



Guide to management of noise from waste collection and other works

Environmental Protection (Noise) Regulations 1997

Version: DRAFT

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Purpose

The *Environmental Protection (Noise) Regulations 1997* (the Regulations) were amended in 2013 to introduce, among other things, specific management provisions for motor sport venues, shooting venues, major concert venues and waste collection and other works. The proposed amendment regulations went through a substantial public consultation in 2011, and have benefited from the input of local governments, key industry stakeholders and community members.

These guidelines form part of a series that have been prepared by the Department of Environment Regulation (DER) to assist users of the Regulations to implement them effectively.

These particular guidelines deal with regulations 14A and 14B of the Regulations – waste collection and other works.

Regulation 14A provides an exemption for specified works that are carried out during daytime according to effective principles for managing noise. Specified works that are done out of hours can go through an approvals process that allows noise emissions to exceed the assigned noise levels in the Regulations, provided that the specified works are carried out in accordance with an approved noise management plan.

In the vast majority of cases these approvals are to be granted by local government chief executive officers acting under delegation, the intention being that these decisions are best made at the local level.

The regulation is designed to lead to effective management of noise from specified works, recognising that works such as waste collection, cleaning of public places and hazard management are essential services, but that noise from these activities has the potential to impact the community.

These guidelines on waste collection and other works are intended for use by local governments, private specified works providers and the community to aid in understanding the regulatory provisions; and to assist specified works providers in preparing a noise management plan and in working through the approvals process.

Introduction

These guidelines for management of noise from waste collection and other works have been prepared for use by local and state government and other specified works providers, as well as the community, in the implementation of regulations 14A and 14B of the *Environmental Protection (Noise) Regulations 1997* (the Regulations).

The Regulations set assigned (allowable) noise levels for various types of premises that receive noise from other premises. Those levels are set to provide a good level of protection for the noise receiver. There are many activities that occur in the community that cannot, however, reasonably and practicably meet those assigned levels, but retain a degree of acceptance, either because of the temporary nature of the activity or the perceived community benefit.

The Regulations make special provision for such activities, including construction noise, motor sports, recreational shooting, outdoor events and others.

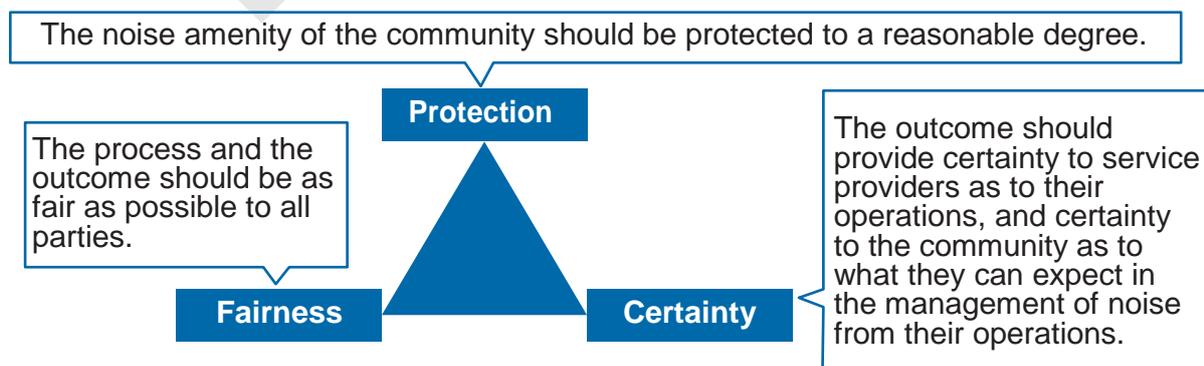
In the case of waste collection and other works, noise emitted in the course of carrying out specified works is permitted to exceed the assigned levels in the Regulations provided the specified works provider operates in accordance with a set of specific requirements and in some cases, an approved noise management plan (NMP).

The NMP is to be approved by the 'delegate chief executive officer (CEO)' – this means either the CEO of the Department of Environment Regulation (DER CEO), or the CEO of the local government (LG CEO), acting under delegated authority from the DER CEO. This delegation of authority was gazetted on 20 December 2013.

In general it is expected that applications under regulation 14A would be made to the LG CEO, in order that the decision be made at the local level. Where an issue is of state significance the decision may be made by the DER CEO; however, such a decision would be made in consultation with the LG CEO. In these guidelines, the term 'delegate CEO' will be used to refer to either the DER CEO or his delegate, the LG CEO, on the expectation that most issues will be dealt with by the LG CEO.

These guidelines explain regulations 14A and 14B and provide practical guidance on the implementation of the process. The guidelines are not mandatory, but are intended to provide practical guidance.

One possible framework for consideration when working through the approval process is as follows:



1. Specified works

1.1 What is specified works?

Regulation 14A(1)

In this regulation — ...

specified works means —

- (a) the collection of waste; or
- (b) the cleaning of a road or the drains for a road; or
- (c) the cleaning of public places, including footpaths, cycle paths, car parks and beaches; or
- (d) the maintenance of road verges and public open space (including the collection of rubbish and the planting, trimming, watering or removal of trees); or
- (e) the periodic collection of household items or other things placed on street verges by residents for the purpose of such a collection; or
- (f) activities associated with hazard or emergency management;

waste means waste from domestic or commercial sources and includes —

- (a) putrescible waste; and
- (b) non-putrescible waste; and
- (c) recyclable materials.

1.2 Who can be a specified works provider?

The regulation does not limit who can undertake the specified works, so the works provider might be:

- a local government;
- state government agencies;
- private sector service providers; or
- contractors to local government, state government agencies or the private sector.

1.3 Class of specified works

Two different 'classes' of works are defined under regulation 14A in recognition of the need for separate noise management processes depending upon the time of day the works occur. The class of works relates directly to the time and day when the specified work is occurring.

1.3.1. Class 1 works

Regulation 14A(1)

In this regulation — ...

class 1 works means specified works carried out between —

- (a) 0700 hours and 1900 hours on any day that is not a Sunday or a public holiday; or
- (b) 0900 hours and 1900 hours on a Sunday or public holiday; ...

Class 1 works occur during the daytime when the undertaking of such works is broadly accepted.

1.3.2. Class 2 works

Regulation 14A(1)

In this regulation — ...

class 2 works means specified works carried out otherwise than between the hours specified in the definition of **class 1 works** paragraphs (a) and (b); ...

In contrast, Class 2 works are undertaken 'out-of-hours' when there is a need for greater focus on noise management.

2. Class 1 works

2.1 The class 1 specified works requirements

Regulation 14A(2)

Regulation 7 does not apply to noise emitted in the course of carrying out class 1 works if —

- (a) the works are carried out in the quietest reasonable and practicable manner; and
- (b) the equipment used to carry out the works is the quietest reasonably available; and
- (c) in a case where a person has been required to prepare a noise management plan under subregulation (4) in relation to the works —
 - (i) the noise management plan has been prepared and submitted in accordance with the requirement, and approved in writing by the CEO; and
 - (ii) the works are carried out in accordance with the noise management plan, excluding any ancillary measure.

Class 1 specified works strictly relate to ‘day-time’ work when assigned levels are at their highest. However, it is still possible that noise emissions could exceed the assigned levels at these times. In this case, the regulation provides that the assigned levels will not apply to noise emitted in the course of carrying out class 1 works if certain requirements are met.

In order that the assigned levels do not apply to class 1 works, the provider must ensure that:

- the works are carried out in the quietest reasonable and practicable manner
- the equipment used to carry out the works is the quietest reasonably available.

2.1.1. Quietest reasonable and practicable manner

Evaluation of the quietest reasonable and practicable manner requires the works provider to have an understanding and regard for current best-practice noise control within the provider’s industry. One approach might be to undertake periodic reviews of the specified works and current industry practices to determine if improvements in the manner in which the works are conducted are possible.

In examining a specified works operation, the provider may begin by identifying the noisiest aspects of the works and then systematically consider how the process may be modified to limit the noise impact – for example, determining whether the noisiest process is necessary to the works. Where a noisy process cannot be eliminated, noise reduction approaches may be considered. Some examples are given in Table 1.

Table 1: Example noise reduction approaches

Possible Noise Reduction Consideration		Example
a)	Can a quieter process be substituted for the existing process?	Can a wet cutting process be used instead of a dry one?
b)	Can a noisy process be done away from sensitive receivers?	Can rubbish be compacted while the truck is driving on arterial or major roads rather than stationary in residential streets?
		Can bin collection areas be located away from residences?
		Can shredding of green waste be done away from residences?
c)	Can the works schedule be arranged such that the most sensitive locations are worked at the least sensitive times?	Can morning rubbish collection commence in a commercial area and finish in a residential area?
		Can morning reserve maintenance begin in the middle of the reserve and work out towards the periphery where residences are closer?
d)	Can operator training result in a quieter process?	Can truck accelerating and braking techniques be improved to minimise noise?
		Can bin lifting and return speeds be used to reduce noise?
		Can equipment settings and loading reduce noise level?
		Can the orientation of equipment reduce the noise? For example, facing the noisiest side of plant away from residents or using vehicles or other objects as noise barriers between a noisy process and residents.

Specified works providers may consider it important that procedures detailing the way in which the works are to be performed are documented and staff training is provided to support the procedure's implementation. In doing so, the specified works provider may feel satisfied not only that noise has been considered in how an operation is performed, but also that the procedure is consistently applied.

2.1.2. Quietest equipment reasonably available

The specified works provider may decide to keep records documenting purchasing decisions, noise control implementations and inspection and maintenance regimes.

Several strategies works providers may consider with regard to quiet equipment are now listed in Table 2.

Table 2: Example quiet equipment strategies

Quiet Equipment Strategy	Example
a) The purchase of quiet equipment	Developing a low noise purchasing policy. Including low noise criteria in requests for tender documents.
b) The modification of existing equipment to make it quieter	Can plant be fitted with better mufflers/silencers, broadband warning/reversing alarms instead of tonal alarms, quieter hydraulic pumps, quieter cooling fans or quieter brakes? Can waste collection hoppers be fitted with baffles to lessen the height, impact and noise from falling material? Can noise dampeners be fitted to equipment, such as rubber stoppers to lifting arms and bin lids?
c) The inspection and maintenance of equipment to ensure its acoustic properties are maintained	Regularly inspect plant and equipment for: <ul style="list-style-type: none"> • loose or rattling pieces • perished dampeners • noisy bearings • underperforming mufflers/silencers • other sources of excessive noise

As with the manner in which the works are undertaken, the works provider needs to be aware of, and have regard for, current industry standards in relation to decisions about acceptable equipment noise.

In some cases a class 1 specified works provider will also operate as a class 2 specified works provider. This provider will be required to operate under an approved class 2 NMP. In this situation it would be expected that many of the noise management and minimisation strategies contained within the class 2 NMP would also be employed for the duration of any class 1 works.

2.2 Ensuring coverage under this regulation

A formal application or notification to a delegate CEO is not required in order to be covered by this regulation in relation to class 1 works. However, a specified works provider should be mindful of the regulation's requirements.

2.3 Noise management plan (where required)

Regulation 14A(4)

The CEO may by written notice require a person who carries out class 1 works —

- (a) to prepare a noise management plan; and
- (b) within the time specified in the notice, to submit the plan to the CEO, or another person specified in the notice, for the approval of the CEO.

In some cases, and in addition to those requirements above, a delegate CEO may, by written notice, require a person who carries out the class 1 works to submit an NMP for the approval of the delegate CEO. This would most likely occur in response to complaints about noise from the specified works in question.

The written notice must specify that the person is to prepare an NMP and, within a time specified in the notice, to submit the NMP to the delegate CEO (or another specified person) for the approval of the delegate CEO. The delegate CEO may also advise why they have requested the NMP be prepared in order to inform the preparation of the NMP and enable specific concerns to be addressed.

It is not a requirement of the regulation that all class 1 works providers prepare and submit an NMP, unless given written notice to do so by the delegate CEO.

If an NMP is required by the delegate CEO and the class 1 works provider fails to submit the NMP within the specified time, or the delegate CEO has not approved the NMP by that time, noise emissions from those works are no longer exempt from the assigned levels.

3. Class 2 works

3.1 The class 2 specified works requirements

Regulation 14A(3)

Regulation 7 does not apply to noise emitted in the course of carrying out class 2 works if the works are carried out in accordance with a noise management plan, excluding any ancillary measure, for class 2 works approved in writing by the CEO.

It is likely that class 2 specified works will not meet the assigned levels, since these works will be conducted out-of-hours when assigned levels are at their most stringent.

However, the regulation provides that the assigned levels do not apply to noise emitted in the course of carrying out class 2 works if the works are carried out in accordance with an approved NMP.

3.2 Noise management plan must be prepared

Unlike the requirements for class 1 works, for the exemption to apply the regulation requires that an NMP be prepared, submitted and approved for class 2 works.

Any class 2 works carried out without an approved NMP would be subject to compliance with the assigned levels by an enforcement authority.

4. Preparing a noise management plan

Regulation 14A(5) and (6)

- (5) A noise management plan for class 1 works is to include —
 - (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and
 - (c) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (d) operator training programmes; and
 - (e) community information on the manner in which the specified works will be carried out; and
 - (f) a complaints response procedure.

- (6) A noise management plan for class 2 works is to include, but is not limited to —
 - (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and
 - (c) justification for carrying out the works during the times of day to which the class relates; and
 - (d) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (e) operator training programmes; and
 - (f) community information on the manner in which the specified works will be carried out; and
 - (g) a complaints response procedure.

The content that is required in an NMP is set out in regulations 14A(5) – class 1 works and 14A(6) – class 2 works. An NMP must address all six or seven items listed above. Each requirement is discussed below and a sample NMP for class 2 works is included at [Appendix 6](#). Note that this is only an example, and the NMP should be developed specific to the works provider and the circumstances. Others, such as an acoustic consultant, may be able to assist in the drafting of the NMP.

4.1 Equipment evaluation and purchase policies

The NMP may refer to other documents that detail equipment evaluation and purchase procedures; however, a summary of the provisions relating to the selection of quiet equipment must be included within the NMP. It is advisable that the full versions of referenced documents be included as attachments to the NMP.

It is not intended that noise will be the single determining factor in equipment selection, but rather that it will be considered among a range of other factors on a 'reasonable and practicable basis'. One approach may be to evaluate equipment against noise criteria and give the noise evaluation a reasonable weight in the context of other evaluation factors. Providers may also want to consider policies for continuous improvement which endeavour to ensure purchase of quieter equipment whenever an item is replaced.

4.2 Noise minimisation measures

Noise minimisation measures can cover many aspects of a specified works provider's operation. Some aspects the provider may consider are:

- scheduling of the works;
- noise emission reduction at the source;
- equipment inspection;
- equipment maintenance;
- procedural measures; and
- training.

Noise minimisation does not necessarily mean that a quieter process is always better and consideration also needs to be given to the duration of the noise. For example a louder process that reduces the duration of a noise emission may in some circumstances be preferable to a lengthy, quieter process. Minimisation measures need to be considered in the context of the works being undertaken and the surrounding environment.

4.3. Justification for out-of-hours (class 2) works

Works providers must adequately justify the need to undertake works out of hours. It is expected that the justification will be more than just a matter of convenience, but rather that there are significant impediments to doing the works within the hours of class 1 works. The NMP is expected to detail what those impediments are and how performing the works out of hours will resolve those issues.

4.4 Description of works

The exemption from the assigned levels provided by the regulation only applies to the works described in the NMP. Therefore, it is advisable that all operations likely to emit noise above the assigned levels which form part of the specified works be included in the description of works. For example, in the case of pruning verge trees, the works description may include chainsaws for removing branches, a trailer mounted shredder for on-site processing of the material, a truck for transporting the processed

green waste and handheld blower/vacs for cleaning up the verge.

The NMP should answer the questions: what, where, when and how? The plan may list the type and number of each piece of equipment involved in the works and detail how that equipment is to be used. The description of the works may include a map of the area where the works are to occur and if, for example, the works were seasonal, the plan may refer to the months of operation.

The NMP is intended to inform the delegate CEO and the community about the noise impact. One way to do this is to provide information about how long noise from the works is likely to impact a typical receiver. For example, if it were to take on average 30 minutes to prune, shred and tidy the verge during the pruning of a typical verge tree, this information may be included in the NMP.

4.5 Operator training

The NMP may refer to other training documents, but aspects specific to noise management should be highlighted within the NMP itself. As the training program details are required under regulation 14A(5) and (6), if these are not included within the main text of the NMP the relevant documents must be attached as appendices.

The training program may cover many aspects of the operation as they relate to the management of noise, including but not limited to:

- procedures;
- inspection and maintenance; and
- complaints.

Details should include how an individual's training is kept up to date.

4.6 Community information

The NMP must detail the strategy for keeping those affected by noise from the works informed. Ideally the NMP will discuss what information is to be provided, how that information is to be provided and to whom it is to be provided.

It is suggested that the information to the community includes:

- a brief description of the works;
- where and when the works are to occur;
- where the NMP can be accessed;
- how to lodge a comment or complaint about the works or NMP; and
- when the next review of the NMP will occur and how to make a submission.

A copy of the community information may be included as an attachment to the NMP.

4.7 Complaint response procedure

The complaint response procedure must detail the steps the provider will take upon receipt of a complaint. Matters which the procedure may cover include:

- how complaints can be made;
- responsibilities;
- investigation;
- informing the complainant; and
- recordkeeping.

It is advisable that complaint records be kept for the life of the NMP; in that way they can inform the NMP review process and be considered in the preparation of future NMPs.

There may be circumstance in which a complaint results in a change to the operation of the specified works. Ideally, the NMP will be flexible enough to accommodate changes that reduce the noise impact, but will not allow changes which are to the detriment of other receivers. The intention is that changes which shift the impact from one receiver to another will be consulted on. It is appropriate that such changes are considered at application and determination stages of a new NMP.

5. Submitting or applying for approval of a noise management plan

5.1 Class 1 works

A class 1 specified works provider may be required, by written notice, to prepare and submit an NMP for the delegate CEO's approval for the exemption to apply (see [2.3 Noise management plan \(where required\)](#)).

5.2 Class 2 works

A class 2 specified works provider must apply for approval of an NMP for the exemption to apply (see [3. Class 2 works](#)).

5.3 Who may submit/apply?

A submission for approval of an NMP for class 1 works and an application for approval of an NMP for class 2 works can be made by any person who provides a service that fits within the definition of specified works. This includes local and state government and private waste collection and/or works contractors.

5.4 Who does a specified works provider apply to?

The submission/application for approval of an NMP is made to the delegate CEO, who will generally be the CEO of the local government authority where the service is provided. This person has delegated power to assess and determine the application.

5.5 Making an application

5.5.1 When the specified works provider is a local government

It would generally be expected that an application for the approval of an NMP from a local government would be generated by the local government's engineering, waste, works or parks section in consultation with the local government's environmental health section. The relevant section of local government has knowledge with respect to the type of work being carried out and the details that are required to be included in an NMP, while the environmental health officers are generally familiar with strategies to minimise noise impact and the requirements of the Regulations.

5.5.2 All other specified works providers

The application may be made by the specified works provider by submitting the proposed NMP and a covering letter to the delegate CEO (see [4. Preparing a noise management plan](#)).

5.6 Application fees

Regulation 14A(7)

An application by a person, other than a local government, for the approval of a noise management plan under subregulation (3) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.

If the application is for class 2 specified works, it must be accompanied by an application fee of \$500. The intent is to provide for partial cost recovery for the resources that the local government will expend in assessing and processing the application. The delegate CEO has discretion to waive or reduce the fee.

An application by a local government does not require payment of an application fee to itself.

There is no fee for the submission of an NMP that has been required for class 1 specified works [regulation 14A(4)].

6. Consulting on the application

Regulation 14A(8)

Before approving a noise management plan under subregulation (3) or (4), the CEO must —

- (a) if the plan was submitted by a local government, require the local government to give local public notice, as defined in the *Local Government Act 1995* section 1.7, of the plan; or
- (b) if the plan was submitted by a person other than a local government, require the person to publish notice of the plan at least once in a newspaper circulating generally throughout the district where the plan will have effect.

It is important that the delegate CEO and specified works provider (if not the delegate CEO) agree to the draft NMP prior to the formal consultation required by the Regulations. If the delegate CEO or the specified works provider considers the NMP unworkable it is likely a new plan will need to be submitted and so the consultation would have to be repeated.

If the application for approval of an NMP is submitted by a local government, the delegate CEO must require the local government to give local public notice (as defined in section 1.7 of the *Local Government Act 1995*) of the plan before they can approve it.

If the application for approval of an NMP is submitted by someone other than a local government, the delegate CEO must require the person to publish notice of the plan

at least once in a newspaper circulating generally throughout the district where the plan will have effect.

In both cases the delegate CEO must allow at least 30 days after publishing of the notice for public submissions to be made, before considering the submissions and determining the application.

A sample letter requiring a private specified works provider to publish notice of an NMP and a sample notice of specified works NMP is at [Appendix 2](#).

6.1 Notice of a noise management plan

Regulation 14A(9)

A notice under subregulation (8) must specify the following —

- (a) the purpose and effect of the noise management plan;
- (b) the places at which the noise management plan may be inspected or obtained;
- (c) the period (being not less than 30 days after the notice is published in a newspaper) within which submissions about the plan may be made to the CEO.

A sample notice of an NMP is at [Appendix 3](#).

The delegate CEO would be expected to consider all public submissions carefully. In order to ensure an open and transparent process it is advisable to prepare a summary of submissions and responses to provide feedback to submitters. The delegate CEO may wish to seek comment from the specified works provider in relation to the issues raised during the consultation. It may also be appropriate to hold meetings with concerned submitters in order to resolve issues and if necessary negotiate changes to the NMP that are workable for the specified works provider.

There are no appeal provisions in regulations 14A and 14B, so it is particularly important that the consultation process enables the community to have meaningful input into the decision on the NMP. It is also important to document the steps in the process, the issues addressed and any changes to the NMP.

7. Determining a noise management plan

Regulation 14A(10)

After considering any submissions made under subregulation (9)(c), the CEO may —

- (c) approve the noise management plan as proposed; or
- (c) approve a noise management plan that is not significantly different from what was proposed; or
- (d) refuse to approve the noise management plan as proposed and require a new plan to be prepared and submitted for approval.

The delegate CEO may approve a noise management plan as it was submitted, or may use their discretion to approve the NMP with minor amendments, after considering the public submissions.

The delegate CEO can refuse to approve an NMP and require a new NMP be submitted. There is no direct penalty if a provider does not fulfil the requirement to submit a new NMP. However, if the specified works are carried out they must not exceed the assigned noise levels, because doing so would leave the provider open to enforcement action.

7.1 Length of Approval

Regulation 14A(11)

A noise management plan for class 1 works or class 2 works expires —

- (a) 3 years after the day on which it is approved by the CEO; or
- (b) on such other day, not more than 3 years after the day on which it is approved by the CEO, as the CEO specifies in the approval of the plan.

A NMP for class 1 or class 2 works expires three years after the day on which it is approved by the delegate CEO; or on such other day, not more than three years after the day on which it is approved by the delegate CEO, as specified in the approval of the plan.

If the delegate CEO, in considering an application for approval of an NMP, is reluctant to commit to a three-year approval, they have the option to approve the NMP for a shorter period of time. For example, in the case of a specified works provider's first application for approval of an NMP the delegate CEO may wish to approve the NMP for only one year – to act as a trial period.

There are no provisions for the extension of an approval, so to ensure the continuity of the exemption (and specified works) it is advisable that application for approval of

a new NMP be made well before the expiry of the existing approval. Sufficient time needs to be allowed for public consultation on the NMP including 30 days to receive submissions and time for consideration and determination of the application.

7.2 Ancillary measures

Regulation 14B(1) and (2)

- (1) The CEO may, by written notice to a person who submits a noise management plan under regulation 14A, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (2) A person who carries out class 1 works or class 2 works, as those terms are defined in regulation 14A, must ensure that any ancillary measure relating to the works is implemented.

Penalty: a fine of \$5 000.

The delegate CEO may use the approval of an NMP to designate a measure in the NMP as an 'ancillary measure' if the measure does not directly influence the level, duration or time of day of the noise emission. Examples of possible ancillary measures include the provision of community information about the specified works and the operation of a complaints line – these measures do not influence the noise emission itself, but are important in the management of the noise emissions.

Ancillary measures are discussed further under 'Compliance with ancillary measures' (see [8.2 Compliance with ancillary measures](#)).

Where the specified works provider is a local government, the delegate CEO may wish to approve an NMP with ancillary measures using a standard signature block on the final page of the NMP. A sample approval and designated ancillary measures, for a local government provider, is at [Appendix 4](#).

A sample letter giving notice of approval and designated ancillary measures, for a private specified works provider, is at [Appendix 5](#).

7.3 Appeals

There are no appeals provisions in this regulation. This is in recognition of the relatively short duration of these approvals.

There is an expectation that any significant issues will be raised during the public submission period and that these will be given due consideration by the delegate CEO prior to determining the application.

7.4 Revoking or amending an approved noise management plan

There are no provisions under the regulations for an approved specified works NMP to be amended or revoked. The approval must run for the period specified in the approval (see [7.1. Length of approval](#)). There may however be exceptional circumstances that warrant the early withdrawal of an approved NMP; s50(2)(c) of

the *Interpretation Act 1984* states that where a law confers the power “to approve any person, matter or thing, such power includes power to withdraw approval thereof”.

It is expected that natural justice considerations would be observed in any revocation of a NMP.

8. Noise management

8.1 Compliance with the noise management plan

Regulation 14A(2) and (3)

- (2) Regulation 7 does not apply to noise emitted in the course of carrying out class 1 works if —
 - (a) the works are carried out in the quietest reasonable and practicable manner; and
 - (b) the equipment used to carry out the works is the quietest reasonably available; and
 - (c) in a case where a person has been required to prepare a noise management plan under subregulation (4) in relation to the works —
 - (i) the noise management plan has been prepared and submitted in accordance with the requirement, and approved in writing by the CEO; and
 - (ii) the works are carried out in accordance with the noise management plan, excluding any ancillary measure.
- (3) Regulation 7 does not apply to noise emitted in the course of carrying out class 2 works if the works are carried out in accordance with a noise management plan, excluding any ancillary measure, for class 2 works approved in writing by the CEO.

When the specified works are carried out in accordance with an approved NMP, the normal assigned noise levels in the Regulations do not apply to the noise emission. The NMP provides a form of exemption from the requirement to comply with the normal assigned levels.

If, however, the NMP is not being complied with – for example a type of works not included in the NMP is being conducted – the exemption ceases to have effect and the assigned levels apply to the noise emission. The specified works provider would then be open to possible enforcement action if noise emissions exceeded the assigned levels.

It is therefore critical that the specified works provider has the procedures in place to ensure that specified works are conducted in accordance with the approved NMP.

8.2 Compliance with ancillary measures

If the delegate CEO has provided written notice to designate a measure in the NMP as an 'ancillary measure' (i.e. a measure that does not directly influence the level, duration or time of day of the noise emission), the specified works provider must ensure that the measure is implemented.

For example, if an ancillary measure requires the operation of a complaints telephone line, then the operator must ensure that the line is operational in the manner outlined in the NMP.

Ancillary measures differ from the other measures in the NMP. A breach of an ancillary measure may result in a direct penalty, but does not remove the exemption provided by the approval of the NMP. On the other hand, as noted above, a breach of a measure that relates directly to the noise emission removes the exemption provided by regulation 14A(2) and (3) and allows the application of enforcement actions related to exceedence of the assigned noise levels.

Appendix 1

Environmental Protection (Noise) Regulations 1997 Regulation 14A and 14B

Note: The following is not an official reprint of the legislation.

14A. Waste collection and other works

(1) In this regulation —

ancillary measure means a measure designated to be an ancillary measure under regulation 14B;

class 1 works means specified works carried out between —

- (a) 0700 hours and 1900 hours on any day that is not a Sunday or a public holiday; or
- (b) 0900 hours and 1900 hours on a Sunday or public holiday;

class 2 works means specified works carried out otherwise than between the hours specified in the definition of class 1 works paragraphs (a) and (b);

specified works means —

- (a) the collection of waste; or
- (b) the cleaning of a road or the drains for a road; or
- (c) the cleaning of public places, including footpaths, cycle paths, car parks and beaches; or
- (d) the maintenance of road verges and public open space (including the collection of rubbish and the planting, trimming, watering or removal of trees); or
- (e) the periodic collection of household items or other things placed on street verges by residents for the purpose of such a collection; or
- (f) activities associated with hazard or emergency management;

waste means waste from domestic or commercial sources and includes —

- (a) putrescible waste; and
- (b) non-putrescible waste; and
- (c) recyclable materials.

(2) Regulation 7 does not apply to noise emitted in the course of carrying out class 1 works if —

- (a) the works are carried out in the quietest reasonable and practicable manner; and
- (b) the equipment used to carry out the works is the quietest reasonably available; and

- (c) in a case where a person has been required to prepare a noise management plan under subregulation (4) in relation to the works —
 - (i) the noise management plan has been prepared and submitted in accordance with the requirement, and approved in writing by the CEO; and
 - (ii) the works are carried out in accordance with the noise management plan, excluding any ancillary measure.
- (3) Regulation 7 does not apply to noise emitted in the course of carrying out class 2 works if the works are carried out in accordance with a noise management plan, excluding any ancillary measure, for class 2 works approved in writing by the CEO.
- (4) The CEO may by written notice require a person who carries out class 1 works—
 - (a) to prepare a noise management plan; and
 - (b) within the time specified in the notice, to submit the plan to the CEO, or another person specified in the notice, for the approval of the CEO.
- (5) A noise management plan for class 1 works is to include —
 - (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and
 - (c) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (d) operator training programmes; and
 - (e) community information on the manner in which the specified works will be carried out; and
 - (f) a complaints response procedure.
- (6) A noise management plan for class 2 works is to include, but is not limited to —
 - (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and
 - (c) justification for carrying out the works during the times of day to which the class relates; and
 - (d) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (e) operator training programmes; and community information on the manner in which the specified works will be carried out; and
 - (f) a complaints response procedure.

- (7) An application by a person, other than a local government, for the approval of a noise management plan under subregulation (3) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.
- (8) Before approving a noise management plan under subregulation (3) or (4), the CEO must —
 - (a) if the plan was submitted by a local government, require the local government to give local public notice, as defined in the *Local Government Act 1995* section 1.7, of the plan; or
 - (b) if the plan was submitted by a person other than a local government, require the person to publish notice of the plan at least once in a newspaper circulating generally throughout the district where the plan will have effect.
- (9) A notice under subregulation (8) must specify the following —
 - (a) the purpose and effect of the noise management plan;
 - (b) the places at which the noise management plan may be inspected or obtained;
 - (c) the period (being not less than 30 days after the notice is published in a newspaper) within which submissions about the plan may be made to the CEO.
- (10) After considering any submissions made under subregulation (9)(c), the CEO may —
 - (a) approve the noise management plan as proposed; or
 - (b) approve a noise management plan that is not significantly different from what was proposed; or
 - (c) refuse to approve the noise management plan as proposed and require a new plan to be prepared and submitted for approval.
- (11) A noise management plan for class 1 works or class 2 works expires —
 - (a) 3 years after the day on which it is approved by the CEO; or
 - (b) on such other day, not more than 3 years after the day on which it is approved by the CEO, as the CEO specifies in the approval of the plan.

[Regulation 14A inserted in Gazette 5 Dec 2013 p. 5667-72.]

14B. Ancillary measures: waste collection and other works

- (1) The CEO may, by written notice to a person who submits a noise management plan under regulation 14A, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (2) A person who carries out class 1 works or class 2 works, as those terms are defined in regulation 14A, must ensure that any ancillary measure relating to the works is implemented.

Penalty: a fine of \$5 000.

[Regulation 14B inserted in Gazette 5 Dec 2013 p. 5672.]

Appendix 2

Sample letter requiring a private specified works provider to publish notice of a noise management plan

Service Provider A
Street address,
SUBURB WA XXXX

Dear Sir/Madam

REQUIREMENT TO PUBLISH NOTICE OF A SPECIFIED WORKS NOISE MANAGEMENT PLAN

I refer to your request dated XX Month 20XX to the Chief Executive Officer (CEO) of Local Government A for approval under regulation 14A of the *Environmental Protection (Noise) Regulations 1997* of a noise management plan for class 2 specified works.

You are hereby advised that subregulation (8) requires you to publish notice of the plan at least once in a newspaper circulating generally throughout Local Government A.

The notice must specify the following:

- (a) the purpose and effect of the noise management plan;
- (b) the places at which the noise management plan may be inspected or obtained
In this case, the notice must specify that the draft noise management plan will be available from Local Government A's administration office, libraries and website; and
- (c) the period (being not less than 30 days after the notice is published in the newspaper) within which submissions about the plan may be made to the CEO.
The notice must direct all submissions to Local Government A's CEO.

A sample notice has been attached to assist you with this process.

Please advise the CEO when the notice is to be published so that arrangements can be made to publish the draft noise management plan on Local Government A's website.

Should you require any further information please contact me on 9999 5555.

Yours faithfully

(Name)

CHIEF EXECUTIVE OFFICER

XX Month 20XX

Att: Sample notice of specified works noise management plan

Sample notice of specified works noise management plan

ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997

Regulation 14A(8)

NOTICE OF SPECIFIED WORKS NOISE MANAGEMENT PLAN

It is hereby notified for public information that, Managing Director A of Service Provider A, full address of Service Provider A seeks the approval of the Chief Executive Officer of Local Government A of a noise management plan for specified works (waste collection and other works) within Local Government A.

The purpose and effect of this noise management plan is to describe how the noise impact from waste collection from Street A, SUBURB between 4am and 6am every Monday and Thursday will be managed and minimised.

A copy of the proposed noise management plan may be inspected at or obtained from Local Government A's administration office, full address of Local Government A or any library between 8am and 5pm Monday to Friday, and from Local Government A's website: www.localgovernmenta.wa.gov.au.

Submissions about the noise management plan may be made to the Chief Executive Officer, Local Government A, full address of Local Government A, by no later than 5pm day XX Month 20XX.

Name
**MANAGING DIRECTOR
SERVICE PROVIDER A**
Phone:

XX Month 20XX

Appendix 3

Sample notice of a noise management plan for specified works (local government)

PUBLIC NOTICE

NOISE MANAGEMENT PLAN FOR SPECIFIED WORKS

ENVIRONMENTAL PROTECTION (NOISE) REGULATIONS 1997

Regulation 14A(8)

The Chief Executive Officer of Local Government A proposes to approve a noise management plan for specified works (waste collection) within Local Government A.

The purpose and effect of this noise management plan is to describe how the noise impact from waste collection carried out by Local Government A will be managed and minimised.

A copy of the proposed noise management plan may be inspected at or obtained from Local Government A's administration office, full address of Local Government A or any library between 8am and 5pm Monday to Friday, and from Local Government A's website www.localgovernmenta.wa.gov.au.

Submissions about the noise management plan may be made to the Chief Executive Officer, Local Government A, full address of Local Government A, by no later than 5pm day XX Month 20XX.

(Name)

CHIEF EXECUTIVE OFFICER

Phone:

XX Month 20XX

Appendix 4

Sample approval signature block and designated ancillary measures (local government)

The following measures in the Plan are HEREBY DESIGNATED AS ANCILLARY MEASURES for the purposes of regulation 14B of the *Environmental Protection (Noise) Regulations 1997*:

- (a) Measure 6: Complaints Response Procedure – Item 1 to 6;
- (b) Measure 8: Flyer to Residents – Item 1 to 3.

APPROVED

(Name)

CHIEF EXECUTIVE OFFICER

XX Month 20XX

Appendix 5

Sample letter giving notice of approval and designated ancillary measures of a noise management plan (private specified works provider)

Service Provider A
Street address
SUBURB WA XXXX

Dear Sir/Madam

CLASS 2 SPECIFIED WORKS – NOISE MANAGEMENT PLAN

I refer to your request dated XX Month 20XX to the Chief Executive Officer of Local Government A for approval under regulation 14A of the *Environmental Protection (Noise) Regulations 1997* (the Regulations) of a noise management plan for class 2 specified works.

The works involves collection of waste from Street A, SUBURB between 4am and 6am every Monday and Thursday.

I have reviewed the noise management plan dated XX Month 20XX and am satisfied with the noise management and minimisation strategies contained within the plan. I am further satisfied that the contents meet the minimum requirements of subregulation (6).

After considering all submissions made under subregulation (9)(c) in relation to this noise management plan, I now hereby approve the Class 2 Specified Works noise management plan prepared by Service Provider A and dated XX Month 20XX for the purposes of regulation 14A of the Regulations.

The following measures in the noise management plan are **HEREBY DESIGNATED AS ANCILLARY MEASURES** for the purposes of regulation 14B of the Regulations:

Measure 3 – operator training programs

Measure 4 – community information

Measure 5 – complaints response procedure

Yours faithfully

(Name)

CHIEF EXECUTIVE OFFICER

XX Month 20XX

Appendix 6

Sample noise management plan for Class 2 specified works

LOCAL GOVERNMENT A

NOISE MANAGEMENT PLAN FOR COLLECTION OF DOMESTIC AND COMMERCIAL WASTE IN THE TOWN CENTRE PRECINCT

This noise management plan (NMP) has been approved for the purposes of regulation 14A of the *Environmental Protection (Noise) Regulations 1997*.

SCOPE OF PLAN

Area to which Plan applies: Town Centre Precinct, bounded by North, West, South and East Streets ('precinct')

Maps: Attachment 1 – Map of Town Centre Precinct ('map') including waste collection routes and compaction zones.

APPLICATION

The NMP applies –

- 1) to class 2 specified works as defined in regulation 14A(1), part (a): the collection of waste
- 2) only to waste collection activities conducted by Local Government A
- 3) to collection of domestic and commercial waste within the Town Centre Precinct between the hours of 5.30am and 7am any day.

Regulation 7 of the *Environmental Protection (Noise) Regulations 1997* does not apply to noise emitted from the specified works if the works are conducted in accordance with the NMP.

PURPOSE OF THE NOISE MANAGEMENT PLAN

To minimise the impact of noise associated with the collection of waste within the Town Centre Precinct between the hours of 5.30am and 7.00am, while allowing an essential service to be provided safely, efficiently and with minimal inconvenience to the community.

EQUIPMENT PURCHASE POLICIES

Purchase Policy xxx/13 (Attachment 2) is to be followed in the evaluation and purchase of any vehicle or equipment to be used under this NMP. This policy requires the preferential purchase of the quietest equipment on a cost/benefit basis and for purchases to be made in accordance with a continuous improvement principle with regard to noise emissions. Key points of the policy are:

- In relation to procurement of significant plant or equipment under this NMP tenderers and suppliers are required to provide noise emission data determined in accordance with the relevant Australian or International Standard. Failure to provide appropriate noise data will render the plant or equipment not suitable for consideration.
- Only plant or equipment with noise emission levels equal to or less than the plant or equipment it is to replace will be considered for purchase unless there are extraordinary circumstances whereby there is substantial and significant benefit to be gained from the purchase of louder equipment. By way of example, benefits might include a faster operation which reduces the length of noise exposure.
- The policy requires purchase decisions be made on the basis of the highest evaluation score. Points will be awarded in the purchase evaluation process such that for every 1dB the noise emission level is below that of the existing equipment 1.5 'bonus points' will be added to the evaluation score.

MEASURES TO MINIMISE NOISE EMISSIONS

Noise minimisation under this NMP is intended to be a process of continuous improvement. The measures listed below do not limit the implementation of additional noise reduction measures. Additional measures will only be introduced where they are not detrimental to any persons receiving noise from the specified works. Measures which propose to shift the noise impact from one receiver to another (or in some other way increase the noise impact – e.g. louder equipment for a shorter duration) will only be considered at the time of preparing a new NMP, at which time public consultation will be required as part the approval process.

Procedures

Collection shall start in the main business district in the north east quadrant of the Town Centre Precinct (at the furthest point from noise sensitive premises in or adjacent to the precinct). The run will follow the collection route shown on the map, working its way through the commercial precinct, mixed used area and concluding in the residential zone.

Compaction will only occur at the compaction zones marked 1 to 22 on the map, which are purposefully located away from residences.

Site specific noise control measures

Street X, Suburb

This site is an 18 unit multiple dwelling development which utilises a mobile garbage bin (MGB) service. Due to the orientation of the development, cul-de-sac location, narrow verge and limited space, the bin collection area is very close to a number of residences. Being in the town centre necessitates collection before 7:00am, although the waste collection run is deliberately structured so that this area, being mostly residential, is done towards the end of the run, between 6:30 and 7:00am.

Residents at this site are subject to significant noise impacts because of the number of bins being emptied and the closeness to the collection location.

Residents have previously complained that the main disturbance is as the bins hit the ground and the lids close. To address this site specific concern Local Government A has installed rubber dampeners to bin lids and bases, which residents report has made some improvement to the situation.

Street Y, Suburb

This site is a 54-unit multiple dwelling development serviced by a skip bin collection every second day. Site constraints have meant the bin area is located close to the neighbouring apartment building and overlooked by a large number of the apartments' bedrooms. The neighbouring apartment building was constructed in the 1950s and is noted for its poor glazing which provides minimal noise attenuation by today's standards.

The noise impacts at this site have been minimised by installing a plastic skip bin instead of a conventional steel bin. Local Government A is in negotiations with the site's body corporate to determine if adjustments to the site layout might be possible to further reduce the noise impact. Any adjustments will be noted in future NMPs.

Equipment modification

All heavy vehicles used under this NMP have had tonal reversing alarms removed and been fitted with broadband smart alarms. In addition vehicles have been fitted with reversing cameras and cabin mounted alarm switches, enabling the alarms to be disabled in environments where the safety risk is low, and noise sensitivity is high.

After a previous successful trial, both side bin lift waste collection trucks have been fitted with advanced braking systems which have eliminated brake squeal. Local Government A is examining the feasibility of fitting a similar system to its front lift truck used under this plan. Any changes will be noted in future NMPs.

One side bin lift waste collection truck has been fitted with flexible fall-arresting baffles to the collection hopper on a trial basis. Noise measurements have shown a reduction in noise emissions from falling waste materials over the standard hopper design. The trial evaluation will look at serviceability, reliability, maintenance and cost. Once complete, consideration will be given to installing the baffles to other plant and incorporating the measure in future NMPs.

Equipment maintenance

Vehicles and equipment used for specified works under this plan are to be maintained in good working order with respect to noise emissions as follows:

- (a) Servicing of vehicles and equipment shall be done at the manufacturer's specified intervals and in accordance with the manufacturer's instructions.

- (b) The following items shall be inspected fortnightly –
 - (i) panel work – for loose or rattling panels or fixtures;
 - (ii) lifting arms – for deteriorated rubber stoppers and dampeners.
- (c) Any faults noted during inspection or any noise increases observed during operations shall be reported to the Fleet Manager as soon as possible and no later than the next working day.
- (d) Repairs shall be effected as soon as possible and no later than seven working days after a fault report is made (subject to parts and workshop availability)
- (e) The Fleet Manager shall keep records of all inspections, fault reports, servicing and repairs for a period of three years.

Annual Review

Local Government A's waste collection operations under this plan will be review annually. The review will include:

- An examination of all noise complaints received in the last 12 months. Where a location-specific noise issue is identified, an onsite assessment of the operation will be conducted with a view to making improvements to the noise impact where it is practicable and reasonable to do so.
- Local Government A's Environmental Health Service is to measure the noise emission of new plant upon delivery to confirm the emissions are within specification. Thereafter, annual noise level checks of each plant item used under this plan while in operation will be conducted, to ensure that the noise levels given in the purchase specification are being maintained.

Driver Training

Upon commencement, and at no more than 12-monthly intervals, drivers shall undertake training in noise-minimising braking, accelerating and bin-emptying techniques. Refer to operator training below.

Town planning

To minimise waste collection noise from future developments in the precinct the Waste Service Section will be represented on Local Government A's Development Control Unit and provide advice as to the appropriate location and configuration of the waste collection points for the development.

With regard to non-residential development, waste collection locations will be required to be placed in positions away from nearby residences. Where a significant separation distance (greater than xx metres) is not achievable, other noise mitigation measures may be required as a condition of development approval, including the use of barriers to screen residences from the waste collection area.

In relation to residential development, the primary noise issues arise out of multiple and grouped dwellings. Grouped dwellings most commonly utilise a verge collection MGB service which leads to many bins being serviced at one

location, prolonging the noise exposure. Where developments consist of more than 5 grouped dwellings Local Government A will specify the most appropriated verge location for waste collection and require the developer to construct a hard stand to identify the bin deposit location as a condition of development approval. Locations will be determined on the bases of separation from residences and screening by walls or fences.

High density multiple dwelling developments often use a skip bin waste service and noise can result from not only the waste collection service but also the depositing of rubbish into the bin. The nature of the waste service is similar to that of a commercial premises so the assessment and approval of waste collection locations will be considered in the same fashion. Acknowledging that residences will be inherently closer, a minimum separation of xx metres will be considered without specific noise mitigation measures, however a greater separation should be designed for, where practicable, and may be required as a condition of development approval. Strata bodies utilising a skip bin service in such circumstances may be required to pay a premium for a plastic skip bin if deemed necessary to reduce noise.

JUSTIFICATION FOR CLASS 2 WORKS

The class 2 works covered by this plan are required due to access and traffic congestion issues around the Town Centre Precinct. A number of businesses in the precinct commence trading at 7:00am, which results in increased traffic and vehicle parking in the area. The increase in traffic makes waste collection after 7:00am more dangerous, as well as hampering the flow of traffic causing significant delays, causing inconvenience and frustration for other road users.

Parked vehicles are often found to block access to bins; this problem becomes more significant after 7:00am as more vehicles descend on the town centre, making the effective completion of the run after this time difficult. It takes one and a half hours to complete the district waste collection run so the service is required to commence at 5:30am to be clear of the area by 7:00am.

Further information in relation to vehicle movements and parking around the town centre can be found in the Local Government A Traffic Management Report to Council dated 1 April 2013.

DESCRIPTION OF SPECIFIED WORKS

The specified works to which this plan relates are the collection of residential and commercial waste [regulation 14A(1)(a)], conducted by Local Government A within the Town Centre Precinct between 5.30am and 7:00am on any day.

Significant noise emitting equipment to be used during the works are:

- 2 x side lift compactor trucks not exceeding a sound power level of XXdB.
- 1 x front lift compactor truck not exceeding a sound power level of XXdB.
- 240L plastic mobile garbage bins.

Metal and plastic skip bins of varying sizes.

OPERATOR TRAINING PROGRAM

Operator training with regard to this plan is required for all operators of waste collection vehicles before commencing specified works under this plan. The relevant training manual is No. xxxx/13 (Attachment X). In relation to noise minimisation the training covers the following aspects:

- waste collection routes to minimise noise impacts
- compaction zones
- reducing accelerating and braking noise
- quiet bin lifting techniques
- engaging with residents and responding to complaints
- inspecting equipment for excessive noise.

All operators are required to undergo annual refresher training.

COMMUNITY INFORMATION

Community information regarding the works carried out under this plan is to be provided annually (with rates notices) to all occupiers of premises in the Town Centre Precinct (see map – Attachment 1). The information provided will include:

- a brief description of the works
- where the NMP can be accessed
- the waste collection route.
- the start time of the works
- how to lodge comments or complaints about the works
- the duration of the current NMP approval, the date of the next review and how to make a submission.

A copy of the community information notice is included as Attachment 4.

COMPLAINT RESPONSE

All noise complaints regarding specified works under this plan are to be investigated by the Principle Waste Collection Supervisor (PWCS) or delegate. The PWCS may request the assistance of Local Government A's Environmental Health Services if deemed appropriate to assist in the investigation.

The investigation will include discussion of the issue with the complainant concerned; and an onsite assessment during the works if it is considered appropriate in the circumstances. The resident will be advised in writing the outcome of the investigation and any alteration that have been or will be made to the operation; or alternatively the reason why no alterations are considered reasonable, practicable or necessary.

Records of all complaints and responses will be kept until such time as the current NMP expires, a review is completed and a new NMP is approved.

Complaints may be lodged with Local Government A via telephone, email or Local Government

A's website.

RESPONSIBILITIES

Manager Waste Collection is responsible for the implementation of this plan.

REVIEW

The Manager Waste Collection is to review the operation and effectiveness of this plan and provide a report to Council annually, detailing the results of the review and any recommendations for amendment to the plan.

APPROVAL

Approved By:

CEO Local Government A (under delegation)

Date: XX Month 20XX

Valid until: XX Month 20XX