Local Law No. 8 (Waste Management) 2018

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Local Law No. 8 (Waste Management) 2018

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 8 (Waste Management) 2018*.

2 Objects

The object of this local law is to protect the public health, safety and amenity related to waste management by—

(a) regulating the storage, servicing and removal of waste; and

(b) regulating the disposal of waste at waste facilities; and

(c) ensuring that an act or omission does not result in—

(i) harm to human health or safety or personal injury; or

(ii) property damage or loss of amenity; or

(iii) environmental harm or environmental nuisance.

3 Relationship to other laws

(1) This local law is—

(a) in addition to and does not derogate from laws about the management of waste; and

(b) to be read with *Local Law No. 1 (Administration) 2011*.

(2) For the purposes of *Environmental Protection Regulation 2008*, section 81ZC, this local law replaces *Environmental Protection Regulation 2008*, chapter 5A (Waste management by local governments).

4 Definitions

The dictionary in the Schedule (Dictionary) of this local law defines the particular words used in this local law.

Part 2 Waste management

Division 1 Designation of areas for general or green waste collection

5 Designation of areas

The local government may—

(a) by resolution, designate areas within its local government area in which the local government may conduct general waste or green waste collection; and

(b) decide the frequency of general waste or green waste collection in the designated areas.

Division 2 General waste

Subdivision 1 Storage of general waste

6 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 paragraph 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.

7 Requirements for storing general 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) keep each waste container clean and in good repair; and

(c) 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, semi-liquid or moist substance, unless the substance is securely wrapped or contained to prevent the substance leaking from the wrapper or container; or

(ii) material that is smouldering or aflame; or

(iii) matter or a thing that is alive; or

(iv) 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.

Maximum penalty — 20 penalty units.

(3) 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.

(4) It is a defence in a proceeding against a person for an offence under subsection (3) for the person to prove the contravention was due to causes over which the person had no control.

8 General requirements for keeping waste containers at serviced premises

(1) Subject to subsection (2), the occupier of serviced 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 — 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

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

(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.

(2) Subsection (1) does not prevent the occupier of the serviced premises from placing a waste container in a place outside the premises for the collection of general waste from the container, 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, allowed under a local law of the local government; or

(ii) 24 hours before or after the scheduled collection day for the collection of the waste in the container.

Example of a place outside serviced premises—

the kerb adjacent to the serviced premises

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

Maximum penalty for subsection (3) — 20 penalty units.

(4) It is a defence in the proceeding against a person for an offence under subsection (3) for the person to prove the contravention was due to causes over which the person had no control.

9 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) the registered suitable operator for a prescribed environmentally relevant activity carried out at the premises;

(c) the holder of an environmental authority for a mining activity or petroleum activity carried out at the premises.

(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

(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.

Subdivision 2 Removal of general waste

10 Local government may give notice about removal of general waste

(1) This section applies where the local government has arranged for the removal of general 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 (***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.

11 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) The local government may—

(a) give a written approval to the owner or occupier of the premises for depositing or disposing of the waste; and

(b) impose conditions on the approval, including, for example, conditions about—

(i) the place for depositing or disposing of the waste; or

(ii) the method of depositing or disposing of the waste.

(3) A person must not deposit or dispose of the waste unless the person deposits or disposes of the waste—

(a) at a waste facility in accordance with part 3; or

(b) in accordance with—

(i) an approval under subsection (2) for disposal of the waste; and

(ii) if the approval has been given on conditions — the conditions of the approval.

Maximum penalty for subsection (3) — 20 penalty units.

Division 3 Storage and treatment of industrial waste

12 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 a resolution of the local government or a development approval

(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 which 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.

13 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 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) comply with requirements, as prescribed by subordinate local law, about the treatment of industrial waste for disposal of the waste at a waste facility.

Maximum penalty — 40 penalty units.

Part 3 Waste receival and disposal

14 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.

15 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.

16 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

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

(c) interfere with waste at, or remove waste from, the facility.

Maximum penalty — 10 penalty units.

(2) Subsection (1) does not apply to—

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

(b) an authorised person; or

(c) a person who acquires from a waste facility, with the consent of the local government—

(i) recyclable waste, for example, mulch or green waste; or

(ii) 1 or more items of waste which are made available for sale or disposal by the local government, for example, at a "tip shop".

17 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 the facility's owner or operator; and

(b) comply with all reasonable instructions given by the person in charge of the facility about dealing with the waste.

(c) if asked by the facility's owner or operator — give information to the owner or operator about the type and amount of waste being delivered to the facility.

Maximum penalty — 10 penalty units.

Part 4 Subordinate local laws

18 Subordinate local laws

The local government may, by subordinate local law, specify—

(a) a thing that is specified to be waste pursuant to the Schedule (Dictionary) of this local law; and

(b) requirements about the necessity to supply standard general waste containers at premises under section 6(1)(a); and

(c) requirements about the supply at premises of waste containers, other than standard general waste containers, to contain the general waste produced at the premises under section 6(1)(b); and

(d) another type of waste container for the storage of general waste produced as a result of the ordinary use or occupation of premises under section 7(1); and

(e) a thing that a person must not place in a waste container under section 7(2); and

(f) requirements about the keeping of the waste container supplied for premises at a particular place at the premises under section 8(1)(b); and

(g) requirements about the supply of facilities and structures for the placement, storage and cleaning of waste containers under section 9(2)(b); and

(h) requirements about the supply at premises of industrial waste containers for storing industrial waste at the premises and other requirements about waste containers for the storage of industrial waste under section 12(1)(b); and

(i) requirements about the treatment of industrial waste under section 13(b); and

(j) waste that a person must not deposit at a waste facility under section 14(1).

Part 5 Application of Local Law No. 1 (Administration) 2011

19 Application of Local Law No. 1 (Administration) 2011 to this local law

(1) To avoid any doubt, the provisions of *Local Law No. 1 (Administration) 2011* apply to this local law.

(2) If there is a conflict between a provision of this local law and *Local Law No. 1 (Administration) 2011*, the provisions in this local law will prevail to the extent of any inconsistency.

Part 6 Transitional provisions

20 Continuation of chapter 5A requirements

(1) This section applies if a provision of *Environmental Protection Regulation 2008*, chapter 5A (Waste management by local governments), is replaced by a provision of this local law.

(2) In this section, ***prescribed provision*** means a provision of *Environmental Protection Regulation 2008*, chapter 5A (Waste management by local governments) which is replaced by a provision of this local law.

(3) If the local government has made a requirement under a prescribed provision prior to the commencement of this local law, the requirement applies for the provision of this local law which replaced the prescribed provision from the commencement of this local law.

Example —

The local government may require that a waste container supplied for serviced premises be kept at a particular place at the premises by development approval for the premises under *Environmental Protection Regulation 2008*, section 81ZH(1). *Environmental Protection Regulation 2008*, section 81ZH(1) is a prescribed provision which is replaced by section 8 (General requirements for keeping waste containers at serviced premises). A requirement under the prescribed provision made prior to the commencement of this local law would apply for section 8 of this local law from the commencement of this local law.

Schedule Dictionary

section 4

authorised person means a person appointed by the chief executive officer of the local government, pursuant to *Local Government Act 2009*, section 202, to exercise the powers of an authorised person under this local law.

collection location means a place at, or adjacent to, premises at which a standard general waste container associated with the premises can be easily accessed by a general waste collection vehicle without causing obstruction.

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 has the meaning given in the *Planning Act 2016*.

domestic clean-up waste means non-putrescible, dry and inoffensive 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 has the meaning given in the *Environmental Protection Act 1994*.

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

general waste means—

(a) waste other than regulated waste; and

(b) for part 2, any of the following—

(i) commercial waste;

(ii) domestic waste;

(iii) recyclable waste.

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.

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 would be entitled to receive the rent for it if it were let to a tenant at a rent.

penalty unit means an amount of money prescribed under the *Penalties and Sentences Act 1992* which is used to calculate penalties for breaches of the local laws of the local government.

premises includes domestic premises, government premises and commercial premises.

prescribed ERA has the meaning given in the *Environmental Protection Act 1994*.

prescribed person see section 9(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 area of the local government.

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

glass bottles, plastic containers, paper, cardboard, steel and aluminium cans, and green waste

regulated waste has the meaning given in the *Environmental Protection Regulation 2008*.

scheduled collection day see section 10(2).

serviced premises means—

(a) premises which are in an area designated by the local government as an area in which the local government may conduct general waste collection under—

(i) *Waste Reduction and Recycling Regulation 2011*, section 7; or

(ii) section 5; and

(b) premises for which the local government has required the owner or occupier of the premises to arrange for removal of general waste from the premises.

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 has the meaning given in the *Environmental Protection Act 1994*, and includes any thing that is specified to be waste under a subordinate local law.

waste container storage place see section 8(1).

waste facility—

(a) for part 2, means a facility for the recycling, reprocessing, treatment, storage, incineration, conversion to energy or disposal of waste; and

(b) for part 3, 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.

This and the preceding 17 pages bearing my initials is a certified copy of *Local Law No. 8 (Waste Management) 2018* made in accordance with the provisions of the *Local Government Act 2009* by Livingstone Shire Council by resolution dated the 3rd day of July 2018.

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Chief Executive Officer