

Amendment Local Law No. 1 (Community and Environmental Management) 2018

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Part 1 Preliminary

1 Short title

This local law may be cited as *Amendment Local Law No. 1 (Community and Environmental Management) 2018*.

2 Commencement

This local law commences on 1 July 2018.

Part 2 Amendment of Local Law No.3 (Community and Environmental Management) 2011

3 Short title

This part amends *Local Law No.3 (Community and Environmental Management) 2011*.

4 Amendment of s 2 (Purpose and how it is to be achieved)

Section 2—

insert—

- (3) The purpose is further to be achieved by providing for the regulation of—
 - (a) storage and removal of general waste and green waste at premises; and
 - (b) storage and treatment of industrial waste at premises; and
 - (c) receiving and disposing of waste at waste facilities.

5 Insertion of pt 6A (Waste management)

After section 21—

insert—

Part 6A Waste management

Division 1 Preliminary

21A Interaction with State law

- (1) This section applies if the *Environmental Protection Regulation 2008*, chapter 5A (Waste management by local governments) is in force at the time of the commencement of this part.
- (2) For the purposes of the *Environmental Protection Regulation 2008*, section 81ZC, this part replaces the *Environmental Protection Regulation 2008*, chapter 5A.

21B Designation of waste collection areas

- (1) This section applies if the *Waste Reduction and Recycling Regulation 2011*, section 7 is not in force.
- (2) The local government may—
 - (a) by resolution, designate areas within its local government area in which the local government may conduct general waste collection; and
 - (b) by resolution, designate areas within its local government area in which the local government may conduct green waste collection; and
 - (c) decide the frequency of waste collection in a general waste collection area or green waste collection area.

21C Meaning of *serviced premises*

Premises in a local government area are *serviced premises* if—

- (a) the premises are in a general waste collection area; or
- (b) the local government has required the owner or occupier of the premises to arrange for removal of general waste from the premises.

Division 2 Storage of general waste**21D Owner or occupier of premises to supply waste containers**

- (1) The owner or occupier of premises must—
 - (a) subject to subsection (2), supply standard general waste containers at the premises as—
 - (i) are necessary to contain the general waste produced at the premises; or
 - (ii) are prescribed by subordinate local law; or
 - (b) supply at the premises, waste containers, other than standard general waste containers, as—
 - (i) if required by the local government—are necessary to contain the general waste produced at the premises; or
 - (ii) are prescribed by subordinate local law.

Examples of ways the local government may require waste containers for subsection (1)(b)(i)—

by a resolution of the local government or a development approval for the premises

Maximum penalty—20 penalty units.

- (2) However, subsection (1)(a) does not apply if the local government supplies to the premises the number of standard general waste containers the local government reasonably considers is required at the premises.
- (3) If the local government supplies a standard general waste container to premises under subsection (2), the reasonable cost of supplying the container is a debt payable by the owner or occupier of the premises to the local government.
- (4) However, subsection (3) does not prevent the local government from supplying a standard general waste container to premises without cost to the owner or occupier of the premises.

21E Requirements for storing waste in waste containers

- (1) The occupier of premises must—
 - (a) store general waste produced as a result of the ordinary use or occupation of the premises in—
 - (i) a standard general waste container; or
 - (ii) if another type of waste container is prescribed by subordinate local law—the other type of container; and
 - (b) if the premises is receiving a green waste collection service from the local government—store green waste in a green waste container required by the local government; and
 - (c) keep each waste container clean and in good repair; and
 - (d) ensure that each waste container is securely covered, except when the waste is being placed in, or removed from, the container or the container is being cleaned.

Maximum penalty—20 penalty units.

- (2) A person must not—
 - (a) place any of the following in a waste container—
 - (i) a liquid or semi-liquid or moist substance, unless the substance is securely wrapped or contained to prevent the substance leaking from the wrapper or container;

- (ii) material that is smouldering or aflame;
 - (iii) matter or a thing that is alive;
 - (iv) a substance that may be harmful to persons or property because, if it reacts with air or water, it may produce toxic gases or become corrosive or explosive;
 - (v) an explosive;
 - (vi) ammunition, other than ammunition that no longer contains explosives, pyrotechnics or propellants apart from trace residues that are no longer capable of supporting combustion or an explosive reaction;
 - (vii) a thing stated in a subordinate local law; or
- (b) remove or disturb the cover of a waste container, except when placing waste in or cleaning the container; or
 - (c) use or damage a waste container so that it is not weatherproof or serviceable or cannot be securely covered; or
 - (d) disturb or otherwise interfere with the contents of a waste container; or
 - (e) if a waste container is set aside for the collection of recyclable waste alone—place in the waste container a matter or thing other than recyclable waste; or
 - (f) if a waste container is set aside for the collection of green waste alone—place in the waste container a matter or thing other than green waste .

Maximum penalty—20 penalty units.

- (3) However, a person may place a thing mentioned in subsection (2)(a) in a waste container if the person is authorised to do so under an Act.
- (4) The occupier of the premises must not allow a person to place a thing in a waste container in contravention of subsection (2)(a).

Maximum penalty—20 penalty units.

- (5) It is a defence in a proceeding against a person for an offence under subsection (4) for the person to prove the contravention was due to causes over which the person had no control.

21F General requirements for keeping waste containers at serviced premises

- (1) This section applies to—
- (a) serviced premises; and
 - (b) premises that are receiving a green waste collection service from the local government.

- (2) Subject to subsection (3), the occupier of premises must ensure that a waste container supplied for the premises is kept—

- (a) if the local government requires the container to be kept at a particular place at the premises or at another place away from the premises—at the place (the *waste container storage place*); or

Examples of ways the local government may require waste containers to be kept at a particular place—

by a resolution of the local government or a development approval for the premises or a written notice to the occupier of the premises

- (b) if a subordinate local law requires the container to be kept at a particular place at the premises or at another place away from the premises—at the place (also a *waste container storage place*); or

Example for paragraphs (a) and (b) of a place away from the premises where the local government may require waste containers to be kept—

at a ‘rural bin cluster site’ where the local government has arranged for scheduled collection of waste containers from several premises

- (c) if paragraphs (a) and (b) do not apply—at ground level close to the rear alignment of a building at the premises.

Maximum penalty—20 penalty units.

- (3) The occupier of the premises may, to enable the collection of waste from the waste container, position the container in a place outside the premises, if—

- (a) the local government has arranged to collect waste from the container at the place; and

- (b) the container is in the place for no longer than—

- (i) the period, if any, declared by the local government by resolution or by subordinate local law; or

- (ii) is otherwise reasonably appropriate before and after the collection.

Example of a place outside serviced premises—

the kerb adjacent to the serviced premises

- (4) If the local government has arranged for the collection of waste from a waste container at premises, the occupier of the premises must ensure there is unobstructed access to the container for removal of the waste.

Maximum penalty for subsection (4)—20 penalty units.

- (5) It is a defence in a proceeding against a person for an offence under subsection (4) for the person to prove the contravention was due to causes over which the person had no control.

21G Other requirements for storing general waste at particular serviced premises

- (1) This section applies to any of the following persons (each a *prescribed person*) for serviced premises, other than a single detached dwelling—
- (a) the owner or occupier of the premises;
 - (b) if a prescribed ERA is carried out at the premises—the holder of the environmental authority for the prescribed ERA.
- (2) The prescribed person must ensure that the waste container storage place for the premises is supplied with—
- (a) if required by the local government—each of the following—
 - (i) either—
 - (A) an elevated stand at a level required by the local government for holding all waste containers; or
 - (B) an imperviously paved area, drained as required by the local government, where all waste containers can be placed;
 - (ii) a hose cock and hose in the vicinity of the stand or paved area;
 - (iii) a suitable enclosure for the area where the waste containers are kept; and

Examples of ways the local government may require a prescribed person to comply with subsection (2)(a)—

by a resolution of the local government or a development approval for the premises

- (b) if a requirement is prescribed by subordinate local law—facilities and structures for the placement, storage and cleaning of waste containers as prescribed by subordinate local law.

Maximum penalty for subsection (2)—20 penalty units.

Division 3 Removal of general waste or green waste

21H Local government may give notice about removal of general waste or green waste

- (1) This section applies where the local government has arranged for the removal of general waste or green waste produced at a premises.
- (2) The local government may give the occupier of the premises a written notice stating—
 - (a) the days (each a *scheduled collection day*) on which the waste is to be collected; and
 - (b) the location (the *collection location*) where the waste container is to be placed for collection of the waste; and
 - (c) the time by which the waste container is to be placed in the collection location for collection of the waste; and
 - (d) the time by which the waste container is to be removed from the collection location.

21I Depositing or disposal of general waste from premises other than serviced premises

- (1) This section applies if general waste is produced at a premises, other than serviced premises.
- (2) For the purposes of *Local Law No. 1 (Administration) 2011*, section 5(b), it is a prescribed activity¹ for the owner or occupier of the premises to deposit or dispose of the general waste through a method other than depositing or disposing of the waste at a waste facility.

¹ *Local Law No.1 (Administration) 2011*, section 6, creates an offence for a person to undertake a prescribed activity without a current approval granted by the local government. Section 7 requires that the approval be obtained under part 2 of that local law.

Division 4 Storage and treatment of industrial waste

21J Requirements for storing industrial waste

- (1) The occupier of premises where there is industrial waste must—
 - (a) if required by the local government—
 - (i) supply at the premises the number of industrial waste containers required by the local government for storing the waste at the premises safely, efficiently and without causing a nuisance; and
 - (ii) keep the waste containers at the particular place at the premises required by the local government; and
 - (iii) keep each waste container clean and in good repair; and

Examples of ways the local government may require compliance with subsection 1(a) —

by resolution of the local government or a development approval for the premises

- (b) if a requirement is prescribed by subordinate local law—comply with each requirement prescribed by subordinate local law, about each of the following—
 - (i) the supply at the premises of industrial waste containers for storing the waste at the premises;
 - (ii) keeping the waste containers at a particular place at the premises;
 - (iii) keeping each waste container clean and in good repair.

Maximum penalty—20 penalty units.

- (2) The local government may supply industrial waste containers at the premises if the occupier does not supply at the premises the number of industrial waste containers that are—
 - (a) required by the local government under subsection (1)(a); or
 - (b) prescribed by subordinate local law under subsection (1)(b).

- (3) If the local government supplies an industrial waste container to premises under subsection (2), the reasonable cost of supplying the container is a debt payable by the occupier of the premises to the local government.

21K Requirement to treat industrial waste for disposal

The occupier of premises where there is industrial waste must—

- (a) if required by the local government, treat the waste to a standard approved by the local government for transport to and disposal of the waste at a waste facility; and

Examples of ways the local government may require an occupier to treat industrial waste for disposal—

by a resolution of the local government or a development approval for the premises

- (b) if a requirement is prescribed by subordinate local law—comply with each requirement prescribed by the local government for transport to and disposal of the waste at a waste facility.

Maximum penalty—40 penalty units.

Division 5 Receiving and disposal of waste

21L Unlawful disposal of waste at waste facility

- (1) A person must not deposit the following waste at a waste facility—
- (a) liquid or semiliquid waste;
 - (b) hot ash;
 - (c) material that is smouldering or aflame;
 - (d) material that can spontaneously combust;
 - (e) material containing a substance that may be harmful to persons or property because, if it reacts with air or water, it may produce toxic gases or become corrosive or explosive;
 - (f) an explosive;
 - (g) ammunition, other than ammunition that no longer contains explosives, pyrotechnics or propellants apart from trace residues that are no longer capable of supporting combustion or an explosive reaction;

(h) waste prescribed by subordinate local law.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to waste deposited with the consent of—

(a) the person who—

(i) is the registered suitable operator for the facility; or

(ii) holds an environmental authority for the facility; or

(b) the person in charge of the facility.

21M Restrictions on burning waste at waste facility

A person must not set fire to, or burn, waste at a waste facility other than—

(a) under an environmental authority; or

(b) under a development condition of a development approval; or

(c) under the *Fire and Emergency Services Act 1990*.

Maximum penalty—20 penalty units.

21N Restrictions on use of waste facility

(1) A person must not, without the consent of a waste facility's owner or operator—

(a) enter the facility other than to deposit waste or visit a place at the facility (the *facility shop*) where items of waste are made available for sale or disposal; or

(b) remain on the facility after depositing waste or visiting the facility shop; or

(c) interfere with waste at the facility; or

(d) remove waste from the facility, other than by acquiring the waste from the facility shop.

Maximum penalty—10 penalty units.

(2) Subsection (1) does not apply to—

(a) the facility's owner or operator; or

(b) an authorised person.

210 Person to comply with directions and give information

- (1) This section applies to a person who transports waste to a waste facility.
- (2) The person must—
 - (a) comply with all relevant and reasonable directions contained in any sign displayed at the facility by a facility person; and
 - (b) comply with all reasonable instructions about dealing with the waste at the waste facility which are given by—
 - (i) the person in charge of the facility; or
 - (ii) a facility person; and
 - (c) if asked by a facility person—give information to the facility person about the type and amount of waste being delivered to the facility; and
 - (d) if asked by a facility person—give information to the facility person that provides satisfactory evidence of the identity and residential address of the person; and
 - (e) not leave waste at the facility unless the person has paid, or arranged for payment by other approved means, the waste disposal charge applicable to the type and quantity of waste.

Maximum penalty—10 penalty units.

- (3) In this section, for a waste facility, facility person means each of the following—
 - (a) the operator of the waste facility;
 - (b) the owner of the waste facility;
 - (c) the local government.

Division 6 Transitional provisions**21P Validity of powers exercised under chapter 5A**

- (1) This section applies if, in exercise of a power under the *Environmental Protection Regulation 2008*, chapter 5A, the local government has done any of the following (each a *relevant action*)—
 - (a) imposed a requirement;

- (b) made a declaration;
 - (c) approved a type of waste container;
 - (d) approved a standard of waste treatment;
 - (e) given a notice;
 - (f) made an arrangement;
 - (g) made a resolution.
- (2) From the commencement of this section, the relevant action is taken to have been done pursuant to the relevant local law power.
- (3) In this section—
- relevant local law power*** means a power under this part that is identical or substantially the same as a power to take a relevant action under the *Environmental Protection Regulation 2008*, chapter 5A.

6 Amendment of s 22 (Subordinate local laws)

Section 22—

insert—

- (g) requirements for an owner or occupier of premises to supply standard general waste containers;² or
- (h) requirements for an owner or occupier of premises to supply of waste containers, other than standard general waste containers;³ or
- (i) the type of waste container that the occupier of premises must store general waste in;⁴ or
- (j) a thing that a person must not place in a waste container;⁵ or
- (k) the place at a premises where an occupier must keep a waste container;⁶ or
- (l) the period of time during which an occupier of serviced premises may positive a container in a place outside the premises;⁷ or

² See section 21D(1)(a)(ii).

³ See section 21D(1)(b)(ii).

⁴ See section 21E(1)(a)(ii).

⁵ See section 21E(2)(a)(vii)

⁶ See section 21F(2)(b).

- (m) requirements about the supply of facilities and structures for the placement, storage and cleaning of waste containers at premises;⁸ or
- (n) requirements about supplying and keeping industrial waste containers at premises;⁹ or
- (o) requirements about transport to and disposal of waste at a waste facility;¹⁰ or
- (p) waste that a person must not deposit at a waste facility;¹¹ or
- (q) specifying a thing to be waste.¹²

7 Amendment of schedule (Dictionary)

Schedule—

insert—

commercial premises means any of the following types of premises—

- (a) a hotel, motel, caravan park, cafe, food store or canteen;
- (b) an assembly building, institutional building, kindergarten, child minding centre, school or other building used for education;
- (c) premises where a sport or game is ordinarily played in public;
- (d) an exhibition ground, show ground or racecourse;
- (e) an office, shop or other premises where business or work, other than a manufacturing process, is carried out.

commercial waste means waste, other than green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of commercial premises.

development approval see the *Planning Act 2016*, section 49.

domestic clean-up waste means non-putrescible, dry and inoffensive waste,

⁷ See section 21F(3)(b)(i).

⁸ See section 21G(2)(b).

⁹ See section 21J(1)(b).

¹⁰ See section 21K(b).

¹¹ See section 21L(1)(h).

¹² See schedule (Dictionary), definition of ***waste***.

other than green waste or recyclable waste, produced as a result of a clean-up of domestic premises.

domestic premises means any of the following types of premises—

- (a) a single unit private dwelling;
- (b) premises containing 2 or more separate flats, apartments or other dwelling units;
- (c) a boarding house, hostel, lodging house or guest house.

domestic waste means waste, other than domestic clean-up waste, green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of domestic premises.

environmental authority see the *Environmental Protection Act 1994*, schedule 4.

general waste means—

- (a) waste other than regulated waste; and
- (b) for divisions 2, 3 and 4 of this part, waste other than regulated waste that is any of the following—
 - (viii) commercial waste;
 - (ix) domestic waste;
 - (x) recyclable waste.

general waste collection area means—

- (a) if the *Waste Reduction and Recycling Regulation 2011*, section 7(a) is in force—an area designated under that section in which the local government may conduct general waste collection; or
- (b) if the *Waste Reduction and Recycling Regulation 2011*, section 7(a) is not in force—an area designated under section 21B(2)(a).

green waste means grass cuttings, trees, bushes, shrubs, loppings of trees, bushes or shrubs, or similar matter produced as a result of the ordinary use or occupation of premises.

general waste collection area means—

- (a) if the *Waste Reduction and Recycling Regulation 2011*, section 7(a) is in force—an area designated under that section in which the local government may conduct green waste collection; or
- (b) if the *Waste Reduction and Recycling Regulation 2011*, section 7(a) is not in force—an area designated under section 21B(2)(b).

industrial waste means—

- (a) interceptor waste; or
- (b) waste other than the following—
 - (i) commercial waste;
 - (ii) domestic clean-up waste;
 - (iii) domestic waste;
 - (iv) green waste;
 - (v) recyclable interceptor waste;
 - (vi) recyclable waste;
 - (vii) waste discharged to a sewer.

industrial waste container means a container of a type approved by the local government for storing industrial waste at premises in the local government's area.

interceptor means a device used to intercept a substance in sewage, waste water or trade waste and prevent its discharge into a sewer, septic tank, waste water disposal system or other treatment device.

Examples of interceptors—

- neutralising interceptors for neutralising acidic and alkaline substances
- grease interceptors for collecting and solidifying fat, grease and similar matter
- oil interceptors for collecting oil and petroleum products
- silt interceptors for collecting soil, sand, gravel and other sedimentary solids

interceptor waste means matter, other than recyclable interceptor waste, intercepted by, and held in, an interceptor.

manufacturing process means a handicraft or other process relating to adapting, altering, assembling, cleaning, finishing, making, ornamenting, preparing, renovating, repairing, washing, or wrecking goods for trade, sale or gain or otherwise in connection with a business.

occupier, of premises, means the person who has the control or management of the premises.

owner, of premises, means the person for the time being entitled to receive the rent for the premises or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

premises includes domestic premises, government premises, industrial premises and commercial premises.

prescribed ERA see the *Environmental Protection Act 1994*, section 106.

prescribed person see section 21G(1).

recyclable interceptor waste means matter that is, or is intended to be, removed from a grease interceptor and taken elsewhere for processing into a non-toxic, non-hazardous and usable substance for sale.

recyclable waste, means clean and inoffensive waste that is declared by the local government to be recyclable waste for the local government's area.

Examples of waste that may be declared to be recyclable waste—

glass bottles, plastic containers, paper, cardboard, steel and aluminium cans.

regulated waste see the *Environmental Protection Regulation 2008*, section 65.

serviced premises see section 21C.

standard general waste container—

- (a) means a container of a type approved by the local government for storing domestic waste, commercial waste or recyclable waste at premises in the local government's area; and
- (b) for the avoidance of doubt, includes 1 or more containers each of which is approved by the local government for storing, at premises in the local government's area—
 - (i) 1 or more or multiple types of commercial waste; or
 - (ii) 1 or more or multiple types of recyclable waste.

Example for paragraph (b)—

The local government may approve 1 container for storing recyclable waste which is green waste and 1 container for storing recyclable waste other than green waste.

waste means any of the following—

- (a) waste within the meaning of the *Environmental Protection Act 1994*, section 13;
- (b) any thing specified to be waste under a subordinate local law.

waste container storage place see section 21F(1).

waste facility—

- (a) for divisions 1, 2, 3 and 4—means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste; and

- (b) for division 5—means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste, but only if the local government is the lessee, occupier, operator or owner of the facility.