

Sunshine Coast Regional Council Local Law No. 3 (Community Health and Environmental Management) 2011

2015 AMENDMENT MOCKUP

Showing amendments to be made in late 2015

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 3 (Community Health and Environmental Management) 2011*.

1A Commencement

This local law commences on 1 January 2012.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to protect community health, safety and amenity and the environmental values of the region within the local government's area.
- (2) The purpose is to be achieved by providing for the elimination or reduction of risks and threats to the environment and community health, safety and amenity resulting from—
 - (a) inadequate protection against animal or plant pests; and
 - (b) vegetation overgrowth; and
 - (c) visual pollution resulting from accumulation of objects and materials; and
 - (d) fires and fire hazards not regulated by State law; and
 - (e) community safety hazards; and
 - (f) unsolicited newspapers and advertising materials, waste containers and shopping trolleys; and
 - (g) noise that exceeds noise standards.

3 Definitions—the dictionary

Schedule 1 (Dictionary) in *Local Law No. 1 (Administration) 2011* defines particular words used in this local law.

4 Relationship with other laws¹

This local law is—

- (a) in addition to and does not derogate from laws for pest management, regulation of fires and environmental protection; and
- (b) to be read with *Local Law No. 1 (Administration) 2011*.

¹ This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

Part 2 Declared local pests

Division 1 Application

5 Application of part

- (1) This part does not apply to—
- (a) ~~an animal or plant that is a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*² or the *Plant Protection Act 1989*³ a State declared pest~~; or
 - (b) noxious fisheries resources or diseased fisheries resources⁴.
- (2) In this section—
- ~~*declared pest* see the *Land Protection (Pest and Stock Route Management) Act 2002*, section 8 and the *Plant Protection Act 1989*, section 4.~~
- ~~*diseased fisheries resources* see the *Fisheries Act 1994*, section 94.~~
- ~~*noxious fisheries resources* see the *Fisheries Act 1994*, schedule.~~
- State declared pest* means—
- (a) an animal or plant that is a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*; or
 - (b) a plant or an animal, other than a native species of plant or animal, that is—
 - (i) invasive biosecurity matter under the *Biosecurity Act 2014*⁵ or
 - (ii) controlled biosecurity matter or regulated biosecurity matter under the *Biosecurity Act 2014*; or
 - (c) a plant or animal that has been prescribed or declared to be a pest under the *Plant Protection Act 1989*.⁶

² ~~See the *Land Protection (Pest and Stock Route Management) Act 2002*, sections 36 and 37, regarding the declaration of plants and animals as declared pests for the State or part of the State.~~

³ ~~See the *Plant Protection Act 1989*, section 4, regarding the declaration of pests that are harmful to the growth or quality of crop plants.~~

⁴ See the *Fisheries Act 1994*, section 94, regarding the declaration of diseased fisheries resources.

⁵ See the *Biosecurity Act 2014*, schedule 1, part 3 or 4 and schedule 2, part 2 and the note to schedules 1 and 2.

⁶ See the *Plant Protection Act 1989*, section 4, regarding the declaration of pests that are harmful to the growth or quality of crop plants.

Division 2 Declaration of local pests

6 Declaration of local pests

- (1) The local government may, by subordinate local law, declare an animal or plant of a specified species to be a local pest.
- (2) Before the local government makes a declaration under this section, it must consult with the chief executive.
- (3) A declaration under this section—
 - (a) must be published in a newspaper circulating generally in the local government's area; and
 - (b) comes into force on the date of publication.
- (4) In this section—

chief executive means the chief executive of the department in which the *Land Protection (Pest and Stock Route Management) Act 2002* and the [Biosecurity Act 2014](#) is administered.

7 Emergency declarations

- (1) This section applies if the local government is satisfied urgent action is needed to avoid or minimise an immediate risk of environmental harm posed by a plant or animal.
- (2) The local government may, by resolution, declare an animal or plant of the relevant species to be a local pest.
- (3) A declaration under this section—
 - (a) must be published in a newspaper circulating generally in the local government's area; and
 - (b) comes into force on the date of publication; and
 - (c) must be reviewed by the local government within 3 months of the date of publication; and
 - (d) comes to an end—
 - (i) on the date a revocation notice is published in a newspaper circulating generally in the local government's area; or
 - (ii) if no revocation notice is published sooner—6 months after the date the declaration came into force.
- (4) In this section—

environmental harm see *Environmental Protection Act 1994*, section 14.

8 Application of declaration

- A declaration under sections 6 or 7 may apply—
- (a) to the whole of the local government's area or in a specified part or parts of the area; and
 - (b) generally or only in specified circumstances.

Division 3 Control of local pests

9 Power to search for declared local pests

- (1) This section applies if an authorised person wants to enter a property to search for declared local pests.
- (2) After giving reasonable written notice to the owner and the occupier of the property, the authorised person may—
 - (a) enter the property without the permission of the occupier; and
 - (b) take reasonable action to search for declared local pests.
- (3) However, the authorised person—
 - (a) must, as soon as the authorised person enters the property, inform any occupier of the property—
 - (i) of the reason for entering the property; and
 - (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and
 - (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission.

10 Local pest control notices

- (1) An authorised person may, by giving a compliance notice⁷ to the owner of [land](#) [property](#), require the owner⁸ to take specified action to control declared local pests.
- (2) The specified action may include 1 or more of the following actions—
 - (a) destroy declared local pests on the [land](#)[property](#);
 - (b) minimise the risk of an outbreak of declared local pests on the [land](#)[property](#);
 - (c) prevent or minimise seeding or reproduction by declared local pests;
 - (d) contain infestation by declared local pests within a localised area;
 - (e) reduce the density or extent of infestation by declared local pests;
 - (f) remove harbour provided to declared local pests.

⁷ See *Local Law No.1 (Administration) 2011*, section 27, regarding the requirements for compliance notices and the offence for not complying with a compliance notice.

⁸ See the Act, section 140, in relation to the owner's right to enter property where the owner is not the occupier to take action to comply with a remedial notice, and section 141, in relation to an occupier's right to recover amounts incurred to satisfy an owner's obligations.

- (3) The notice may require the repetition of a specified action at stated intervals or on the reappearance of the declared local pest within a specified period.

Division 4 Prohibition of sale and propagation

11 Prohibition on sale

A person must not—

- (a) sell or supply a declared local pest; or
- (b) offer or display a declared local pest for sale or supply.

Maximum penalty—50 penalty units.

12 Prohibition on introducing, propagating etc a declared local pest

- (1) A person must not—

- (a) introduce, propagate or breed a declared local pest; or
- (b) provide harbour to a declared local pest.

Maximum penalty for subsection (1)—50 penalty units.

- (2) However, subsection (1) does not apply to a person who has been prescribed under a subordinate local law for this subsection as exempt from the offence in subsection (1) in relation to a specified pest.

Example of persons that might be exempted from subsection (1) in relation to specified pests—

- Staff of research organisations such as universities or the CSIRO who require a particular pest for research purposes.
- An employee of a circus using a particular pest to provide entertainment to the public.
- Staff of an organisation using a particular pest as part of an education program.
- An employee of a zoo that keeps a particular pest.

- (3) In this section—

introduce means to introduce, or cause to introduce, into the local government's area.

Part 3 Overgrown and unsightly allotmentsproperties

13 Overgrown allotmentsproperties

- (1) This section applies where an authorised person forms the opinion that an allotment property is overgrown with vegetation to such an extent that it—

- (a) has affected the visual amenity of the allotment property; or
- (b) is likely to attract or harbour reptiles; or
- (c) is likely to give rise to a risk of harm to human health or safety, personal injury or property damage.

- (2) An authorised person may, by giving a compliance notice⁹ to the responsible person for the ~~allotment~~property or the affected part of the property, require the responsible person to clear the vegetation to an extent specified in the notice.
- (3) However, a notice cannot prevent a use of ~~land~~the property authorised under the *Sustainable Planning Act 2009* or the *Environmental Protection Act 1994*.
- (4) In this section—
vegetation includes a tree, bush, shrub, plant or grass, but does not include vegetation that is protected under a law¹⁰ of the State or Commonwealth or under the local government's planning scheme.

14 Accumulation of objects and materials on ~~allotments~~properties

- (1) This section applies where an authorised person forms the opinion that objects or materials brought on to, or allowed to accumulate on, ~~an allotment~~a property—
- have affected the visual amenity of the ~~allotment~~property; or
 - are likely to attract or harbour reptiles; or
 - are likely to give rise to a risk of harm to human health or safety or personal injury.

Examples for paragraph (a) of objects and materials that may affect the visual amenity of ~~an allotment~~a property—

- Accumulation of tyres.
- Discarded or disused machinery or machinery parts.
- Broken-down or severely rusted vehicles.
- Discarded bottles, containers or packaging.
- Refuse or scrap material.

- (2) An authorised person may, by giving a compliance notice¹¹ to the responsible person for the ~~allotment~~property or the affected part of the property, require the responsible person to—
- remove objects or materials that are causing the circumstance mentioned in subsection (1); or
 - take other specified action to remedy the circumstance mentioned in subsection (1).

Example of action that might be required under paragraph (b)—

⁹ See footnote 5.

¹⁰ For example, vegetation may be protected under the *Nature Conservation Act 1992*, the *Vegetation Management Act 1999*, the *Planning Act*, the *Queensland Heritage Act 1992*, the *Fisheries Act 1994* and the *Environment Protection and Biodiversity Conservation Act 1999 (Cwlth)*.

¹¹ See footnote 5.

Erecting an appropriate structure (in accordance with requirements under the *Sustainable Planning Act 2009*) to screen unsightly objects or materials from public view.

- (3) However, the notice cannot prevent a use of ~~land~~ [the property](#) authorised under the *Sustainable Planning Act 2009* or the *Environmental Protection Act 1994*.

Part 4 Fires and fire hazards

15 Regulation of lighting and maintaining fires in the open

- (1) This section does not apply to the lighting or maintaining of a fire that is authorised under the *Fire and ~~Rescue Service~~Emergency Services Act 1990*.¹²
- (2) The local government may, by subordinate local law, prohibit or restrict the lighting or maintaining of fires in the open in the whole, or designated parts, of the local government's area.

Example—

The subordinate local law might prohibit the lighting of fires, or a particular type of fire, in the open, unless 1 or more of the following conditions is met—

- the fire is contained in an approved incinerator;
- the fire is established in a specified way and specified precautions are taken to prevent the spread of fire;
- the fire is lit and extinguished within a specified time.

- (3) A person must comply with a prohibition or restriction imposed under this section.

Maximum penalty for subsection (3)—50 penalty units.

- (4) A person must not light or maintain a fire if the fire exposes property to the risk of damage or destruction by fire.

Maximum penalty for subsection (4)—50 penalty units.

- (5) However, a person does not commit an offence under subsection (3) or (4) if the person is authorised or required to light or maintain the fire in the performance of duties under another Act.

16 Fire hazards

- (1) This section applies where an authorised person forms the opinion that a fire hazard exists on ~~an allotment~~ [a property](#).
- (2) The authorised person may, by compliance notice¹³ given to the responsible person for the ~~allotment~~ [property or the affected part of the property](#), require

¹² See the *Fire and ~~Rescue Service~~Emergency Services Act 1990*, section 63, regarding fires authorised by notification, section 65 regarding fires authorised by permit and section 69, regarding notices requiring occupiers to take measures to reduce the risk of fire. For fires authorised by notification under section 63, see the Notification by the Commissioner of Fire and Rescue Service published in the gazette on 6 August 2004.

¹³ See footnote 5.

the responsible person to take specified action to reduce or remove the fire hazard.¹⁴

(3) In this section—

fire hazard means—

- (a) anything that, because of its flammable nature, its position or its quantity, exposes property to significant risk of damage or destruction by fire; or
- (b) a thing that is declared to be a fire hazard under a subordinate local law for this paragraph.

Examples of fire hazards for paragraph (a)—

- Live cinders or hot ash that is not enclosed in a fireplace so constructed as to prevent the escape of cinders or ash.
- A substantial accumulation of grass clippings that is liable to spontaneous combustion.
- Dry vegetation that could be easily ignited or other flammable materials.

Part 5 Community safety hazards

17 What is a community safety hazard

(1) A *community safety hazard* is—

- (a) a structure that, because of its nature or its position, is likely to give rise to a risk of personal injury or property damage; or
- (b) the following fencing—
 - (i) razor wire fencing; or
 - (ii) barbed wire or electric fencing erected along a boundary adjoining a road or a public place; or
 - (iii) barbed wire or electric fencing if—
 - (A) the fencing is erected on a property with an area of less than 2000 square metres; and
 - (B) the property adjoining the property on which the fence is erected has an area of less than 2000 square metres; and
 - (C) the fence is within 2 metres of any boundary of the property on which it is erected; and
 - (D) the owners of the respective properties are not in agreement about the erection of the prescribed fence; or

¹⁴ See also the *Fire and Rescue Service Emergency Services Act 1990*, section 69, under which the Fire Services Commissioner can publish a general notification in the gazette requiring occupiers of land to take measures to reduce the risk of fire occurring or the risk to persons, property or environment in the event of fire occurring.

- (iv) other fencing that, because of its nature or its position, is likely to give rise to a risk of personal injury or property damage; or
- (c) objects or materials, including roof sheeting, guttering or sheet metal, that are likely to become airborne in periods of high wind in a way that will give rise to a risk of personal injury or property damage; or
- (d) a wasp nest, bee hive or other insect nest that is likely to give rise to a risk of personal injury or property damage; or
- (e) a hole, well or excavation that is abutting a road or other public place and is likely to give rise to a risk of personal injury or property damage; or
- (f) vegetation that borders a public place and is likely to give rise to a risk of personal injury or property damage; or
- (g) works that have restricted or redirected the flow of stormwater over land in a way that is likely to cause the water to collect and to—
 - (i) become stagnant; or
 - (ii) cause damage to the environment, property or infrastructure; or
 - (iii) cause harm or injury to a person or animal; or
- (h) works on a drainage easement that that have altered or obstructed the flow of water on the [landproperty](#); or
- (ha) a drainage channel that, as a result of a failure to maintain the area by the owner of the property on which the relevant part of the channel is located, is likely to give rise to a risk of—
 - (i) damage to the environment, property or infrastructure; or
 - (ii) harm or injury to a person or animal; or
- (i) a thing that is declared to be a community safety hazard under a subordinate local law for this paragraph.

- (2) In this section—

drainage channel means any place where water may collect or flow.

drainage easement means a public utility easement in favour of the local government for drainage purposes.

works includes construction, earthworks, landscaping, planting of vegetation and change of land use.

18 Power to enter property to inspect for community safety hazards

- (1) This section applies if an authorised person wants to enter a property to inspect it to identify any community safety hazards.
- (2) After giving reasonable written notice to the owner and the occupier of the property, an authorised person may—

- (a) enter the property without the permission of the occupier; and
 - (b) take reasonable action to inspect the property for community safety hazards.
- (3) However, the authorised person—
- (a) must, as soon as the authorised person enters the property, inform any occupier of the property—
 - (i) of the reason for entering the property; and
 - (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and
 - (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission.

19 Removal or reduction of community safety hazards

- (1) This section applies where an authorised person forms the opinion that a community safety hazard exists on [an allotment property](#).
- (2) The authorised person may, by compliance notice¹⁵ given to the responsible person for the [allotment property or the affected part of the property](#), require the responsible person to take specified action in relation to the community safety hazard to—
 - (a) remove the hazard; or
 - (b) reduce the level of risk to persons or property.

Example of specified action that might be required under paragraph (b) to reduce the risk to the community from a community safety hazard—

Securing objects or materials that may become airborne in periods of high wind.

20 Prescribed requirements

- (1) The local government may, by subordinate local law, prescribe requirements that must be met by responsible persons relating to specified types of community safety hazards located on the responsible person's [land property](#).

Example of prescribed requirements—

- A requirement to place signs on electric fences or barbed wire fences adjoining public land to warn persons of the risk of injury.
- A requirement to install and maintain an electric fence in accordance with appropriate standards.

- (2) A responsible person for [land a property](#) must comply with requirements prescribed under this section.

¹⁵ See footnote 5.

Maximum penalty for subsection (2)—50 penalty units.

Part 6 Community amenity

21 (section omitted)

This section has been omitted.

22 Removing shopping trolleys from shopping centre precincts

A person must not take a shopping trolley from a shopping centre precinct or leave a shopping trolley at a place outside the shopping centre precinct unless—

- (a) the person takes or leaves the trolley with the consent of the owner of that trolley; or
- (b) the person has a reasonable excuse.

Maximum penalty—20 penalty units.

23 Shop owners' responsibilities for shopping trolleys

- (1) The owner or occupier of a shop which provides shopping trolleys for customers must ensure that all shopping trolleys so provided remain in the shopping centre precinct.

Maximum penalty for subsection (1)—

- (a) for a first offence—20 penalty units; or
- (b) for a second offence within twelve months of the first offence—50 penalty units; or
- (c) for a third or later offence within twelve months of the first offence or within six months of the most recent offence—200 penalty units.

- (2) It is a defence to a charge of an offence against subsection (1) for the shop owner or occupier to prove that they took reasonable measures to ensure that the shopping trolleys would remain in the shopping centre precinct.

Examples of a reasonable measure—

- Requiring payment of a deposit to use a shopping trolley.
- [Daily round-up of trolleys from the area surrounding the shopping centre precinct.](#)

24 Releasing helium balloons

A person must not release an unsecured balloon containing helium unless the balloon is—

- (a) released unintentionally and without negligence; or
- (b) released inside a building or structure and does not make its way into the open air; or
- (c) released for scientific, including meteorological, purposes; or
- (d) a balloon aircraft that is recovered after landing.

Maximum penalty—20 penalty units.

Part 7 Noise standards

25 Prescribed noise standards

- (1) This section applies if the local government is the administering authority for the *Environmental Protection Act 1994*, chapter 8, Part 3B.¹⁶
- (2) The local government may, by subordinate local law, prescribe a noise standard in the whole, or designated parts, of the local government's area by—
 - (a) prohibiting the making of a stated noise (for example, by reference to the activity making the noise and the time at which the noise is made);¹⁷ and
 - (b) stating the section, in the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3, for which the subordinate local law provision is prescribing a noise standard.¹⁸

Part 8 Miscellaneous

26 Subordinate local laws

The local government may make subordinate local laws about—

- (a) declaring animals or plants of specified species to be local pests;¹⁹ and
- (b) persons exempted from the prohibition on introducing, propagating etc a declared local pest;²⁰ and
- (c) lighting and maintaining of fires in the open;²¹ and
- (d) fire hazards;²² and
- (e) community safety hazards;²³ and

¹⁶ See the *Environmental Protection Act 1994*, section 514, for the making of a regulation to devolve the administration and enforcement of parts of the Act to local governments as the administering authority. The *Environmental Protection Regulation 2008*, section 99, devolves the administration and enforcement of noise standards to local governments. Section 109 of the Regulation declares local government authorised persons to be authorised persons under the *Environmental Protection Act 1994*, section 445(1)(c). Chapter 9 of that Act provides for the investigation and enforcement powers of authorised persons.

¹⁷ See, however, *Local Law No.1 (Administration) 2011*, section 10(4)(a), regarding conditions of approvals that may authorise an act or omission that contravenes a noise standard.

¹⁸ Section 440O(3) provides that a local law that prescribes a noise standard replaces the nominated default noise standard in the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3.

¹⁹ See section 6(1).

²⁰ See section 12(2).

²¹ See section 15(2).

²² See section 16(3)(b).

²³ See section 17(1)(i).

- (f) prescribed requirements relating to community safety hazards;²⁴
and
- (g) prescribed noise standards for the *Environmental Protection Act 1994*.²⁵

²⁴ See section 20(1).

²⁵ See section 25(2).