Improvement notice

Environment Protection Act 2017

Notice ID	IMPN-00003466
Date of issue	12/10/22
Notice issued by	Name [redacted] Authorised Officer T 1300 372 842 (1300 EPA VIC) E [redacted]@epa.vic.gov.au
Notice issued to	Name GEORGE WESTON FOODS LIMITED Address 'BUILDING A' LEVEL 2, 11 TALAVERA RD NORTH RYDE NSW 2113
ACN	008429632
Place or premises	67 Richards Road, Castlemaine, Victoria, 3450, Australia
Legal reference	*Environment Protection Act 2017* (the Act), s. 271
Service method	Electronic communication

For the purpose of this notice 'you' means the recipient of this notice or your authorised representative and 'place or premises' means the site at which the notice applies, as identified above.

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Grounds for issuing this notice

The authorised officer reasonably believes that GEORGE WESTON FOODS LIMITED has contravened or is contravening the Act or Regulations or a subordinate instrument.

You (George Weston Foods Limited, trading as Don KR Castlemaine) have contravened section 118 of the Environment Protection Regulations 2021, Unreasonable noise from commercial, industrial and trade premises as you have emitted noise that exceeds the noise limit that applies at the time the noise is emitted.

Specifically, you are a meat processing and manufacturing company that undertakes activities that has resulted in unreasonable noise being emitted and impacting nearby noise sensitive areas. EPA analysis of noise logging results has determined that equipment at your premises has resulted in exceedances of Effective Noise Levels (ENL) and Outdoor one-third octave low frequency noise (LFN) threshold levels during the evening and night-time period.

Since January 2020, the Authority has continued to receive ongoing reports of unreasonable noise from local residents. The reports primarily allege that unreasonable noise from the premises is effecting their quality of life. For noise, this may can include adverse effects such as sleep disturbance and stress, as well as impacts on amenity that unreasonably interfere with enjoyment of the place or premises. Unreasonable interference at homes might include, for example, noise that disturbs or interferes with residents talking together, reading, watching television, listening to music, or enjoying conversation and entertaining outdoors.

You do not have adequate systems in place to prevent excessive noise impacting noise sensitive areas beyond the boundary of your premises.

As such, George Weston Foods Limited are required to take action that I reasonably consider necessary to remedy the activity that is contravening or has contravened a provision of this Act, the regulations, or a subordinate instrument, in accordance with s.271(1)(a) of the EP Act 2017.

Requirements

You are required to:

1. By 17/10/22 you must engage the services of a suitably qualified acoustic consult.

2. By 01/02/23 you must develop and implement, a Noise Risk and Monitoring Program that has been prepared and completed by a suitably qualified, independent expert and that includes, but is not limited to:

a) Identifies sources of noise likely to result in an increased risk of harm from unreasonable noise, and/or exceed Effective Noise Levels and Low Frequency Thresholds;

b) Details the likely risks from unreasonable noise and how those risks can be controlled;

c) A process for checking and evaluating the effectiveness of those controls;

d) A map or plan of the area likely to be at risk from unreasonable noise;

e) A dedicated monitoring schedule or plan;

f) A methodology to communicate the Noise Risk Monitoring Program to sensitive receptors located in the area defined by reporting requirement 1d); and:

g) A dedicated community noise reporting procedure that includes a list of tasks to be undertaken by the notice recipient on receipt of any unreasonable noise complaints, and that includes documenting, so far as is reasonably practicable:

i) the name, phone number and e-mail address of the complainant;

ii) the location of where the complainant detected the unreasonable noise;

iii) a description of the unreasonable noise;

iv) time of day the unreasonable noise was first detected;

v) duration and frequency of the unreasonable noise at each occurrence;

vi) prevailing wind direction;

vii) whether the unreasonable noise is still occurring and if not, when it ceased;

viii) a description including frequency and duration, of any health impacts, including psychological impacts, alleged to have resulted from the unreasonable noise; and,

ix) any other information the complainant may have that will relate the unreasonable noise to a specific location or piece of equipment.

3. By 30/04/23 you must modify the activities and/or install controls at the premises, as not to exceed Effective Noise Levels and Low Frequency Noise Thresholds, at noise sensitive areas, beyond the boundary of your premises.

You must report to EPA:

R1. By 30/11/22 you must supply to EPA, a plan that details a process of works to be carried out at the premises that will ensure Effective Noise Levels or Low Frequency Thresholds, are not exceeded at noise sensitive areas, beyond the boundary of the premises.

R2. By 31/05/23 you must in writing to the authority, provide a report that:

a) specifies how the noise abatement or on-going management of noise at the premises has been or is likely to be achieved.

b) includes the results of assessment and noise testing undertaken at your premises.

c) is signed by your managing director, most senior executive, or a person authorised to speak on behalf of the notice recipient.

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This improvement notice takes effect from the date of service.

[redacted]

[redacted]
Authorised Officer

Support to comply

Engage a suitably qualified acoustic consultant to;

a) Immediately undertake narrow band analysis of potential sources of low frequency noise at the premises, and to identify sources of noise likely to trigger tonal adjustments, to then inform mitigation measures.

b) Immediately undertake further noise assessments in accordance with EPA Publication 1826.4: Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues - https://www.epa.vic.gov.au/about-epa/publications/1826-4

c) Provide recommendations on attenuation and abatement controls, or how activities can be modified so that exceedances of effective noise levels and low frequency thresholds are not observed at noise sensitive areas.

Use the following resources when developing the Noise Risk and Monitoring Program:

a) Commercial, industrial and trade noise: https://www.epa.vic.gov.au/for-community/environmentalinformation/noise/commercial-industrial-noise

b) 1826.4: Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues: https://www.epa.vic.gov.au/about-epa/publications/1826-4

c) 1996: Noise guideline - assessing low frequency noise: https://www.epa.vic.gov.au/aboutepa/publications/1996

d) How to control noise from your business: https://www.epa.vic.gov.au/for-business/find-atopic/noise/advice-for-businesses/controls

e) Commercial, industrial and trade noise limits: https://www.epa.vic.gov.au/for-business/find-atopic/noise/commercial-industrial-and-trade-noise-limits

f) Risk management and monitoring program: https://www.epa.vic.gov.au/for-business/find-a-topic/environment-protection-laws-and-regulations/implementing-the-general-environmental-duty---a-guide-for-licence-holders/risk-management-and-monitoring-program

The Authority recommends that the Notice recipient develop and implement a Community Engagement Plan completed by a suitably qualified, independent expert that includes, but is not limited to:

a) A methodology to communicate the nature and extent of the unreasonable noise to the broader community and provide updated information on the progress of works to address these pollution issues. Methods may include community meetings, the establishment of a Community Reference Group (CRG), through the distribution of flyers or leaflets to mailboxes of all accessible properties and sensitive receptors that includes the area likely to be at risk from unreasonable noise, etc.

b) Immediate actions to be undertaken by the premises on receipt of a complaint / pollution incident report relating to unreasonable noise to attempt to investigate and mitigate the unreasonable noise, and that includes actions to reduce noise levels or cessation of an activity causing the unreasonable noise where reasonably practicable to do so.

c) Methods of providing feedback to the complainant that includes information on actions undertaken by the premises in response to the complaint.

d) Trigger points for increased community engagement activities that may include distribution of flyers or leaflets to mailboxes, traditional print media such as local area newspapers, social media, and community meetings.

e) Providing regular updates to the community on progress of works at the premises to reduce the unreasonable noise (including low frequency noise), the Notice recipient's Abatement Strategy Plan, and the progress of the Noise Risk Monitoring Program and how community may participate in that program.

f) Following its preparation, providing a copy of the Community Engagement Plan document to the Authority, signed by your managing director, most senior executive, or a person authorised to speak on behalf of the notice recipient.

Detailed grounds

Between 18 May 2021 and 25 May 2021, EPA deployed remote continuous noise logging equipment (NGARA s/n: 87800B) at Tomkies Road, CASTLEMAINE. Assessment of these results confirmed multiple exceedances during the night-time period and in some instances, exceedances up to 14dBA were observed.

During an inspection on 18 May 2021, I observed multiple sources of noise, including but not limited to; cooling towers, refrigeration fans, condensers and two co-generation units likely to generate unreasonable noise, with little to no noise abatement or attenuation controls.

On 30 July 2021, EPA issued Improvement Notice 00001134 that required an action plan that details a process of works to be carried out at the premises that will ensure the following defined noise limits beyond the boundary of the premises are not exceeded at Tomkies Road, Castlemaine.

On 16 December 2021, you supplied the document titled '20211215 IMPN-00001134-1 Response to EPA 20 December 2021 (002).pdf' ("action plan") in response to EPA amended Improvement Notice 00001134. You identified in this action plan, 9 prioritised noise attenuation projects and detailed a prioritised list of works. You have identified noise sources likely to be generating levels of unreasonable noise and reduction targets as well as timeframes for achieving this target. An example of this is an attenuation reduction of 45dB(A) is required for the Desiccant Heater Steampipes.

On 08 February 2022, EPA issued Improvement Notice 00001932 to modify activities or install controls at the premises, as not to exceed the noise levels at Tomkies Road, CASTLEMAINE by 28 July 2022.

Between 29th July – 5th August 2022, EPA deployed a noise logger (ARL NGARA s/n: 878029) at Tomkies Road, CASTLEMAINE for the purpose of assessing compliance with Improvement Notice 00001932, along with Effective Noise Levels and Outdoor one-third octave low frequency noise (LFN) threshold levels. EPA observed that a 315Hz tone was present along with a 400Hz tone, resulting in applicable tonal adjustments being applied. Examples of exceedances during the monitoring period include;

On Friday 29th of July 2022 between 22:05 till 22:35. A 315 Hz tone was present during the Night Period. LAeq = 44 dBA, Tonal Adjustment = + 2 dB, Effective Noise Level (ENL) = 44 + 2 = 46 dBA. Exceedance = 46 – 41 = 5 dBA.

On Saturday 30th of July 2022 between 04:30 and 05:00. A 315 Hz tone was present during the Night Period. LAeq = 44 dBA, Tonal Adjustment = + 2 dB, Effective Noise Level (ENL) = 44 + 2 = 46 dBA. Exceedance = 46 – 41 = 5 dBA.

On Saturday 30th of July 2022 between 06:00 and 06:30. A 315 Hz and 400 Hz tone was present, which was prominent during the Night Period. LAeq = 45 dBA, Tonal Adjustment = + 5 dB, Effective Noise Level (ENL) = 45 + 5 = 50 dBA. Exceedance = 50 – 41 = 9 dBA.

On Wednesday 3rd of August 2022 between 19:00 and 19:30. A 315 Hz detectable tone was present during the Evening Period, LAeq = 44 dBA, Tonal Adjustment = + 2 dB, Effective Noise Level (ENL) = 44 + 2 = 46 dBA. Exceedance = 46 – 42 = 4 dBA.

On Wednesday 3rd of August 2022 between 21:00 and 21:30. A 315 Hz detectable tone was present during the Evening Period. LAeq = 46 dBA, Tonal Adjustment = + 2 dB, Effective Noise Level (ENL) = 46 + 2 = 48 dBA. Exceedance = 48 – 42 = 6 dBA.

Between 7th September – 14th September 2022, EPA deployed a noise logger (ARL NGARA s/n: 8781DE) at Odgers Road, CASTLEMAINE for the purpose of assessing compliance with Effective Noise Levels and Outdoor one-third octave low frequency noise (LFN) threshold levels. EPA observed that a 400Hz tone was present along with a 50Hz tone, resulting in applicable tonal adjustments being applied. Examples of exceedances during the monitoring period include;

On Sunday 11th of September between 00:00 till 06:00, a 400 Hz tone is present. LAeq level for the 400 Hz was around 42 dBA. LAeq = 42 dBA, Tonal Adjustment = 2dB, Effective Noise Level = 42 + 2 = 44 dBA. Exceedance = 44 – 39 = 5 dBA.

On Sunday 11th of September between 09:30 till 09:47 a 50 Hz tone/drone was clearly present. The 50 Hz tone was standing out so much from the third octaves on each side of 50 Hz (40 Hz and 63 Hz) by as much as 8 to 16 dB, that a + 5 dB Tonal Adjustment was applied. The LFN guideline gives it a + 4.6 dB exceedance.

Penalty

If you fail to comply with this improvement notice, you may be guilty of an offence and liable to pay a penalty of up to 500 penalty units (for an individual) or 2500 penalty units (for a body corporate).

Right of review

Statutory internal review

If this notice was issued by an authorised officer, you have the right to apply to EPA for a review. Your application must be made in the approved form and be received by EPA within 10 business days of you being served the notice. The date you were served the notice may be different to the date of issue listed on page one of this notice depending on the method of service. Application forms and further information about the internal review process including application timeframes are available at www.epa.vic.gov.au.

Request for stay pending outcome of internal review

If you are eligible for internal review, you may also request a stay of this notice pending the outcome of the review. EPA must decide to grant a stay (with or without conditions), or not to grant a stay and communicate that decision within two business days of receiving the application. If the application was received outside of business hours, EPA must communicate its decision by 5pm on the second day after the application was received. If no decision is made by EPA after this time, EPA is considered to have granted a stay. If no stay is made, the notice remains in force.

VCAT review

If you have lodged an application for internal review of this notice and received a decision, you may apply to the Victorian Civil and Administrative Tribunal (VCAT) for external review within 15 business days of being notified about the outcome of EPA's internal review. If this notice was issued by the Authority, you may apply to VCAT for an external review within 15 business days from the date on which it first came to your notice. For more information on your review rights, visit www.epa.vic.gov.au.

Amendment

You may apply for an extension of time for any requirement in the notice at least 10 business days before its due date. Your notice remains legally binding until EPA advises you of any change. Application forms and further information about time frames for the application are available at www.epa.vic.gov.au.

Notification of future occupier

Under section 280, if someone plans to become the occupier of your place or premises, you must inform them of this notice and your progress towards compliance.

Privacy statement

Section 455 of the Act requires EPA to maintain a public register where we may choose to publish improvement notices.

Accessibility

Contact us if you need this information in an accessible format such as large print or audio.

Please telephone 1300 EPA VIC (1300 372 842) or email contact@epa.vic.gov.au

Interpreter assistance



If you need interpreter assistance or want this document translated, please call **131 450** and advise your preferred language. If you are deaf, or have a hearing or speech impairment, contact us through the National Relay Service.