

DUST NUISANCE

What is a dust nuisance?

Environmental nuisance is defined under the Environmental Protection Act 1994 (“the Act”) as unreasonable interference or likely interference with an environmental value.

An environmental value is a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety.

Nuisance exemptions

Nuisance is exempt under the Act where development or lawful activities are carried out under a Development Approval (DA), however; the DA may set out conditions of approval that restrict certain emissions.

DA conditions are enforceable by Local Government under the *Planning Act 2016*.

Considerations:



Industrial areas

High impact activities are appropriately within industrial zones, as they are not compatible with sensitive land uses, such as residential dwellings or childcare facilities. A greater nuisance threshold for dust (and noise, light and odour) within an industrial zone is therefore expected

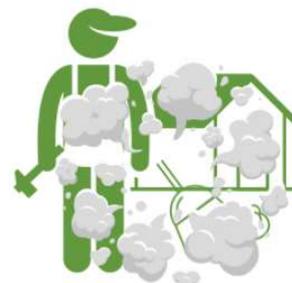
Large Developments



A developer’s General Environmental Duty and conditions of

approval often means that a water truck is employed to keep dust at a minimum. Release of sediment to stormwater from run-off, difficulties accessing site and water conservation however, all result in the **optimum amount of dust being greater than zero in large developments.**

Residential Areas



Erection of dust shielding material may be appropriate to contain dust within site, especially if the activity creates a

chemical dust with potential harm to human or environmental health and/or property damage, e.g. fibreglass cutting/grinding. Mineral dust suppression from earthworks by watering small building sites must be weighed up against site useability, preventing release of sediment-laden run-off from building sites and timing of activities where electric tools are in operation. Some dust would be considered reasonable on small building sites and may be exempt.

Our responsibilities



Council has the authority to regulate dust nuisance under the Act.

If satisfied that a dust is causing an unreasonable nuisance Council's Officers may issue a Direction Notice for alteration to an existing light.

Council must consider the **General Emission** Criteria before issuing a Direction Notice.

Your responsibilities



Ensure any works that may create dust have mitigation measures in effect to

reduce the chance of causing an environmental nuisance.

General emission criteria

What we consider:

- How much?
- How long?
- What time did it occur?
- Where is it going?
- Is this expected?
- What impact is it having?
- Who is being impacted?
- Is this a regular occurrence or one off?
- Is it getting worse?
- Are there any mitigations in place.

Reporting an environmental nuisance

Should you believe that a dust nuisance is occurring and your environmental values are affected, you may log a Customer Request with Council for investigation. Once a nuisance determination is made, you shall be advised of the outcome.

Please note that an environmental nuisance determination must be made from the receptor's point of view; therefore, anonymous customer requests will not be investigated

While details which may identify the origin of each and every Customer Request are protected, in light nuisance cases, the affected person is by nature identifiable. Council therefore strongly encourages residents to discuss light impacts with their neighbours directly, in an attempt to resolve a mutually suitable outcome, prior to involving Council.

You can lodge a request for investigation into a light nuisance by:

- Calling 1300 69 22 47
- Using our [Report a Problem online form](#)
- Report a Problem feature on the [My Cairns](#) app.