

**FILE NO:** PSC2013-00406

**TITLE:** DOG NOISE POLICY

**POLICY OWNER:** COORDINATOR ENVIRONMENTAL HEALTH & COMPLIANCE

**PURPOSE:**

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.

**CONTEXT/BACKGROUND:**

The previous Dog Noise Strategy was first adopted by Council on 3 June 1997 and was most recently amended on 13 August 2013. The policy set out 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.

The new Dog Noise Policy has undergone some significant changes and the way complaints are dealt with by Council staff has been revised. The way complaint, non-compliance and subsequent enforcement is escalated has also been refined. The policy has shifted the focus away from the previous "nuisance order" pathway available under the *Companion Animals Act 1998*, to pursuing the matter as an "offensive noise" matter under the *Protection of the Environment Operations Act 1997*. Approaching the majority of barking dog matters in this manner enables more definitive decision making and requires the submission of only one barking dog diary in comparison to the three (3) previously required, the absence of which more often than not led to complaints remaining unresolved. The new barking dog diary and fact sheet attached to the new policy are more prescriptive than the previous policy and are more effective in assisting the Rangers obtaining the critical evidence required to satisfy the "offensive noise" legislative criteria.

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 a level of information to support the complaint and enable efficient investigation. An integral part of the investigation process includes persons lodging complaints being willing to provide evidence and appear as a witness if necessary.

The new policy will set Port Stephens Council apart in terms of how other peer Council's manage nuisance dogs and continues to demonstrate a consistent and transparent approach to the community.

**SCOPE:**

The role of Council's Ranger team in this regard is to manage and regulate complaints about barking dogs in the Port Stephens LGA where the complainant is able to provide evidence demonstrating the noise created is "*offensive noise*" as defined by the *Protection of the Environment Operations Act 1997*.

**DEFINITIONS:**

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.

**POLICY STATEMENT:**

- 1) Prior to the matter being investigated complainants will be requested to complete and sign a dog noise nuisance complaint form. The form requires certain information and undertakings such as; willingness to appear as witness in Court and assistance in assessment.

Completion of the complaint form will assist in reducing vexatious complaints.

- 2) A Council approved offensive noise diary and statement form needs to be completed by the complainant giving times and duration of barking and signed as a statement. Complainants are encouraged to obtain audio recordings of noise episodes where possible, to accompany the diary.
- 3) On submitting the diary to Council, if the noise is deemed offensive then a Council officer will visit the dog owner and issue a noise abatement direction and remain in force for twenty eight (28) days.

- 4) If further offensive noise is caused in the twenty eight (28) days the complainant is to complete a further offensive noise diary and take recordings where possible. A Council Officer may issue infringements to the owner of the dog.
- 5) After the expiry of the twenty eight (28) days Council staff may take the following action:
  - a) if multiple offensive noise diaries and statements have been received, issue a Prevention Notice under the *Protection of the Environment Operations Act 1997*; Or
  - b) if multiple offensive noise diaries and statements have been received, issue a Nuisance Order under *The Companion Animals Act 1998*.
  - 6) In response to the dog owner being uncooperative additional diaries may be submitted and infringement notices may be issued.
- 7) The definition of "offensive noise" is set out in the *Protection of the Environment Operations Act 1997*. 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 one or more of the following:
  - a) Barking before 7am or after 8pm; Or
  - b) Repeated barking of more than 3 episodes of 4-5 barks per day; Or
  - c) Interrupted normal home activity such as conversations, phone calls, watching television, study etc.
- 8) Should additional completed diaries be received, a decision will be made, having consideration to Council's legal procedures policy as to further action.
- 9) If the matter is not resolved following the above process Council may issue a Court Attendance Notice.

## **POLICY RESPONSIBILITIES:**

- 1) Coordinator Environmental Health and Compliance.
- 2) Ranger Team Leader.
- 3) Ranger Team.

## **RELATED DOCUMENTS:**

- 1) Councils Local Companion Animals Management Plan.
- 2) Council's Local Orders Policy.
- 3) *Companion Animals Act 1998* (Nuisance Orders).
- 4) *Protection of the Environment Operations Act 1997* (Prevention Notice, Noise Abatement Order).

- 5) *Dog Noise Diary Statement*  
6) *Dog Noise Fact Sheet*

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**CONTROLLED DOCUMENT INFORMATION:**

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<b>RM8 container No</b>	PSC2013-00406	<b>RM8 record No</b>	16/455791
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<b>Process owner</b>	Ranger Team Leader		
<b>Author</b>	Coordinator Environmental Health and Compliance		
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<b>Adoption date</b>	03/06/1997		

**VERSION HISTORY:**

Version	Date	Author	Details	Minute No.
V1	3/6/1997		Policy adopted by Council	1083
V2	30/1/2001		Amended	016
V3	19/10/2004		Amended	375
V4	13/8/2013		Amended	216

V5	14/02/2017	Coordinator Environmental Health and Compliance.	Changes to policy and approach based on <i>Protection of Environmental Operations Act</i> offensive noise, rather than <i>Companion Animals Act</i> nuisance order. New noise diary and supplementary fact sheet. Provides for a robust yet effective way to manage noise.	008
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