

19 September 2008

Manager, Noise Policy Section  
Department of Environment and Climate Change NSW  
PO Box A290  
South Sydney NSW 1232

By email: [construction\\_noise\\_guidelines@environment.nsw.gov.au](mailto:construction_noise_guidelines@environment.nsw.gov.au)

Dear Sir or Madam,

**Re: Draft New South Wales Construction Noise Guideline – August 2008**

The Urban Taskforce is an industry organisation representing Australia's most prominent property developers and equity financiers. Our membership also includes key infrastructure providers, economists, planners, architects and lawyers involved in responsible and sustainable property development. We are pleased to provide the following comments for your consideration.

We understood that the NSW Department of Environment and Climate Change (DECC) is proposing to revise the *Noise Control Guideline: Construction Site Noise*, originally published by the State Pollution Control Commission in 1985. A new draft guideline has been placed on exhibition for comment.

The Urban Taskforce supports initiatives for more efficient regulation, but questions the usefulness of further, non-mandatory "guidance" material. That is, there already exists a nationally recognised noise standard that comprehensively covers construction noise issues. The *Guide to Noise Control on Construction, Maintenance and Demolition Sites – AS 2436-1981* is a clear and simple Australian Standard that has been in use nationally for many years. The case has not been made by DECC for the introduction of an additional guideline that essentially replicates a nationally accepted Standard. Replication is unnecessary, unproductive and introduces confusion and conflict to the regulatory process. The Urban Taskforce supports the abolition of antiquated departmental guidelines and suggests the Department instead makes reference to the nationally recognised Australian Standards, such as AS-2436 as a replacement.

Notwithstanding the above, if DECC insists on introducing the guidelines, then DECC must make it absolutely clear how these guidelines are to be used, particularly specifying the activities that these guidelines cannot be applied to. In this regard it is noted that:

the guideline is specifically aimed at managing noise from construction works regulated by DECC, and will be used to assist DECC in setting statutory conditions in licences or other regulatory instruments.

This statement seems relatively clear. It indicates that the intent of this guideline is to aid the control of noise from "scheduled" and "licence" type activities and/or activities carried out by public authorities. However the document then goes on to say:

Local council .....has discretion in dealing with noise. Other determining and consent authorities, such as the Department of Planning, may also find the guideline useful when dealing with noise from construction and maintenance works that require planning approval ...

This statement confuses the role of these guidelines. It is inappropriate and unhelpful to design a guideline for one use and recommend its use in a completely different context. That is, if these guidelines have been developed to be used by DECC when setting conditions in licences, then

there should be no reference to local council, Department of Planning or planning approval. **The guidelines should not contain language that suggests a wider application.**

Local and State planning authorities are well versed in noise control and have at their disposal numerous regulatory means of controlling noise without the suggestion of further guidance. For instance, the ability to impose conditions of development consent under the *Environmental Planning and Assessment Act*, the use of notice provisions pursuant to the *Protection of the Environment Operations Act* or the *Local Government Act* more than adequately equips a planning authority with the tools to control and manage all manner of noise nuisance.

Furthermore, these legislative tools are complemented by existing guidelines such as the *Environmental Noise Control Manual* and the *Noise Guide for Local Government*. These guidelines are already routinely consulted by regulators when dealing with noise from non-scheduled activities and/or when determining a development application. There is no need for an additional guideline for these activities.

For instance, the guideline recommends standard hours of for construction activity. These standard hours limit construction activity on Saturdays to the span stretching from 8 am to 1 pm. This may be appropriate for the kinds of heavy industrial activities these guidelines are designed for; but these hours are not appropriate in the urban development context.<sup>1</sup>

If I can be of any further assistance, please feel free to contact me on telephone number (02) 9238 3955 or email: [admin@urbantaskforce.com.au](mailto:admin@urbantaskforce.com.au)

Yours sincerely

**Urban Taskforce Australia**

A handwritten signature in black ink, reading 'Aaron Gadiel'. The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Aaron Gadiel  
Chief Executive Officer

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<sup>1</sup> See for example, the standard hours put in place by Holroyd City Council, which permits construction activity until 4pm on Saturdays.