9.3.3 Nuisance code

9.3.3.1 Application

This code applies to development identified as requiring assessment against the Nuisance code by the tables of assessment in **Part 5 (Tables of assessment)**.

9.3.3.2 Purpose and overall outcomes

(1) The purpose of the Nuisance code is to maintain community wellbeing and protect environmental values by preventing or mitigating:-

    (a) nuisance emissions from development adversely impacting on surrounding sensitive land use; and

    (b) the exposure of proposed sensitive land uses to nuisance emissions from surrounding development.

(2) The purpose of the Nuisance code will be achieved through the following overall outcomes:-

    (a) development is located, designed, constructed and operated to maintain appropriate levels of amenity and environmental performance by:-

        (i) not imposing unacceptable noise, light, glare, dust or odour emissions on surrounding sensitive land uses; and

        (ii) ensuring that proposed sensitive land uses are not subject to unacceptable nuisance emissions generated from surrounding development; and

    (b) environmental values are protected by preventing or minimising potential environmental harm or environmental nuisance resulting from the release of contaminants or emissions, particularly noise, odour, light, glare, dust and particulates.

9.3.3.3 Specific benchmarks for assessment[1]

Table 9.3.3.3.1   Benchmarks for assessable development

Performance outcomes	Acceptable outcomes
Acoustic amenity[2]	
PO1 Development is located, designed, constructed and operated to ensure that noise emissions do not adversely impact upon surrounding sensitive land uses. Note—this performance outcome also applies to noise emissions generated by sensitive land uses, from sources such as communal areas, service areas, plant and equipment (e.g. air conditioning units) and the like.	**AO1** No acceptable outcome provided.
PO2 Development that is a sensitive land use is located, designed, constructed and operated to achieve a satisfactory level of acoustic amenity where there is potential for noise emissions generated from surrounding development to adversely affect the sensitive land use. Editor's note—this is often referred to as a "reverse amenity" situation where a proposed sensitive land use may be adversely affected by nuisance emissions from surrounding development. In such cases it is contingent upon the proposed sensitive land use to implement measures to ensure that a satisfactory level of acoustic	**AO2** The sensitive land use achieves the acoustic environment and acoustic quality objectives for sensitive receiving environments set out in the *Environment Protection (Noise) Policy*.

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[1]   Editor's note—the Council may require an impact assessment report prepared in accordance with the **Planning scheme policy for information the Council may request and preparing well made applications and technical reports** to demonstrate compliance with certain performance outcomes of this code.

[2]   Note—Council will take the order of occupancy of new and existing noise sources into consideration in implementing the Performance outcomes for the Acoustic amenity section of this code. The intent of these particular Performance outcomes is not to require existing lawful uses to control noise emissions in response to encroachment by proposed sensitive land uses.

Performance outcomes	Acceptable outcomes
amenity is provided to prospective occupants and users of the development.	
PO3 A satisfactory level of acoustic amenity is achieved for:- (a) external private and communal open space areas (including gardens and balconies) of sensitive land uses; and (b) parks and other areas of public open space (where not used for outdoor sport, recreation and entertainment). Note—this performance outcome will not be met if significant increases (i.e. more than 3 dB(A)) over and above pre-existing noise levels are likely to occur post-development.	**AO3** No acceptable outcome provided.
Live entertainment and amplified sound	
PO4 Development involving live entertainment or amplified music and voices maintains a satisfactory level of acoustic amenity for surrounding sensitive land uses.	**AO4** No acceptable outcome provided.
Odour, dust and particulate nuisance	
PO5 Development is located, designed, constructed and operated to ensure that odour, dust and particulate emissions do not cause environmental nuisance to sensitive land uses (whether existing or proposed uses) in the surroundings of the proposed development.	**AO5.1** Dust emissions do not result in levels at sensitive land uses which exceed the Air Quality Objectives contained in the *Environmental Protection (Air) Policy 2008* and do not cause environmental nuisance by dust deposition. **AO5.2** For odour and particulate emissions—no acceptable outcome provided.
PO6 Development that is a sensitive land use is located, designed, constructed and operated to ensure that the proposed use is not subject to odour, dust or particulate emissions from surrounding development that would cause environmental nuisance.	**AO6** No acceptable outcome provided.
Lighting and glare nuisance	
PO7 Development ensures that lighting and glare does not have any significant adverse amenity impacts or create nuisance to surrounding premises.	**AO7.1** Lighting devices are located, designed and installed to:- (a) minimise light spillage on surrounding premises; (b) preserve an acceptable degree of lighting amenity at surrounding premises; (c) provide covers or shading around lights; (d) direct lights downwards; (e) position lights away from possibly affected areas; and (f) enable brightness of lights to be adjusted to low levels. **AO7.2** Streets, driveways and servicing areas are located and designed to minimise vehicle headlight impacts on any surrounding residential premises. **AO7.3** Reflective glare that would cause a nuisance to residents or the general public at surrounding premises and public spaces is avoided or minimised through the use of:- (a) external building materials and finishes with low-reflectivity; or

Performance outcomes	Acceptable outcomes
	(b) building design/architectural elements or landscape treatments to block or reduce excessive reflective glare.
Management of impacts to fauna, including development in a Sea Turtle Sensitive Area[3]	
PO8 Effective measures are implemented during the construction and operation of development to protect fauna that is sensitive to disturbance from noise, vibration, odour, light, dust and particulates; and limit impacts from artificial lighting on sea turtle nesting areas.	**AO8.1** Any noise, odour, light, dust, particulates or vibration generated during the construction and operation of development is managed to ensure it does not have an adverse impact on fauna within an area of environmental significance. **AO8.2** All exterior lighting provided as part of development in a sea turtle sensitive area, or within or at the boundary of an area of environmental significance, reduces light pollution and sky glow by: (a) minimising the use and intensity of external lighting to that required to achieve the light's purpose and to avoid reflection from the ground, buildings or other surfaces; (b) using lighting that is fully shielded, directed and mounted as low as possible so as to cast little or no upward light (above the horizontal) or light spill towards the coast and areas of environmental significance; (c) using lighting of a wavelength less likely to cause nuisance to sea turtles or other fauna (e.g. amber lighting); and (d) fitting lights with light motion detection sensors and/or timers to ensure lighting is turned off when not required. **AO8.3** All windows and glass doors facing an area of environmental significance, or within line-of-sight of the coast in a sea turtle sensitive area, are tinted or otherwise screened to reduce light spill from indoor lighting.

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[3] Editor's note—Sea turtle sensitive areas are identified on the Coastal Protection Overlay Maps in **Schedule 2 (Mapping)**.