

FILE NO: PSC2013-00406/043

TITLE: DOG NOISE POLICY

OWNER: DEVELOPMENT AND COMPLIANCE SECTION MANAGER

1. PURPOSE:

1.1 The purpose of this policy is to provide a formal framework for the management and regulation of barking dog noise complaints in the Port Stephens Local Government Area (LGA). The policy also provides an efficient and cost effective method of gathering the information and evidence required to resolve dog noise control issues.

2. CONTEXT/BACKGROUND:

2.1 The policy (formerly the Dog Noise Strategy) was first adopted by Council on 3 June 1997 and was most recently amended on 8 October 2019. When compared to the original strategy, the revised policy continues to provide Council operational staff with an improved, cost effective method of dealing with noise complaints in relation to barking dogs as well as enabling a sufficient amount of evidence to be obtained in dog noise control matters.

2.2 Dog noise in the Port Stephens LGA is managed as 'offensive noise' under the Protection of the Environment Operations Act 1997 (POEO Act). The policy requires the submission of a barking dog diary ('the diary') from complainants within 7 days of the event to establish the validity of their complaints.

2.3 Council is committed to resolving dog noise problems having regard to legislative requirements and can only do so when persons who lodge complaints about barking dogs provide the required level of information to support the complaint. An integral part of the investigation process includes persons lodging complaints being willing to provide evidence and appear as a witness if necessary.

2.4 The policy sets Port Stephens Council apart in terms of how other peer Council's manage nuisance dogs and provides a consistent and transparent approach.

3. SCOPE:

- 3.1 The role of Council's Ranger team in the implementation of the policy is to manage barking dog complaints in the Port Stephens LGA where the complainants are able to provide evidence demonstrating the noise created is 'offensive noise' as defined by the POEO Act.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Nuisance Dog	A dog that makes a noise, by barking or otherwise, that persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.
Offensive Noise	Interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted.
Repeated Barking	More than three episodes of five barks in one hour on multiple occasions during a 24 hour period. (Note – this is a guide for the assessing officer only and does not necessarily constitute offensive noise. A demonstrated impact needs to be identified).

5. STATEMENT:

- 5.1 Upon receipt of a first complaint about dog noise, Council staff will attempt to make contact with the dog owner and advise that a complaint has been received. The dog owner will be given 14 days to resolve the issue without further involvement from Council.
- 5.2. If the dog barking persists past the 14 day period described above, Council will request a Council approved diary and statement form to be completed by the complainant giving time and duration of barking. Complainants are encouraged to obtain audio recordings of noise episodes where possible, to accompany the diary.

- 5.3. On submitting the diary to Council an investigation will be carried out by the Ranger team and if the noise is deemed offensive via a supplementary method of verification which may include neighbour interviews, patrols, video and audio recordings, a Council officer will issue a Noise Abatement Direction to the owner of the dog. Once issued, the noise abatement direction will remain in force for 28 days.
- 5.4 If further offensive noise is caused within the 28 day period described above the complainant will be requested to provide an additional diary and other methods of verification should be obtained where possible. If the evidence provided demonstrates the Noise Abatement Direction has been breached a Council Officer may issue infringements to the owner of the dog, accompanied by a new Noise Abatement Direction.
- 5.5 If the noise is not deemed offensive by Council staff at the conclusion of their investigation, the complainant will be advised accordingly and no further action will be taken.
- a) note – the above process will be repeated while ever the dog noise continues.
- b) after the expiry of the 28 days Council staff may take the following action:
- 5.5.1 if multiple diaries and statements have been received and an offence is considered to be committed, issue a Prevention Notice under the POEO Act.
- 5.5.2 if no further diaries are received the matter will be deemed to be resolved and no further action will be taken.
- 5.6 The definition of 'offensive noise' is set out in the POEO Act. For the purposes of dog barking noise, it is accepted that dogs may bark for various reasons and this alone does not make the noise offensive. As a guide to dog barking noise interfering unreasonably with comfort or repose, the dog noise would need to meet 1 or more of the following:
- a) barking before 7am or after 8pm; or
- b) repeated barking that interrupts normal home activity such as sleep, conversations, phone calls, watching television, study etc.
- 5.7 Should additional complaints and completed diaries be received after a Prevention Notice has been issued, a decision will be made having consideration to Council's legal procedures policy as to further action.
- 5.8 If the matter is not resolved following the above process Council may issue a Court Attendance Notice.

6. RESPONSIBILITIES:

- 6.1 Coordinator Environmental Health and Compliance.
- 6.2 Ranger Team Leader.
- 6.3 Ranger Team.

7. RELATED DOCUMENTS:

- 7.1 Companion Animals Act 1998 (Nuisance Orders).
- 7.2 Protection of the Environment Operations Act 1997 (Prevention Notice, Noise Abatement Order).
- 7.3 Dog Noise Diary.
- 7.4 Dog Noise Fact Sheet.

CONTROLLED DOCUMENT INFORMATION:

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Audience			
Process owner	Development and Compliance Section Manager		
Author	Compliance Coordinator		
Review timeframe	3 years	Next review date	28 Sep 2024
Adoption date	3 June 1997		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	3/6/1997		Policy adopted by Council	1083
2	30/1/2001		Amended	016
3	19/10/2004		Amended	375
4	13/8/2013		Amended	216
5	14/02/2017	Coordinator Environmental	Changes to Policy and approach based on Protection of Environmental Operations	008

		Health and Compliance.	Act offensive noise, rather than Companion Animals Act nuisance order. New noise diary and supplementary fact sheet. Provides for a robust yet effective way to manage noise.	
6	8/10/2019	Coordinator Environmental Health and Compliance.	<p>Updated to new template. Minor punctuation and grammatical changes made throughout.</p> <p>2.2. Feedback from customers and an internal process review has led to the Policy now seeking that the complainant's diary be supplemented by one additional diary from another affected neighbour to assist in establishing validity of complaints. The onus of gathering the additional diary from another affected neighbour rests solely with the primary complainant.</p> <p>4.1. Definitions updated to include 'Continuous Barking'.</p> <p>5.1 Upon receipt of a first complaint about dog noise, Council staff will attempt to make contact with the dog owner and advise that a complaint has been received. The dog owner will be given fourteen days to resolve the issue without further involvement from Council.</p> <p>5.2. If the dog barking persists past the fourteen day period described above, Council will request a Council approved diary and statement form to be completed by the complainant giving time and duration of barking.</p> <p>5.3. On submitting the diary to Council an investigation will be</p>	182

			<p>carried out by the Ranger team and if the noise is deemed offensive via a supplementary method of verification which may include neighbour interviews, patrols, video and audio recordings, A Council officer will issue a Noise Abatement Direction to the owner of the dog. Once issued, the noise abatement direction will remain in force for twenty eight days.</p> <p>5.4 If further offensive noise is caused within the twenty eight days period described above the complainant will be requested to provide an additional diary and other methods of verification should be obtained where possible. If the evidence provided demonstrates the Noise Abatement Direction has been breached a Council Officer may issue infringements to the owner of the dog, accompanied by a new Noise Abatement Direction.</p> <p>5.5 If the noise is not deemed offensive by Council staff at the conclusion of their investigation, the complainant will be advised accordingly, and no further action will be taken</p> <p>5.5.3 If multiple diaries and statements have been received and an offence is considered to be committed, issue a Prevention Notice under the Protection of the Environment Operations Act 1997.</p> <p>5.6 If no further diaries are received the matter will be</p>	
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			deemed to be resolved and no further action will be taken.	
7	28/09/2021	Compliance Coordinator	<p>Revision of Policy, incorporation into new styling format and minor punctuation and grammar amendments throughout.</p> <p>2.1 Added – policy (formerly the Dog Noise Strategy)</p> <p>2.1 Added – When compared to the original strategy, the revised... continues...</p> <p>2.2 Added - within 7 days of the event.</p> <p>7.1 Deleted – Councils Local Companion Animals Management Plan.</p>	247