

Department of Planning and Environment

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Extended Business Hours Noise Guide

For businesses using the exempt operating and trading hours

February 2023





Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Introduction

You may be able to extend your business' operating and trading hours without planning approval. Extended operating and trading hours are now classed as exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. You do not need planning approval for exempt development, as long as you comply with the requirements.

If you are thinking of extending your business hours, this guide will help you understand:

- what the exempt operating and trading hours are in NSW
- if your business is eligible for exempt operating and trading hours
- your obligations for managing noise from your business
- how to prepare for using the exempt operating and trading hours
- what you can do to reduce noise from your business.

Although you may be able to extend your business hours without planning approval, you must still comply with the:

- noise limits calculated in line with the Noise Policy for Industry (2017)
- existing noise regulations in the *Protection of the Environment Operations Act 1997*.

Appendix A explains the Noise Policy for Industry (2017), and Appendix B gives an overview of the existing noise regulations for businesses.



Exempt operating and trading hours

Exempt operating hours

Operating your business at any time (24 hours a day) beyond the hours permitted in a development consent or complying development certificate is exempt development if the:

- premises is in a business, industrial or employment zone
- business operates in accordance with the requirements of a development consent or complying development certificate.

The operation of a business may include activities to prepare for trading such as restocking shelves, deliveries, and waste collection. For the purposes of the exempt operating hours, operation does not include trading.

Exempt trading hours

The trading of a business beyond the hours permitted in a development consent or complying development certificate is exempt development if the:

- premises is in a business, industrial or employment zone
- trading hours are within the times specified in Table 1
- trading is in accordance with the requirements of a development consent or complying development certificate.

Trading is the activity of buying, selling or supplying goods and services directly to customers, clients and members of the public. The difference between trading and operating is that trading happens in the presence of customers, clients and members of the public.

Table 1. Exempt trading hours

Zones	Exempt trading hours
Zones E1, E2, E3, B1, B2, B3, B5, B6, B7, B8, IN4, SP1, SP2, SP3, SP5 or W4	6 am to 10 pm
Zones MU1 or B4	6 am to 7 pm
Zones E4, E5, IN1, IN2 or IN3	24 hours a day* <small>*Note. from 1 February 2024 the exempt trading hours for boat building and repair facilities and vehicle body repair workshops within 100m of a residential zone will be 6 am to 7 pm</small>

Eligibility for the exempt hours

To be eligible for the exempt operating and trading hours, your business must:

- be in a business, industrial or employment zone
- have a current fire safety certificate or fire safety statement or be a premises for which no fire safety measures are required.

Your business is **not eligible** for exempt operating and trading hours if it:

- is any of the following land uses (within the meaning of the Standard Instrument):
 - data centre
 - funeral home
 - market
 - potentially hazardous industry, or potentially offensive industry within the meaning of State Environmental Planning Policy (Resilience and Hazards) 2021
 - pub
 - registered club
 - restricted premise
 - retail premises that sell firearms under the *Firearms Act 1996*
 - roadside stall
 - sex services premise
 - small bar
- is designated development
- has or requires an environmental protection licence
- is listed on the State Heritage Register or under an interim heritage order, unless it has an exemption under the *Heritage Act 1997*
- is on land that is:
 - an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*
 - critical habitat under the *Fisheries Management Act 1994*
 - a wilderness area under the *Wilderness Act 1987*
 - within 18 kilometres of Siding Spring Observatory, if it has or requires any form of lighting.

Requirement to control noise

When using the exempt hours, your business must comply with the [Noise Policy for Industry \(2017\)](#).

The noise policy sets limits on how much noise your business can make. Your business must comply with these limits, known as the **project noise trigger levels**.

The noise limits depend on the time of day, the types of properties that will hear the noise, and how noisy the area already is. Typically, the noise limits will be much lower at night, when there are residential properties around, and in quiet neighbourhoods.

For more information on the noise policy and how the project noise trigger levels are calculated, refer to [Appendix A](#).

Businesses using the exempt hours must continue to control noise in line with the *Protection of the Environment Operations Act 1997*. The ongoing obligations of businesses include maintaining workplaces and machinery properly, so they don't make unnecessary noise, and not making any 'offensive noise', which is banned.



Preparing for extended hours

We have prepared a [Noise Impact Risk Tool](#) to help you decide the noise impact risk of your business and suggest actions to take before using the exempt hours. **It is your responsibility to control noise** from your business.

While the tool will help you identify if your business is at risk of breaching the noise policy, it does not in any way guarantee compliance. It may be necessary to engage an acoustic professional to precisely work out how to comply with the noise policy.

Before you use the tool, confirm that your business is eligible to use the exempt hours. If you are unsure, speak to your council or a town planner.

The Noise Impact Risk Tool

There are 4 steps in using the tool:

1. Consider how noisy your business is
2. Consider how sensitive your neighbourhood is to noise
3. Identify your noise impact risk level on the graph
4. Consider the advice for your risk level

Step 1 – Consider how noisy your business is

Consider all parts of your business that will operate during the extended hours and all noise sources, such as plant and machinery, deliveries and waste collection, and the movement of people and vehicles.

Decide the noise level of your business using the horizontal axis of the graph in [Step 3](#). It can be anywhere from 'Quiet' to 'Very loud', based on these factors:

- **How loud your business is overall**
- **When the noise happens**
Noise is more disturbing late at night than earlier in the evening.
- **Whether the noise varies in tone**
Noise in a single tone can be more annoying.
- **Whether the noise stops and starts or is continuous**
Noise that increases and decreases rapidly can be more annoying.
- **Whether the noise includes loud bangs**
These are especially annoying late at night because they can interrupt sleep.
- **Whether the noise is low frequency**
Low sounds can be annoying and can carry farther.

- **Whether the noise source is elevated**

Noise sources that are higher up (for example, on a hill, or a plant installed high on an external wall) carry farther.

- **Whether openings in the building face homes**

Openings and windows that face homes will be riskier.

Step 2 – Consider how sensitive the surrounding neighbourhood is to noise

Decide how sensitive your neighbourhood is to noise using the vertical axis of the graph in [Step 3](#). It can be anywhere from ‘Not sensitive’ to ‘Very sensitive’. Neighbourhood noise sensitivity is a factor of:

- **What types of properties are in the surrounding neighbourhood**

Homes are usually more sensitive than businesses, especially at night. Some land uses such as schools, places of worship and hospitals can also be very sensitive.

- **How close the neighbours are and if there are any noise barriers, such as a building.**

- **Whether the neighbourhood is already affected by noise during the extended hours**

This may be from noisy late-night businesses or a busy road that remains noisy into the night. Neighbourhoods that are already noisy are less sensitive than those that are quiet. Residential areas that are quiet at night are especially sensitive to noise.



Step 3 – Identify your noise impact risk level on the graph

Using your business noise level and neighbourhood sensitivity, identify your position on the colour spectrum in Figure 1. The green areas represent a lower noise risk, orange areas are medium risk and red areas are higher risk.

If you are unsure how noisy your business is or how noise sensitive the neighbourhood is, you should assume a higher risk level.

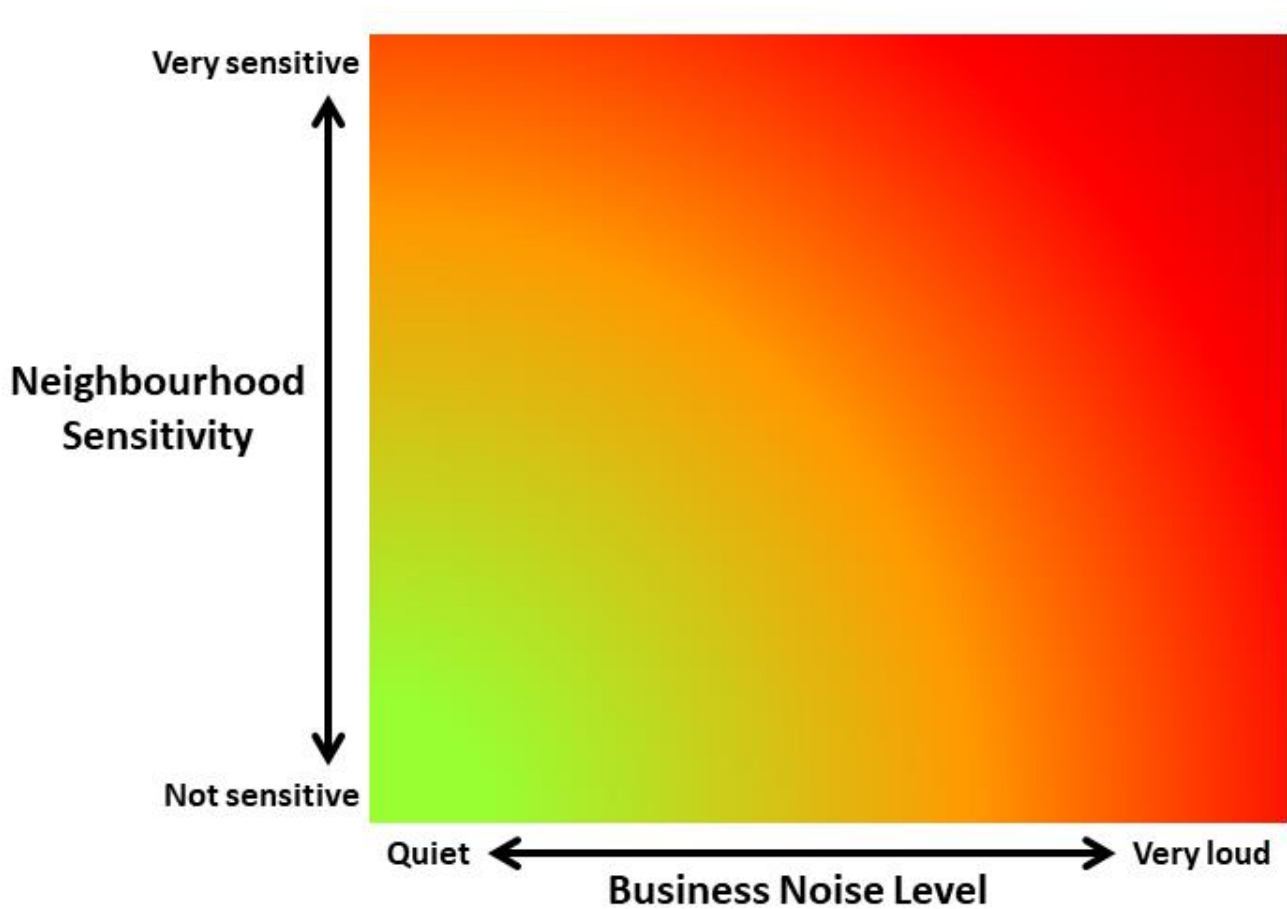


Figure 1. Noise Risk Spectrum

Step 4 – Consider the advice for your noise risk level

Using your noise impact risk level, consider the corresponding advice in Figure 2 before you use the exempt hours.

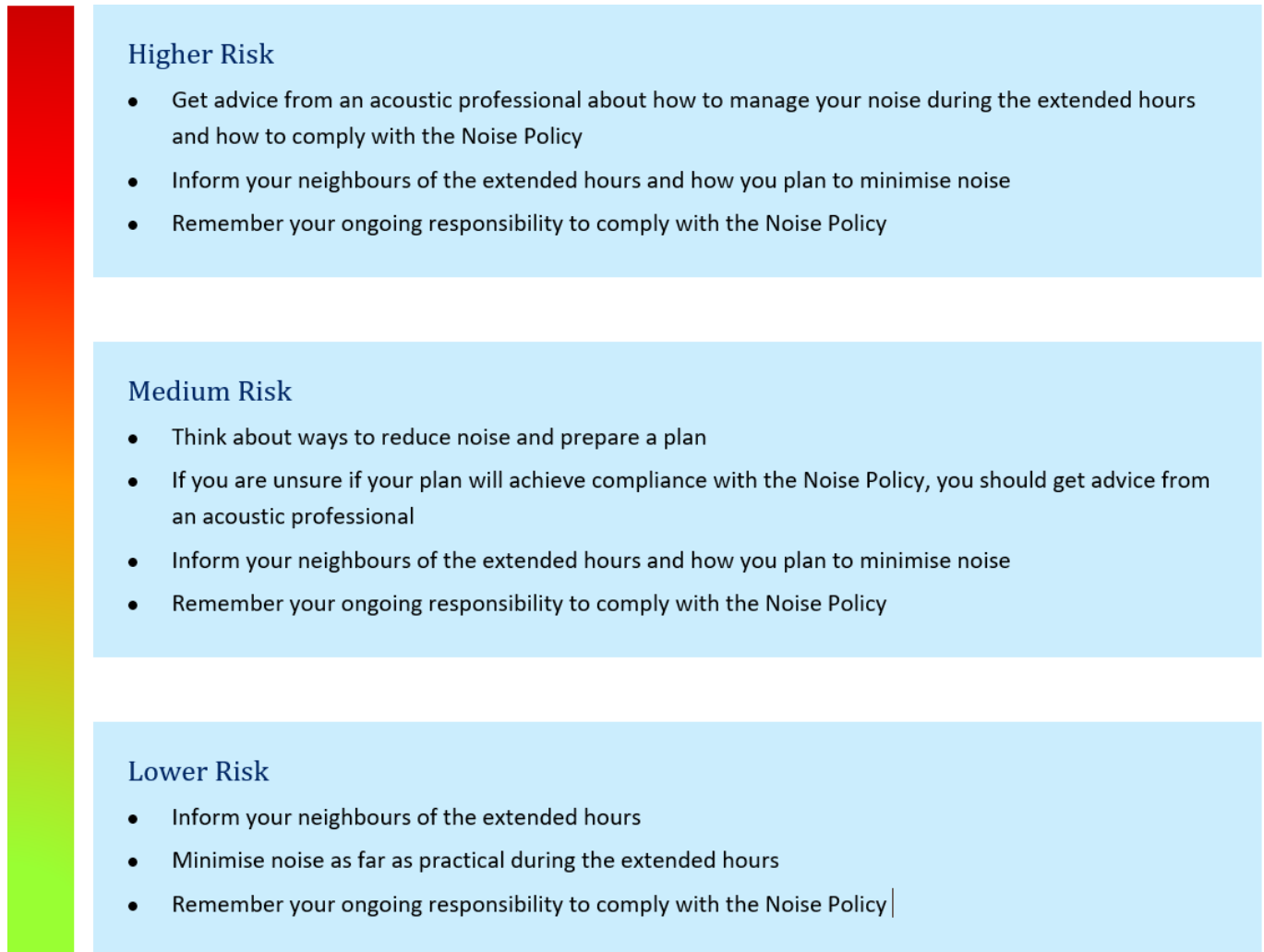


Figure 2. Actions to take based on your noise impact risk level

How acoustic professionals can help

For many businesses, it might not be necessary to use an acoustic professional to help meet the noise control requirements. The [Noise Impact Risk Tool](#) in this guide can help you decide if it is.

An acoustic professional can work out precisely if your business will comply with the noise policy. To do this, they need to work out the noise limits that apply to your business and neighbourhood and monitor the noise of your operations over a period. An acoustic professional can also audit your operations and building to tailor specific noise-management solutions to your business.

When selecting an acoustic professional, make sure they are qualified and have expertise relevant to your business sector. The [Association of Australian Acoustical Consultants](#) gives a list of member organisations.



How to reduce noise impacts

If you have decided to use an acoustic professional, they can advise you on the most appropriate noise controls measures tailored to your business. Otherwise, this section will help you understand how to manage the noise impact of your business yourself.

There are 2 main ways to reduce your businesses noise impact:

- control noise from the source
- control noise between the source and neighbours.

Control noise at the source

You should first focus on ways to control noise from the source. This is the easiest, quickest, and often the most effective way. Below are some examples of measures you can consider, grouped into management and physical engineering measures.

Document the measures and practices your business uses in a noise management plan so that staff clearly understand what they must do.

Management measures

- Educate staff regularly and remind them of the need to minimise noise.
- Train staff in quiet work practices.
- Minimise the use of noisy equipment at night.
- Minimise operating plant and machinery outdoors at night.
- Where there are several noisy pieces of equipment, schedule operations so they are used separately, not at the same time.
- Close doors and windows at night.
- Keep equipment well-maintained and operate it properly and efficiently.
- Employ 'quiet' practices when operating equipment. For example, position idling trucks in appropriate areas.
- Replace reversing beepers with broadband or smart alarms, or silent warning systems, as long as these meet relevant work health and safety requirements.
- Modify activities to minimise the number or duration of vehicles reversing, without compromising safety. For example, use one-way traffic flow around the site.

Engineering measures

- Locate noisy equipment behind structures or walls that act as sound barriers.
- Locate noisy equipment away from noise-sensitive neighbours. For example, locate an external fan on the side of the building, away from neighbouring homes.
- Use quieter equipment such as centrifugal rather than propeller fans.
- Avoid metal-on-metal impacts. For example, line chutes with abrasion-resistant rubber, reduce drop heights, and use sound damping or lining for metal trays, bins or tipping areas.
- Use equipment with efficient muffler design or with a low-noise design. For example, use low-noise air compressors.
- Use quieter engines, such as electric instead of internal combustion.
- Fit noise-reduction devices on plant and equipment such as silencers on air exhausts and blowing nozzles.
- Mount plant and machinery on sound-absorbing materials and isolate vibration to reduce the noise generated by vibrating panels.
- Use sound enclosures for noisy plant and machinery.
- Improve the sound proofing of the building.
- Create smooth vehicle access points and internal driveways to minimise vehicle noise.

Control noise in transmission

Once you have exhausted ways to reduce noise from the source, consider more targeted measures to reduce noise in transmission, such as using sound barriers.

Sound barriers are more effective if they are positioned near the source of the noise or near the receiver (that is, neighbours). Their effectiveness is also determined by their height, the materials used, and their density.

Barriers can take several forms including free-standing walls, earth mounds or bunds, and trenches or cuttings within which noise sources are sited.

Check if you need separate planning approval to construct noise barriers. You will need to get any such approval before construction begins.

Consider the use of noise barriers carefully, as they can have unintended effects. This includes an unattractive visual appearance, or unwanted behaviours such as graffiti or littering, particularly when the barrier is poorly sited or designed.

Appendices

Appendix A: Summary of the Noise Policy for Industry (2017)

The [Noise Policy for Industry](#) aims to balance the economic value of industry with the needs of communities.

The policy describes the **project noise trigger level** (noise limit) as a benchmark level. Potential noise impacts from developments are assessed and managed against this level.

For the purposes of the exempt operating and trading hours, the project noise trigger levels are to be used as fixed noise limits that businesses must not exceed. They apply to any type of business using the exempt hours, not only industrial businesses.

The project noise trigger level is determined by taking the lower (that is, most stringent) value of the following 2 noise levels:

- Intrusiveness noise level – This is the background noise plus 5 decibels
- Project amenity noise level – These are set noise levels that apply to different types of surrounding land uses. The levels are in Table 2.2 and 2.3 of the policy

The intrusiveness noise level aims to protect the community against significant changes in existing noise levels. The project amenity noise level seeks to protect the amenity of different types of land uses against cumulative noise impacts over time.

Using the most stringent level as the project noise trigger level ensures that intrusive noise is limited, and long-term amenity is protected. It also ensures that no single business can unacceptably change the noise level of an area.

Different project noise trigger levels apply based on the:

- time of day (day, evening and night)
- existing level of background noise
- type of land uses potentially affected by the noise

The policy also considers maximum noise level events during the night that can disturb sleep. For the purposes of the exempt operating and trading hours, the **sleep disturbance trigger levels** are fixed noise limits that businesses must not exceed. The trigger levels are outlined in Section 2.5 of the policy.

Appendix B: Summary of the regulatory framework for noise

The operators of industrial and commercial facilities must comply with the noise requirements of the *Environmental Planning and Assessment Act 1979* and the *Protection of the Environment Operations Act 1997*. This obligation does not change because of the exempt operating and trading hours.

Councils are largely responsible for regulating noise. The NSW Environment Protection Authority regulates larger industrial facilities that are subject to an environmental protection licence, but these facilities are not eligible for the exempt hours.

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) allows noise to be managed through the assessment of development applications and in the requirements of environmental planning instruments.

Noise can be managed in the assessment of development applications. The consent authority (usually council) can require changes to the development and/or impose conditions of consent to manage noise. The consent authority can investigate to verify if the business complies with the noise management conditions.

If your business uses the exempt hours and has an existing development consent, you must still comply with any noise management conditions during the hours specified in the consent.

The EP&A Act provides enforcement powers to ensure that businesses comply with the noise requirements of the exempt hours. If a business is using the exempt hours but is breaching the Noise Policy, enforcement authorities can issue various types of orders to stop the use or enforce compliance.

Significant penalties apply for businesses that do not comply with these requirements.

Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act 1997* (POEO Act) and related regulations include a range of noise controls. The POEO Act:

- gives regulators the power to manage noise in various ways, including by issuing notices, directions and orders to control, prevent and reduce noise
- prohibits 'noise pollution' and 'offensive noise'. Offensive noise is any noise that a business emits that is or is likely to be harmful to a person or unreasonably interferes with the comfort of a person outside the premises
- prohibits operating plant and machinery in a way that emits noise because it is not maintained and operated properly and efficiently
- prohibits dealing with materials in a way that emits noise because it is not dealt with properly and efficiently

Significant penalties apply for businesses that do not comply with these requirements.