

3 June 2016

Our Ref: GP/CA
File No.:

Mr Wes Ford
General Manager
Biosecurity Tasmania, EPA Division
DPIPWE
GPO Box 1751
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Dear Mr Ford

Public Release of New Environmental Management and Pollution Control (Noise) Regulations 2016 and Regulatory Impact Statement

Thank you for providing the Local Government Association of Tasmania (LGAT) with an opportunity to provide a response to the new Environmental Management and Pollution Control (Noise) Regulations 2016 and Regulatory Impact Statement. LGAT provided the regulations and statement to our members councils for comment.

The feedback from our members on the new Miscellaneous Noise Regulations is generally supportive. The change of focus towards behavioural management is positive and will enable the community to self regulate noise amenity rather than rely on regulatory intervention to shape behaviour.

The extension of the regulations to include building construction noise is also supported and will assist in increasing business awareness around the importance of noise amenity to the community.

Specific feedback from councils in relation to the Regulations includes;

Section 3	Under definition of 'approved instrument', suggest adding 'Council By-Law'. For example a Tree Removal Permit issued under Council's By-law may permit the use of chainsaws, etc in contravention with Schedule 1. Suggest that a definition of construction be included in the definitions and that the definition should also include maintenance/ repair work.
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Section 7	<p>One council raised concern with section 7 generally.</p> <p>In particular how enforceable the regulation would be in its current form. The concern relates to the lack of reference to methodology on how measurement would be recorded to determine non-compliance. For example it is unlikely that any heat pump would be able to operate at a noise level of 40 to 45 dB. In addition the current draft does not take into account different residential zones, for example high density areas versus rural residential areas, the ambient background noise levels for these zones would be different. It is proposed that if a dB criterion is going to be set then a zonal ambient level should be outlined.</p> <p>Should noise level criteria be used then the EPA noise management procedures manual 2008 should be referenced for the required methodology. Alternatively, the prohibited operation times could be adopted in a manner similar to that which has been adopted in the NSW Protection of the Environment Operations (Noise Control) Regulation 2008. It is also suggested, that as with the NSW legislation, there should be a requirement for the fixed device to be labelled with its noise performance output.</p>
Section 7. (2)(a)	Suggest also specifying height at which noise is to be monitored (eg. 1.2m above the ground level).
Section 7 (2) (a)	Typo - should read: “emitting the noise”, rather than “emitting in the noise”
Section 8.	<p>A number of councils raised concern in relation to Section 8. These concerns included:</p> <ul style="list-style-type: none"> • 8(2)(b) recreational boats are often used before 7am and after 6pm and may be operating within 500mtrs of a residence eg craypot or fishing. With the recent changes this would be seen as an offence. • The new regulations 8(2)(b) applies if the motor vessel is NOT planning while being so driven. The previous regulations used the wording OR planning, it is suggested that this be reworded
Section 8. (1) (b)	<p>Suggest rewording to : ‘the vehicle, or vessel, is being operated by, <i>or with the consent of</i>, the occupier of the premises; and’</p> <p>Having the ‘with consent of the occupier of the premises’ in the 2014 regulation was a useful tool when attempting to mediate between neighbours and provided an opportunity to adapt a common sense approach when dealing with complaints.</p> <p>It is unclear what the provision is permitting. Suggest rewording to: “the vehicle, or vessel, is not, whilst within 500metres of the premises referred to in Subsection 1(a), being operated within 500 metres of any other residential premises; and’</p>

Section 8. (2)(b)(ii)	Typo - suggest removing the word 'being'
Section 9	Similar to Section 8 - there was some disappointment with the removal of 'with consent of the occupier of the premises'. What will be considered unlawful here?
Schedule 1	Definition of outboard motor - refers to 'easily fitted'. There is a query as to whether this includes outboard motors that have steering, forward, controls etc these larger motors are not easily fitted/removed. Schedule 1 should stipulate that the prohibited hours of operation apply to residential premises and construction sites.
Schedule 1 section 2	Portable equipment - a restriction of 6pm over summer seems overly restrictive
Schedule 1, Section 4	It appears that musical instruments or sound amplifying equipment is now prohibited from 10pm-midnight on Friday nights, this is not consistent with the previous Regulations. Suggest creating a new line specifically for Fridays prohibiting the use of musical instruments and sound amplifying equipment before 7am and after 12am.
Schedule 1, Section 4	Typo - Suggest changing '12pm' to '12am'

I trust that this feedback will assist you in finalising the regulation. Once finalised, it would be beneficial if the EPA could run some seminars/workshops with council officers to go through the changes outlined in the regulations.

If you have any further questions about the submission please contact Georgia Palmer, Senior Policy Officer, Local Government Association of Tasmania on 6233 5965 or Georgia.palmer@lgat.tas.gov.au

Yours sincerely

Katrena Stephenson
Chief Executive Officer