

Noise in Casey – EPA officer investigation case studies

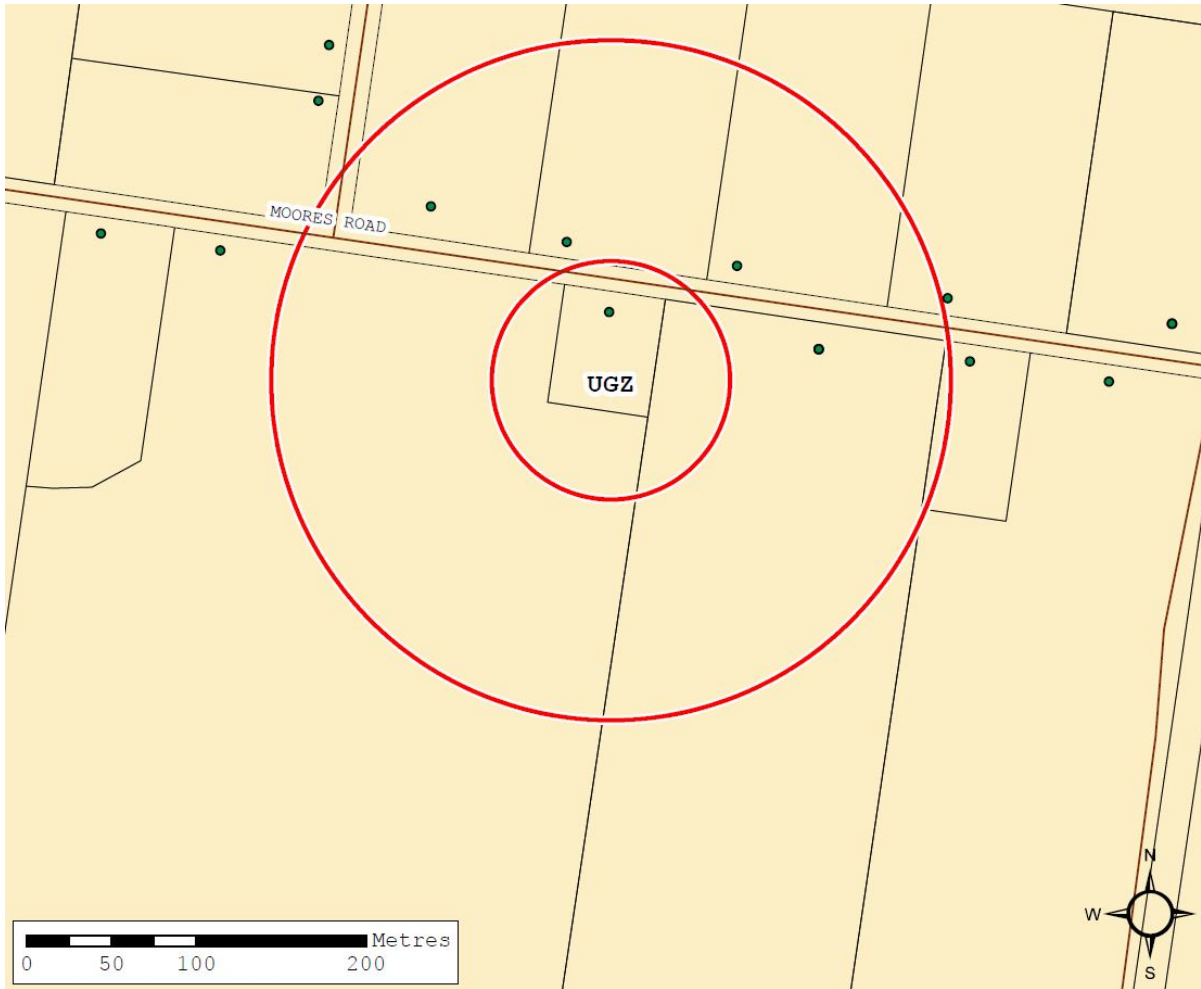
Case Study One – NIRV/SEPP N-1 (Resident vs Shipping Containers)

Case Study Two – Section 48A (Unreasonable Noise for a Residential Premises)

Resident vs Shipping Containers



Planning Compliance Request



Logger Deployment



Recommended Noise Levels

Background noise levels were low, so no background relative adjustments were necessary.

The source of the noise and the receiver where in the same planning zone (UGZ vs UGZ) so no distance adjustment was applied.

NIRV: UGZ vs UGZ Zone Levels were:

Day Period = **46 dBA**

Evening Period = **41 dBA**

Night Period = **36 dBA**



[illegible]

Exceedance

- 58 dBA LAeq noise pollution in the day period
- + 5 Tonal adjustment was applied
- + 3 Intermittency adjustment was applied
- the noise was continuous over that 30 min period
- $ENL = 58 + 5 + 3 = 66\text{dBA}$.
- $66 \text{ (ENL)} - 46 \text{ (Noise Limit)} = 20 \text{ dBA Exceedance}$

POLLUTION ABATEMENT NOTICE

General requirements

- 3.1 By 1 March 2019, you must modify your activities or install controls to your premises workshop, equipment, plant or premises to reduce the 'effective noise level' of noise generated from your premises to:
- a) The determined Day Period limit of 46 dB(A) between 0700-1800 hours on weekdays and 0700-1300 hours on Saturday for the noise sensitive area (an area of equal distance to the premises workshop as that of the premises workshop to the nearest residential dwelling); and
 - b) The determined Eve Period limit of 41 dB(A) between 1800-2200 hours on weekdays and 1300-1800 hours on Saturday for the noise sensitive area (an area of equal distance to the premises workshop as that of the premises workshop to the nearest residential dwelling).
 - c) The determined Night Period limit of 36 dB(A) between 2200-0700 hours on weekdays, 1800-0700 hours on Saturday and 1800-0700 hours on Sundays for the noise sensitive area (an area of equal distance to the premises workshop as that of the premises workshop to the nearest residential dwelling).

Lessons Learnt

- Joint investigation from multiple departments (Breach of Permit and non-compliance with SEPP) resulted in an agreeable outcome
- SEPP N-1 allows you to avoid red-tape associated with planning non-compliance
- Sometimes a business is better off ending a lease and moving to a more suitable location rather attempting to radically change their operations and sound-proof

Unreasonable Noise from a Residential Premises





Residential Noise Regulations

Environment Protection (Residential Noise) Regulations 2018:

<https://www.epa.vic.gov.au/your-environment/noise/environment-protection-residential-noise-regulations-2018>

Environment Protection (Residential Noise) Regulations 2018
S.R. No. 146/2018

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Group</i>	<i>Prescribed items</i>	<i>Prohibited times</i>
2	An electric power tool, chain or circular saw, gas or air compressor, pneumatic power tool, hammer and any other impacting tool and grinding equipment.	Monday to Friday: before 7 a.m. and after 8 p.m. Weekends and public holidays: before 9 a.m. and after 8 p.m.
3	Heating equipment (including central heating, a hot water system or a heat pump, air conditioner or split system used for heating), a vacuum cleaner, swimming pool pump, spa pump, and water pump (other than a pump being used to fill a header tank).	Monday to Friday: before 7 a.m. and after 10 p.m. Weekends and public holidays: before 9 a.m. and after 10 p.m.
4	An air conditioner, evaporative cooler or split system used for cooling.	Monday to Friday: before 7 a.m. and after 11 p.m. Weekends and public holidays: before 9 a.m. and after 11 p.m.
5	A musical instrument and any electrical amplified sound reproducing equipment including a stereo, radio, television and public address system.	Monday to Thursday: before 7 a.m. and after 10 p.m. Friday: before 7 a.m. and after 11 p.m. Saturday and public holidays: before 9 a.m. and after 11 p.m. Sunday: before 9 a.m. and after 10 p.m.

Noise Control Guidelines

EPA's *Noise Control Guidelines (Publication 1254)*:
<https://www.epa.vic.gov.au/~media/Publications/1254.pdf>

Gives guidance on:

- How and where to measure noise
- How assess noise charter
- interpret noise

Section 1: fixed domestic plant including air-conditioners and radios.

What is unreasonable?

Section 48A of the Environment Protection Act allows the Council Officer to determine what is unreasonable noise.

Frequency? – how often does the noise happen?

Duration? – how long does the noise go on for?

Time period? – how will it disturb people? Sleep?

Intensity? – how loud is the noise relative to the environment?

Defining a noise limit

Where noise from any fixed domestic plant is audible beyond the boundary of the residential premises on which the plant is situated, the intrusive noise shall not exceed the background noise level (LA90) by more than 5 dB at the measurement position.

The background noise level (LA90) for the day, evening and night period were observed as:

Day period - 35 dBA (LA90) + 5 dB = **40** dBA Recommended Noise Level

Eve period - 46 dBA (LA90) + 5 dB = **51** dBA Recommended Noise Level

Night period - 33 dBA (LA90) + 5 dB = **37** dBA Recommended Noise Level

Observations

Duration? – On average 18 hours a day

Time period? – 1pm to 7am the next day (day, eve and night periods)

Frequency? – Every day for five days straight

Intensity? – 32 dBA above the night noise limit

Outcome

Casey Council EHO's sent a sternly worded letter that explained:

- The resident had committed an offence under section 48A(3) of the Act
- If the resident did not voluntarily abate, they would be issued with a direction to abate under section 48A(6) of the Act
- Council made plans to conduct further noise monitoring for the 72 hours after any direction to abate had been made
- In this case, the resident complied and has not re-offended since

Lessons Learnt

- While section 48A of the EP Act can be ambiguous and difficult to apply, noise logging and noise assessments can be used to identify and gather evidence of offences.
- Often, simply showing that Council has the ability to monitor noise is a deterrent to offenders.