



State-interest check process template

AMENDMENT LOCAL LAW NO. 1 (COMMUNITY HEALTH AND ENVIRONMENTAL MANAGEMENT) 2017			
Name of responding agency			Local government's response to state agency feedback
LL section	Comment	Suggested action	
General	Part 2A of the Waste Reduction and Recycling Regulation 2011 (Waste Regulation) and chapter 5A of the Environmental Protection Regulation 2008 (EP Regulation) were amended in June 2017 so that the provisions are now due to expire on 1 July 2018.	It is suggested that council notes that Part 2A of the Waste Regulation and chapter 5A of the EP Regulation are now due to expire on 1 July 2018.	Noted and actioned – Amendment Local Law has been revised to have the commencement occur on the expiry of Chapter 5A of the <i>Environmental Protection Regulation</i> (EP Reg) and Part 2A of the <i>Waste Reduction and Recycling Regulation</i> (WRRR).
Section 4 Amendment of s2 (Purpose and how it is to be achieved)	The proposed local law is proposed to extend the purpose of the current Local Law No.3 Community Health and Environmental Management) 2011. The word "premises" is quite broadly defined. "Relevant premises" and "serviced premises" are defined in the amendment local law but not "premises". The current Local Law No. 1 (Administration) 2011 defines premises – means any land, building or structure and includes any part thereof. Local Law No.3 (Community Health and Environmental Management) 2011 proposed to be amended is to be read with Local Law No.1 Administration 2011.	<p>Ensure that the purpose of the local law is consistent with the purpose of the Environmental Protection Regulation 2008 (EP Regulation) as it relates to Chapter 5A and the Waste Reduction and Recycling Regulation 2011 (Waste Regulation) as it relates to Part 2A.</p> <p>Ensure that the use of the word premises in the purpose does not extend or limit the regulation of a premises as it relates to waste at premises regulated under the chapter 5A of the EP Regulation and Part 2A of the Waste Regulation.</p>	<p>Actioned - Definition of <b>premises</b> has been revised and now aligned with the <i>Environmental Protection Act</i> and EP Regs. We have also revised the purpose to make it clear that it relates to the regulation of general waste at relevant premises.</p> <p>The only difference with our definition of premises under LL1 was that it included land without a building or structure.</p>



<p>Section 5 proposed Section 258 - Designation of waste collection areas</p>	<p>This provision directly states that areas will be designated for the purpose of determining the premises that will be subject to the collection of levies (in the form of utility charges) for waste collection services. This is inconsistent with the current state provisions for the designation of areas under section 7 of the Waste Regulation.</p> <p>The use of the word "premises" is quite broad. "Relevant premises" and "serviced premises" are defined in the amendment local law but not "premises". The current Local Law No.1 (Administration) 2011 defines premises - means any land, building or structure and includes any part thereof. Local Law No.3 (Community Health and Environmental Management) 2011 proposed to be amended is to be read with Local Law No.1 (Administration) 2011.</p>	<p>Ensure that section 25B of the proposed local law is consistent with s7 of the Waste Regulation.</p> <p>Ensure that the use of the word premises in the purpose does not alter the regulation of waste at premises under the chapter 5A of the EP Regulation and Part 2A of the Waste Regulation.</p>	<p>Noted – However, the provision will be retained "as is" on the advice of our Chief Legal Officer and external legal advice.</p> <p>Actioned - Definition of <b>premises</b> has been revised and now aligned with the <i>Environmental Protection Act</i> and EP Regs. We have also revised the purpose to make it clear that it relates to the regulation of general waste at relevant premises.</p>
<p>Section 5 proposed Section 25C Definition of general waste</p>	<p>The EP Regulation definition of general waste has two parts. The first part of the definition in the EP Regulation includes general waste "means waste other than regulated waste". The Waste Regulation also defines general waste as 'means waste other than regulated waste'.</p> <p>This definition is inconsistent with the definition in the EP Regulation and may broaden the scope of the definition of</p>	<p>Ensure that the definition of general waste is consistent with the definitions of general waste in the EP Regulation and Waste Regulation.</p>	<p>Actioned - We have revised the definition of <b>general waste</b> to align with the definitions used in the EPA, EP Reg and WRRR in line with the comments from the State. It has been made clear in the amendment local law definition that general waste does not include <b>regulated waste</b>, either when Council is declaring the waste collection area under s.25B or when interpreting the other provisions about disposing of general waste.</p>



	<p>general waste to include regulated waste for the purposes of the proposed local law. This would have implications for the scope of s25B of the proposed local law.</p>		
<p>Section 5 proposed Section 25I - Depositing or disposal of general waste from premises other than serviced premises</p>	<p>This section does not directly reflect section 81ZK in the EP Regulation and appears to be drafted to integrate with the existing Local Law No. 1 (Administration) 2011. It is unclear what the penalty will be for offences against this provision. The current penalty under section 81ZK(3) of the EP Regulation is 20 penalty units however, the penalties in the Local Law No. 1 are categorised from amounts less than this to significantly more. The current subordinate local law defines the offences in each category but the offence is not listed in a category.</p>	<p>Ensure that penalties relating to section 251 are consistent with the penalty in s81ZK(3) of the EP Regulation.</p>	<p>Noted – No change recommended to amendment local law. The penalty unit for a breach of s25I – <i>Depositing or disposal of general waste from premises other than serviced premises</i> currently aligns with LL1 which is 50 Penalty Units. This penalty is consistent with our existing local law frameworks and the State Model Local Laws.</p> <p>The current penalty under the Regulation is 20 PU; however, to align with penalties in our local laws we have retained the penalty amount of 50 PU to ensure consistency across our suite of local laws.</p>



<p>Section 5 proposed Section 25L(2) - Unlawful disposal of waste at waste facility</p>	<p>Section 25L(2) lists when section 25L(1) does not apply. Section 25L(2) is narrower than section 81ZO(2) of the EP Regulation</p>	<p>Ensure that section 25L(2) is consistent with the 81ZO(2) of the EP Regulation</p>	<p>Actioned – our wording was an attempt to simplify this provision; however the amendment has now been revised to align with the wording of Chapter 5A</p>
<p>Section 5 proposed Section 25P - continuation of designated waste collection areas</p>	<p>This provision provides for the existing designated areas under section 7 of the Waste Regulation to be transitioned to waste collection areas under the proposed local law. Given that the proposed section 25B - Designation of waste collection areas is proposed to be a means for determining premises that will be subject to levies/ utility charges , this may be inconsistent with the scope of the current designated areas under section 7 of the EP Regulation</p>	<p>Ensure that the effect of any transitional provisions is consistent with the Waste Regulation and EP Regulation.</p>	<p>Noted – no change. This section simply transitions any previous declarations made under s.7 of the WRRR</p> <p>S.25B will be retained “as is” on the advice of our Chief Legal Officer and external legal advice. The designation of the area using section 25B is not intended to be any different to the current designation under section 7.</p>
<p>s26 of the current Local Law No.3 (Community Health and Environmental Management) 2011</p>	<p>This section appears to allow council to make subordinate local laws. It is unclear whether subordinate local laws for waste management will be able to be made under this section as a result of the amendment (s26(e) community safety hazards). There are no specific provisions in the proposed amendment local law that deal with making subordinate local laws for waste management</p>	<p>Ensure that any subordinate local laws made, or power to make subordinate local laws in relation to waste management are consistent with the current state provisions for local government waste management</p>	<p>Actioned – In the Amendment Local Law circulated for comment there were no heads of power required to make subordinate local laws (and so no paragraphs required to be added to section 26), but the Amendment Local Law has now been revised to include the head of power to make a subordinate in addition to deciding matters via resolution. An amendment has therefore been made to s.26 to include waste management issues.</p>



<p>Section 27 of Local Law No.1 (Administration) 2011</p>	<p>Local Law No.3 (Community Health and Environmental Management) 2011 proposed to be amended is to be read with Local Law No.1 (Administration) 2011. The existing section 27 of Local Law No.1 (Administration) 2011 relating to compliance notices currently has a penalty for non-compliance that may be greater than the penalty in the current s81ZN of the EP Regulation</p>	<p>Ensure that the effect of the proposed amendment local law is consistent with the current EP Regulation</p>	<p>Noted – no change recommended. A penalty for non-compliance will be retained in line with the provisions under LL1. This ensures consistency with the Council's current framework for enforcing compliance with local laws.</p>
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