

Local Nuisance and Litter Control Act 2016

Factsheet 19 – Nuisance Management Plans

The *Local Nuisance and Litter Control Act 2016* (the Act) was developed to support and enhance local amenity values by strengthening local nuisance and litter management services within South Australian communities. The Act allows councils to consider the granting of an exemption from local nuisance-causing activities upon application.

What is Local Nuisance?

Local nuisance is described in the Act as being any adverse impact on the amenity value of an area, which unreasonably interferes with, or is likely to unreasonably interfere with, the enjoyment of that area by people in that area.

Some common examples of activities that may be considered a local nuisance include:

- Noise emanating from fixed and non-fixed domestic machines such as air conditioner compressor, swimming pool pumps, lawnmowers and power tools
- Dust and activity noise from development and construction sites – building or maintenance and repair work
- Smoky wood heaters

Local nuisance within the community can also be caused by insanitary conditions such as filthy or neglected premises that present a risk of rodent infestation or emit offensive odours or material. It can also be caused by unsightly conditions on premises caused by human activity or a failure to act on those type of conditions such as:

- Excessive or unconstrained rubbish, waste or vegetation
- stockpiled, excessive or unconstrained disused or derelict items
- a building on the premises having been left partially demolished or in a state of disrepair, dilapidation or damage

What are a person's obligations with regard to local nuisance?

A person's activities should not unreasonably interfere with the well-being or enjoyment of an area by others. This includes not only the indoor and outdoor spaces of a person's own property but public and community areas such as parks, other places of public recreation, as well as commercial precincts. The community should all be mindful of the degree of potential local nuisance that can be generated by things such as unwarranted smoke, excessive noise, dust or unkempt properties and always seek to minimise such impacts as much as possible. It is an offence for a person or business to carry out an activity that results in a local nuisance.

Are there any exemptions to the local nuisance laws?

The Act allows councils to consider the granting of an exemption from local nuisance-causing activities upon application. Applications must, however, be accompanied by a nuisance management plan describing the steps that will be taken to prevent, minimise or address any adverse effects on the amenity value of the area concerned and also describing that exceptional circumstances exist to justify the granting on an exemption.

Exemptions may be reasonable for short-term activities - such as festivals, events or major construction activities - where some level dust or other local nuisance is likely to be unavoidable. Councils can apply strict conditions to ensure that an applicant does everything reasonable to minimise the impact of the nuisance. All exemptions are published on the council's website.

How do I obtain an exemption from a council?

The process for seeking an exemption from Section 18 of the Act (Causing Local Nuisance) requires the lodgement of a written application to council and must be accompanied by:

- site nuisance management plan containing certain information (outlined in the Local Nuisance and Litter Control Regulations 2017);
- any other information that council might require; and
- the fee (if any) set by the council.

What is a Site Nuisance Management Plan?

A Site Nuisance Management Plan is an important part of the written application that is required to be lodged with a council when seeking exemption from section 18. It is intended to assist a council in determining whether the application should be approved. The requirements of a Site Nuisance Management Plan are outlined in the regulations and must be followed. As the regulations are amended from time to time it is important to refer to them directly when developing a Site Nuisance Management Plan.

For construction activities, A Construction Environmental Management Plan written in accordance with guidelines produced by the Environment Protection Authority from time to time will be taken to constitute a Site Nuisance Management Plan.

Can a council refuse an application?

A council will not make a declaration for exemption from Section 18 unless satisfied that:

- there are exceptional circumstances to justify it; and
- the applicant's Site Nuisance Management Plan adequately sets out the measures that the person(s) will take to prevent, minimise or address any anticipated adverse effects from the specified activity on the amenity value of the area concerned.

Are council approvals conditional?

A declaration by a council may be unconditional or subject to conditions, including (but not limited to) conditions relating to:

- the permitted times or periods of time for carrying on the activity; or
- the manner of carrying on the activity.

A declaration made by a council has effect from the date specified in the declaration and remains in force according to its terms for a period not exceeding 3 months, or until revoked by the council. A council may, by further notice in writing, vary or revoke a declaration it has made.

Council must publish a declaration (approval) made under this section, and any variations of the declaration, on a website determined by the council.

More information

This fact sheet is one of a range designed to increase your awareness and understanding of the requirements of the *Local Nuisance and Litter Control Act 2016*. Please see other fact sheets for further information about the Act.

Disclaimer

This publication is a guide only and will not necessarily provide adequate information relevant to every situation. Whilst it seeks to explain your possible obligations in a helpful and accessible way, it is likely that some detail may not be captured. It is important, therefore, that where necessary you make your own determination as to whether you should seek legal advice.