- (c) delete “**Community activities — exempt noise**” and insert:

Schedule 2 — Community noise

[r. 16]

35. Schedule 2 amended

In Schedule 2 item 2 delete “or order granted under the *Public Meetings and Processions Act 1984*.” and insert:

granted under the *Public Order in Streets Act 1984*.

36. Schedule 3 heading replaced

In Schedule 3:

- (a) delete “**Schedule 3**”;

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- (b) delete “[Regulation 8]”;
- (c) delete “**Determination of influencing factor on noise sensitive premises**” and insert:

Schedule 3 — Determination of influencing factor on noise sensitive premises

[r. 8]

37. Schedule 3 clause 1 amended

- (1) In Schedule 3 clause 1(1) delete the definition of *land use map*.
- (2) In Schedule 3 clause 1(1) insert in alphabetical order:

Kwinana Policy Area means the Policy Area as defined in the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1999* clause 3(1);

land use map means —

- (a) a map prepared and in use by a local government for the purposes of imposing differential general rates; and
- (b) a map that is included in a planning scheme as defined in the *Planning and Development Act 2005* section 4(1); and
- (c) a map that is included in a redevelopment scheme referred to in the *Planning and Development Act 2005* section 71;

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- (3) Delete Schedule 3 clause 1(2) and insert:
- (2) The average daily traffic count of a road is to be estimated —
- (a) by reference to the latest average weekday traffic flows published by Main Roads Western Australia; or
 - (b) if the average daily traffic count of a road cannot be estimated by reference to that data, by conducting a traffic count to estimate the average daily traffic count of that road.

38. Schedule 3 clause 2 amended

- (1) After Schedule 3 clause 2(1) insert:
- (2A) If the land within either of the circles is categorised on the land use map as land in respect of which mixed uses are permitted, the use of that land that results in the highest influencing factor is to be used in the determination of the influencing factor.
- (2) Delete Schedule 3 clause 2(4) and insert:
- (4) Subclauses (5A) and (5B) apply when determining the influencing factor under subclause (1) for noise emissions from industrial and utility premises in Area A or B of the Kwinana Policy Area, when received at noise sensitive premises in Area A or B of the Kwinana Policy Area.
- (5A) If land within either of the circles —
- (a) is within Area A or B of the Kwinana Policy Area; and

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- (b) is categorised on the land use map as —
 - (i) land used for industrial or utility purposes that are service industry or light industry purposes; or
 - (ii) land used for purposes other than for industrial, utility or commercial purposes,

the land is taken to be Type B land for the purposes of subclause (1) unless the land is land to which subclause (6) applies.

- (5B) Subject to subclause (5C), if land within 450 metres of the measurement point on noise sensitive premises —
 - (a) is within Area A or B of the Kwinana Policy Area; and
 - (b) is land in respect of which no land use map applies,

then, for the purposes of identifying the land under subclause (1)(b), the land is to be identified by determining the actual land use at the time the noise was received.

- (5C) If the land referred to in subclause (5B) —
 - (a) is land used for industrial or utility purposes that are service industry or light industry purposes; or
 - (b) is land used for purposes other than for industrial, utility or commercial purposes,

the land is taken to be Type B land for the purposes of subclause (1) unless the land is land to which subclause (6) applies.

(3) Delete Schedule 3 clause 2(6)(f).

(4) After Schedule 3 clause 2(6) insert:

- (7) If the land within either of the circles —
 - (a) is used for poultry farming; and

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- (b) is categorised on the land use map as land used for purposes other than industrial, utility or commercial purposes,

that land is taken to be Type B land for the purposes of subclause (1), but if the sum of Type B percentages for both circles exceeds 100% that sum is to be taken to be 100%.

- (8) If the land within the inner circle —
- (a) is used for a sporting facility; and
 - (b) has a building, on the whole or part of that land, that is directly associated with that use; and
 - (c) is categorised on the land use map as land used for purposes other than industrial, utility or commercial purposes,

an adjustment of 2 dB is to be added to the influencing factor determined under subclause (1) at the point of reception of the noise emission.

- (5) In Schedule 3 clause 2(6) after each of paragraphs (a) to (e) insert:

or

39. Schedule 4 replaced

Delete Schedule 4 and insert:

Schedule 4 — Rules for sound measuring equipment

[r. 22]

1. Sound measuring equipment

- (1) Sound level meters must meet or exceed the requirements of the relevant sections of AS IEC 61672.1-2004

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Electroacoustics-Sound level meters Part 1: Specifications, for class 1 or class 2 meters, as the case requires.

- (2) Sound measuring equipment not covered by subclause (1), including analog and digital audio recording devices, level recorders, spectrum analysers and computers must —
 - (a) meet or exceed the relevant performance requirements of a class 2 sound level meter; or
 - (b) not degrade the performance of another item of equipment below that of a class 2 sound level meter.
- (3) Filter sets used with any sound level meter or spectrum analyser must meet or exceed the relevant requirements specified in AS/NZS 4476: 1997 Acoustics-Octave-band and fractional-octave-band filters.
- (4) Standard sound sources (acoustic calibrators and piston phones) used for field performance checks must meet or exceed the relevant requirements of AS IEC 60942-2004 Electroacoustics-Sound calibrators, for class 1 or class 2 sound sources, as the case requires.

2. Calibration of sound measuring equipment

- (1) In this clause —

approved calibration laboratory means —

- (a) a calibration laboratory accredited by the National Association of Testing Authorities (the *NATA*) for the calibration of sound measuring equipment; or
- (b) a calibration laboratory approved by the CEO for calibration of sound measuring equipment; or
- (c) the National Measurement Institute referred to in the *National Measurement Act 1960* (Commonwealth) section 17;

approved person means —

- (a) in relation to a calibration laboratory accredited by NATA, a person who is authorised by NATA to sign calibration certificates on behalf of the laboratory; or

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- (b) in relation to a calibration laboratory approved by the CEO, a person authorised in that approval to sign calibration certificates; or
 - (c) in relation to the National Measurement Institute, a person authorised by the Institute to sign calibration certificates for sound measuring equipment.
- (2) Sound measuring equipment must not be used for the purposes of these regulations unless —
 - (a) the equipment has been calibrated in an approved calibration laboratory within the 2 year period immediately preceding the date of its use; and
 - (b) an approved person has issued a certificate —
 - (i) identifying the laboratory undertaking the calibration; and
 - (ii) identifying the equipment by type, manufacturer and, if the equipment has a serial number, by the serial number; and
 - (iii) recording the date of calibration; and
 - (iv) certifying that the calibration procedures followed were in accordance with the terms of the NATA accreditation of the laboratory or the procedures specified in the approval of the laboratory by the CEO; and
 - (v) certifying that the sound measuring equipment complies with the relevant provisions of AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, AS/NZS 4476: 1997 Acoustics-Octave-band and fractional-octave-band filters, AS IEC 60942-2004 Electroacoustics-Sound calibrators and the requirements of clause 4(2); and
 - (vi) specifying the standard or standards, and the clause numbers of the standard or

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standards, against which the equipment has been calibrated.

- (3) The certificate referred to in subclause (2)(b) is not required to give detailed results of individual tests but must provide sufficient information to indicate that the equipment has met the relevant requirements of the standards against which it was calibrated.

3. Field performance checks

- (1) Sound measuring equipment referred to in clause 1(1), (2) and (3) —
- (a) must be subjected to field performance checks by measuring or recording the signal from a standard sound source that complies with clause 1(4) before and after a measurement, a set of measurements or a recording is to be, or has been, made using the equipment; and
 - (b) must indicate, after adjustment of its sensitivity if necessary and before it is used to make measurements or to analyse a recording, the stated level of the standard sound source within + or – 0.5 dB; and
 - (c) must indicate, without further adjustment of its sensitivity, the stated level of the standard sound source within + or – 0.5 dB after the equipment is used or the recording is analysed.
- (2) If the sound measuring equipment does not comply with subclause (1) the results of the measurement made by the equipment must not be used.

4. Equipment used for measurement of airblast levels

- (1) For the purposes of regulation 11, airblast levels resulting from blasting must be measured using sound measuring equipment having the capability to measure $L_{Z\text{ peak}}$ in peak hold mode.

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- (2) Sound measuring equipment which is used for measuring airblast levels from blasting must be calibrated in accordance with clause 2 and checked in accordance with clause 3 except that —
 - (a) it must be calibrated to establish that its sensitivity remains within + 1 dB and – 4 dB of the sensitivity at 100 Hz when tested over the frequency range 2 Hz to 500 Hz; and
 - (b) it does not have to be certified as complying with the relevant parts of AS IEC 61672.1–2004 specifying frequency response requirements.
- (3) Sound measuring equipment which does not meet the requirements of subclause (2) must not be used for airblast measurements.

R. KENNEDY, Clerk of the Executive Council.