

Local Nuisance and Litter





Part 4—Offences

Division 1—Local nuisance

17—Meaning of local nuisance

(1) For the purposes of this Act, local nuisance is—

(a) any adverse effect on an amenity value of an area that—

(i) is caused by—

(A) noise, odour, smoke, fumes, aerosols or dust; or

(B) animals, whether dead or alive; or

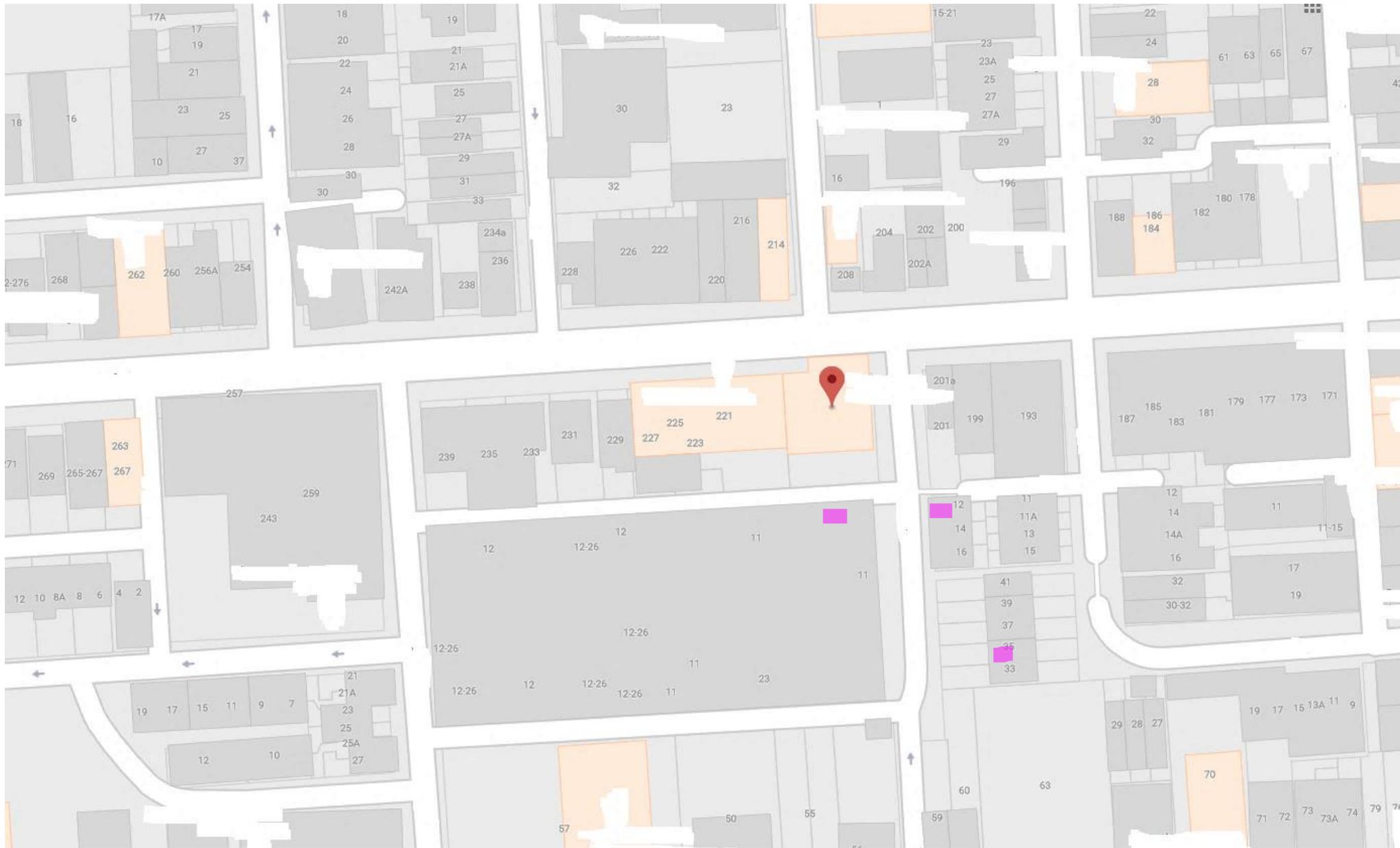
(C) any other agent or class of agent declared by Schedule 1; and

(ii) unreasonably interferes with or is likely to interfere unreasonably with the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area; or





Commercial Extractor Fan



Part 2—Administration

4—Functions of councils—guidelines

(1) For the purposes of section 7(3) of the Act, the following guidelines are prescribed for councils:

(a) the guidelines for managing unreasonable complainant conduct are—

(i) to the extent to which the conduct is covered by a council's own guidelines—those guidelines; or

(ii) in any other case—the guidelines set out in Managing Unreasonable Complainant Conduct Practice Manual, 2nd edition, published by the NSW Ombudsman, May 2012 (to be found at: http://www.ombudsman.sa.gov.au/wp-content/uploads/unreasonable_conduct_manual_2012.pdf);

(b) a council, and any authorised officers appointed by the council under the Act, must, in administering or enforcing the Act, or in performing, exercising or discharging a function under the Act, in relation to local nuisance (including, in the case of a council, determining what should be the conditions of a nuisance abatement notice), take into account the following matters insofar as they are relevant to the circumstances:

(i) the sensitivity of the affected premises;

(ii) the land use categories of the source premises and the affected premises;

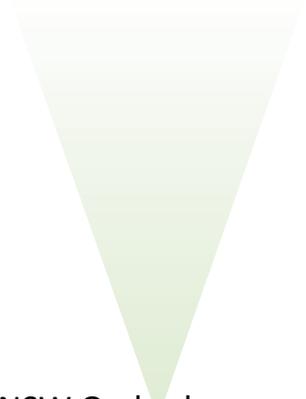
(iii) whether the local nuisance was avoidable;

(iv) whether, in the case of local nuisance generated by an activity outside of normal business hours, the activity has been so timed to avoid inconvenience to traffic or pedestrians during normal business hours (for example, in the case of early morning rubbish collection, or late night construction works, in populated or high traffic areas);

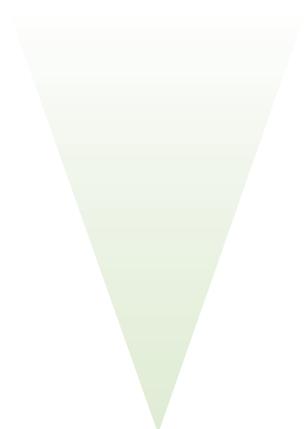
(v) whether all reasonable measures have been taken at the source premises to prevent or minimise the local nuisance;

(vi) whether, in the case of local nuisance generated by an activity carried out under an authorisation within the meaning of the Development Act 1993, the activity is being carried out in accordance with the authorisation.

(2) In this regulation— affected premises means the premises affected by the local nuisance other than the source premises; source premises means the premises on which the local nuisance is generated.



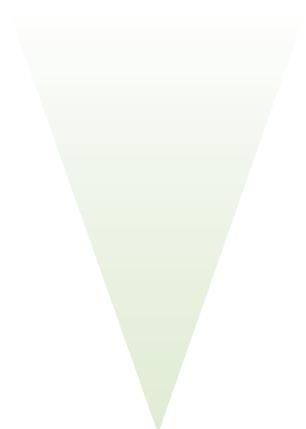




Part 3—Things that are not local nuisance 5—Things that are not local nuisance

The following are declared not to constitute local nuisance for the purposes of section 17

- (1): (a) noise or other nuisance from blasting operations carried out as part of a mining operation within the meaning of the *Mines and Works Inspection Act 1920* or *Mining Act 1971*;
- (b) noise or other nuisance from any activity carried on in accordance with a program for environment protection and rehabilitation that is in force for mining operations under Part 10A of the *Mining Act 1971*;
- (c) noise or other nuisance from the keeping of animals in accordance with a development authorisation within the meaning of the *Development Act 1993*;
- (ca) noise, odour or waste from animals living in their natural habitat (other than such animals that have been actively encouraged, by feeding, to gather in a particular area);
- (d) noise or other nuisance from any other activity carried on in accordance with an authorisation (including an approval, consent, licence, permit, exemption or entitlement) granted under any other Act (other than this Act), provided that—
- (i) the authorisation imposes requirements to control, minimise or eliminate (as far as reasonably practicable) any noise or other forms of nuisance likely to result from the activity; and
 - (ii) those requirements are complied with;
- (e) noise or other nuisance from fireworks displays;
- (f) noise or other nuisance from sporting or associated activities at sporting venues;
- (g) noise or other nuisance from community events run by or on behalf of a council (subject to any conditions imposed by the council);
- (h) noise from public infrastructure works;
- (i) subject to Part 2 clause 4(1)(a)(i)(D), noise from vehicles (other than vehicles operating within, or entering or leaving, business premises);
- (j) noise or other nuisance that may be the subject of proceedings under—
- (i) *the Community Titles Act 1996*; or
 - (ii) *the Strata Titles Act 1988*; or
 - (iii) *the Residential Tenancies Act 1995*;
- (k) an activity on, or noise emanating from, licensed premises within the meaning of the *Liquor Licensing Act 1997* in respect of which a complaint may be lodged with the *Liquor Licensing Commissioner* under section 106 of that Act;
- (l) behaviour in respect of which a complaint may be lodged with the *Liquor Licensing Commissioner* under section 106 of the *Liquor Licensing Act 1997*; Local Nuisance and Litter Control Act 2016—1.7.2017 Schedule 1—Meaning of local nuisance (section 17) 44 Published under the Legislation Revision and Publication Act 2002
- (m) noise principally consisting of music or voices, or both, resulting from an activity at domestic premises;
- (n) noise from activities carried on in the normal course of a school, kindergarten, child care centre or place of worship;
- (o) noise created by a dog barking or otherwise that may be the subject of an offence under section 45A(5) of the *Dog and Cat Management Act 1995*;
- (p) aircraft or railway noise;
- (q) noise caused by emergency vehicle sirens;
- (r) noise outside of the human audible range.



Construction Environmental Management Plan

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General Discussion & Questions