

Item 8.10	Making of Amendment Local Law No. 1 (Community Health and Environmental Management) 2019 and Amendment Subordinate Local Law No. 2 (Community Health and Environmental Management) 2019
Appendix A	Amendment Local Law No. 1 (Community Health and Environmental Management) 2019

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## Sunshine Coast Regional Council

### Amendment Local Law No. 1 (Community Health and Environmental Management) 2019

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## **Part 1 Preliminary**

### **1 Short title**

This local law may be cited as *Amendment Local Law No. 1 (Community Health and Environmental Management) 2019*.

### **2 Commencement**

This local law commences on the day it is published in the gazette.

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

### **3 Local law amended**

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

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

Section 2—

*insert—*

(3) The purpose is also to be achieved by regulating the operation of pneumatic waste infrastructure to protect—

- (a) the health and safety of users of the infrastructure and members of the community; and
- (b) the amenity and environmental values of areas where pneumatic waste infrastructure operates.

### **5 Renumbering of s 26 (Subordinate local laws)**

Section 26—

*Renumber* as section 37.

### **6 Insertion of pt 7B (Pneumatic waste infrastructure)**

After section 25—

*insert—*

## **Part 7B Pneumatic waste infrastructure**

### **Division 1 Registration of pneumatic waste infrastructure**

**26 Definition for this part**

In this part—

*pneumatic waste infrastructure* means infrastructure for the collection and automated transfer of waste for disposal using pneumatic force and may include the following components—

- (a) inlets within a building or structure comprising valved chutes or bins into which waste is deposited;
- (b) pipes that connect the inlets to local government-operated pneumatic waste infrastructure, enabling transfer of the waste from the inlets to the local government-operated infrastructure;
- (c) ancillary structures, plant and equipment to enable the collection and automated transfer of the waste through the inlets and pipes.

**27 Registration obligation**

- (1) An owner of land on which pneumatic waste infrastructure is located must ensure that the infrastructure is registered in the owner's name by complying with section 28.

Maximum penalty—50 penalty units.

- (2) However, subsection (1) does not apply during the first 14 days after a person becomes the owner of land on which pneumatic waste infrastructure is located.

**28 What owner must do**

- (1) To register pneumatic waste infrastructure, the owner of land on which it is located must give the local government—

- (a) a registration form that complies with subsection (2); and
- (b) the cost-recovery fee.

- (2) The registration form must—

- (a) be in the form approved by the local government; and
- (b) state all of the following information about the owner—
  - (i) name;
  - (ii) residential address;
  - (iii) contact telephone number;
  - (iv) email address, if any;
  - (v) if the owner will not be the on-site contact person for the infrastructure—the name, address and telephone number of the owner's nominated on-site contact person for all matters related to the operation of, or access to, the infrastructure; and

- (c) state or attach all of the following information about the infrastructure—
  - (i) street address and real property description (for example, lot and plan number) of the land where the infrastructure is located;
  - (ii) as-constructed plan of infrastructure, indicating the location of inlets, pipes and other components;
  - (iii) a copy of any consent or satisfaction notice issued by the local government in relation to the infrastructure.

*Example for subparagraph (iii)—*

a Prescribed Waste Infrastructure Consent and Prescribed Waste Infrastructure Satisfaction Notice for the infrastructure.

- (3) The local government may, by written notice, request the owner to provide further reasonable information, including clarification of information provided in or with the registration form.
- (4) A notice given under subsection (3) must state the date by which the owner must provide the further information.
- (5) The local government may extend the date by which the further information must be provided.
- (6) An owner who does not provide the further information by the date required is taken to have not complied with this section.

### **29 Local government must give registration notice**

- (1) This section applies if an owner of land complies with section 28.
- (2) The local government must, within 28 days, give the owner notice that the pneumatic waste infrastructure has been registered in the owner's name.
- (3) The local government must record the information in the registration form in a register.

### **30 Update of registration details**

- (1) The local government may, from time to time or at regular intervals, request in writing that an owner of land check whether any information provided by the owner and recorded in the register mentioned in section 29(3) has changed since being provided.
- (2) An owner who receives a request under subsection (1) must, within 28 days—
  - (a) if information previously provided by the owner and recorded in the register has not changed—respond in writing indicating that the information has not changed;

and

- (b) if information previously provided by the owner and recorded in the register has changed—give the local government a notice of the information required to update the register (the *updated information*).

Maximum penalty—5 penalty units.

- (3) A notice given under subsection (2)(b) must be—
- (a) in the form approved by the local government; and
- (b) accompanied by any other information or documents required for the local government to record the updated information in the register.
- (4) If an owner has given a notice under subsection (2)(b), the local government may, by written notice, request the owner to provide further reasonable information or clarification of information provided in or with the notice.
- (5) A notice given under subsection (4) must state the date by which the owner must provide the further information.
- (6) The local government may extend the date by which the further information must be provided.
- (7) If a notice has been given under subsection (2)(b), the local government must, within 28 days of receiving the notice (or, if further information or clarification was requested under subsection (4)—within 28 days of the request being complied with)—
- (a) give the owner an updated registration notice incorporating the updated information; and
- (b) record the updated information in the register mentioned in section 29(3).

### **31 Duration of registration**

- (1) After the local government provides a registration notice under section 29, the pneumatic waste infrastructure remains registered in the owner's name until either of the following events occurs—
- (a) the owner of the land on which the infrastructure is located sells the land to another person; or
- (b) the infrastructure ceases to be located or operated on the land.
- (2) An owner of land on which pneumatic waste infrastructure is removed or ceases to operate must, within 28 days of this occurrence, give notice of it to the local government.

Maximum penalty—5 penalty units.

## Division 2 Requirements for operating pneumatic waste infrastructure

### 32 Owner to comply with operating requirements

- (1) The local government may, by subordinate local law, prescribe requirements for operating pneumatic waste infrastructure (the *operating requirements*).
- (2) Subject to subsection (4), the owner of land on which pneumatic waste infrastructure is located must ensure that all operating requirements prescribed under subsection (1) are complied with.  
Maximum penalty for subsection (2)—50 penalty units.
- (3) Subsections (4) and (5) apply where the local government and an owner of land have agreed, in writing, that the local government will be responsible for operating specific components of pneumatic waste infrastructure located on the owner's land (the *exempted infrastructure*).
- (4) The owner is not responsible for ensuring compliance with the operating requirements for the operation of the exempted infrastructure.
- (5) The owner must not, without the written agreement of the local government, operate or interfere with the exempted infrastructure.  
Maximum penalty for subsection (5)—50 penalty units.
- (6) It is a defence in a proceeding against a person for an offence under subsection (2) for the person to prove the contravention was due to causes over which the person had no control.

### 33 Rectification of damage

- (1) This section applies if—
  - (a) a person commits an offence under section 32; and
  - (b) the commission of the offence has directly or indirectly caused damage to a structure or thing, including pneumatic waste infrastructure, on land owned by another person or the local government.
- (2) The local government may, by giving a compliance notice<sup>1</sup>, require the person who committed the offence to take action to rectify the damage caused by the commission of the offence.
- (3) A court that convicts a person of an offence under section 32 may, in addition to the penalty, order the person who committed the offence to—
  - (a) perform work required to rectify the damage caused by

<sup>1</sup> See *Local Law No.1 (Administration) 2011*, section 27, regarding the requirements for compliance notices.

the commission of the offence; or

- (b) if the local government has exercised its powers to perform the work required to rectify the damage—pay to the local government all costs incurred in performing the work.

### Division 3 Public pneumatic waste infrastructure

#### 34 Regulation of use of public pneumatic waste infrastructure

- (1) This section applies to pneumatic waste infrastructure located in a local government controlled area or road (*public pneumatic waste infrastructure*).
- (2) The local government may erect or display a notice (a *regulatory notice*) at or near an inlet for public pneumatic waste infrastructure.
- (3) A regulatory notice may specify requirements or instructions for the use of public pneumatic waste infrastructure by members of the public.
- (4) A regulatory notice must—
- (a) be easily visible to users of the infrastructure; and
  - (b) convey, through words, pictures or symbols—
    - (i) the activity to which it applies and how the activity is regulated or prohibited; and
    - (ii) that a contravention of a requirement of the notice is an offence against this local law; and
    - (iii) the penalty for the offence.
- (5) A person must not contravene a regulatory notice.  
 Maximum penalty—20 penalty units.

### Division 4 Waste unsuitable for pneumatic waste infrastructure

#### 35 Management of waste unsuitable for pneumatic waste infrastructure

- (1) The local government may, by subordinate local law, declare waste that is unsuitable for disposal using pneumatic waste infrastructure (*Non-AWCS Waste*<sup>2</sup>).
- (2) The local government may, by subordinate local law, prescribe

<sup>2</sup> AWCS is an abbreviation for Automated Waste Collection System.

requirements applicable to premises equipped with pneumatic waste infrastructure about—

- (a) disposal and handling of Non-AWCS Waste on the premises; and
  - (b) maintenance and operation of facilities and equipment used for the storage, processing or removal of Non-AWCS Waste on the premises.
- (3) The occupier of premises equipped with pneumatic waste infrastructure must ensure the requirements prescribed under subsection (2)(a) are complied with.  
 Maximum penalty—20 penalty units.
- (4) The owner of premises equipped with pneumatic waste infrastructure must ensure the requirements prescribed under subsection (2)(b) are complied with.  
 Maximum penalty—20 penalty units.
- (5) It is a defence in a proceeding against a person for an offence under subsections (3) or (4) for the person to prove the contravention was due to causes over which the person had no control.
- (6) For premises equipped with pneumatic waste infrastructure, the requirements prescribed under subsection (2) replace any inconsistent requirement in the *Environmental Protection Regulation 2008*, chapter 5A, part 2, division 1 to the extent allowed by that division.

## Division 5 Miscellaneous

### 36 Executive officers must ensure corporation's compliance

- (1) The executive officers of a corporation must ensure the corporation complies with this local law.
- (2) If a corporation commits an offence against a provision of this local law, each of the corporation's executive officers also commit an offence, namely, the offence of failing to ensure that the corporation complies with this local law.  
 Maximum penalty—the penalty for the contravention of the provision by an individual.
- (3) Evidence that the corporation committed an offence against a provision of this local law is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
  - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer took all reasonable steps to ensure the corporation



complied with the provision; or

- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) This section applies so as not to limit or affect in any way the liability of a corporation for an offence under this local law
- (6) In this section—

*executive officer*, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

## 7 Amendment of s 37 (Subordinate local laws)

Section 37, after paragraph (g)—

*insert—*

- (h) prescribed requirements for operating pneumatic waste infrastructure;<sup>3</sup>  
and
- (i) waste that is unsuitable for disposal using pneumatic waste infrastructure;<sup>4</sup>  
and
- (j) prescribed requirements for the disposal and handling of Non-AWCS Waste and the maintenance and operation of facilities and equipment used for the storage, processing or removal of Non-AWCS Waste.<sup>5</sup>

<sup>3</sup> See section 32(1).

<sup>4</sup> See section 35(1).

<sup>5</sup> See section 35(2).