

Local Law No. 3 (Community and Environmental Management) 2011

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Preliminary

1 Short title

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

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to protect the environment and public health, safety and amenity 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 public health, safety and amenity resulting from-
 - (a) inadequate protection against animal and 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) noise that exceeds noise standards.
- (3) The purpose is also to be achieved by providing for the regulation of the maintenance of the appearance of buildings in designated areas so that the appearance of a building in a designated area does not detract from the appearance of other buildings in the designated area.

3 Definitions-the dictionary

The dictionary in the schedule 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*.

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 prohibited or restricted matter under the *Biosecurity*

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.

Act 2014;² or

- (b) animals protected under the *Nature Conversation Act 1992*.
- (2) In this section—
prohibited matter and *restricted matter* see the *Biosecurity Act 2014* Schedule 1 and 2.

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 about the desirability of the declaration.
- (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 *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) comes to an end three months after the date of publication.
- (4) In this section—
environmental harm see *Environmental Protection Act 1994*, section 14.

8 Application of declaration

A declaration may apply—

- (a) to the whole of the local government's area or in a specified part or parts of the area; and

² See the *Biosecurity Act 2014* Schedule 1 and 2, regarding the plants and animals that are prohibited and restricted matter for the State or part of the State.

- (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 Pest control notices

- (1) An authorised person may, by compliance notice³ given to the owner of land, require the owner⁴ to take specified action to control declared local pests.
- (2) The specified action may include action to—
 - (a) destroy declared local pests on the land; or
 - (b) minimise the risk of an outbreak of declared local pests on the land; or
 - (b) prevent or minimise seeding or reproduction by declared local pests; or
 - (c) contain infestation by declared local pests within a localised area; or
 - (d) reduce the density or extent of infestation by declared local pests; or
 - (e) remove harbour provided to declared local pests.
- (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.

³ 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.

⁴ 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.

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 allotments

13 Overgrown allotments

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

- (a) has seriously affected the visual amenity of the allotment; or
- (b) is likely to attract or harbour reptiles or vermin; or
- (c) is likely to present a risk to the health or safety of the public.

(2) The authorised person may, by compliance notice⁵ given to the responsible person for

⁵ See footnote 4.

the allotment, require the responsible person to clear the vegetation to an extent specified in the notice.

- (3) However, the notice cannot prevent a use of land authorised under the Planning Act⁶ or the Environmental Protection Act 1994.
- (4) If, on more than 1 occasion in a 12 month period, the responsible person for an allotment is given a compliance notice under subsection (2), the responsible person commits an offence.
- (5) Maximum penalty —50 penalty units.
- (6) In this section-

vegetation includes a tree, bush, shrub, plant or grass, but does not include vegetation that is protected under a law⁷ of the State or Commonwealth or under the local government's planning scheme.

14 Accumulation of objects and materials on allotments

- (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) seriously affect the visual amenity of the allotment; or
 - (b) are likely to attract or harbour reptiles or vermin; or
 - (c) is likely to present a risk to the health or safety of the public.

Examples for paragraph (a) of objects and materials that may seriously affect the visual amenity of an allotment-

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

- (2) The authorised person may, by compliance notice ⁸ given to the responsible person for the allotment, require the responsible person to-
 - (a) remove objects or materials that are causing the circumstance mentioned in subsection (1)(a), (b) and (c); or
 - (b) take other specified action to remedy the circumstance mentioned in subsection (1)(a), (b) and (c).

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

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

- (3) However, the notice cannot prevent a use of land authorised under the Planning Act or

⁶ See definition of *Planning Act* in the Act, schedule 4.

⁷ For example, vegetation may be protected under the *Nature Conservation Act 1994*, 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)*.

⁸ See footnote 4.

the *Environmental Protection Act 1994*.

- (4) If, on more than 1 occasion in a 12 month period, the responsible person for an allotment is given a compliance notice under subsection (2), the responsible person commits an offence.

Maximum penalty —50 penalty units.

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 Act 1990*.⁹
- (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.
- (2) The authorised person may, by compliance notice¹⁰ given to the responsible person for the allotment, require the responsible person to take specified action to reduce or remove

⁹ See the *Fire and Rescue Service 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.

¹⁰ See footnote 4.

- (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.
- (2) The authorised person may, by compliance notice¹² given to the responsible person for the allotment, require the responsible person to take specified action¹³ 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.

- (3) If, on more than 1 occasion in a 12 month period, the responsible person for an allotment is given a compliance notice under subsection (2), the responsible person commits an offence.

Maximum penalty —50 penalty units.

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 owner's land.

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 must comply with requirements prescribed under this section.

¹² See footnote 4.

¹³ Any action taken at State heritage places must comply with their development approval obligations under the *Queensland Heritage Act 1992* and *Planning Act 2016*.

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

Part 6 **Noise standards**

21 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.¹⁴
- (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);¹⁵ 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.¹⁶

Part 6A **Building appearance**

Division 1 **Application**

21A Application

- (1) The local government may, by subordinate local law, declare the whole or a part of its area to be a designated area.
- (2) The subordinate local law must define the boundaries of the designated area.

Division 2 **Duty to maintain buildings**

21B Duty to maintain building appearance

- (1) The owner of a building in a designated area must ensure that the building is maintained so that the appearance of the building does not detract from the appearance of other buildings in the designated area.
- (2) For subsection (1), a building in a designated area detracts from the appearance of other buildings in the designated area if the building —
 - (a) is in a dirty condition; or
 - (b) is in a state of disrepair; or

¹⁴ 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 2019*, section 131, devolves the administration and enforcement of noise standards to local governments. Section 143 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.

¹⁵ 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.

¹⁶ 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.

- (c) is in need of repainting; or
- (d) otherwise has a dilapidated appearance.

Division 3 Enforcement

21C Show cause notice

- (1) If an authorised person forms the opinion that the owner of a building has failed to comply with the duty to maintain the building in section 21B, the authorised person may give the owner a written notice (a show cause notice) to show cause why a compliance notice should not be given to the owner.
- (2) The show cause notice must state-
 - (a) the action proposed to be taken by the authorised person; and
 - (b) the grounds for the proposed action; and
 - (c) an outline of the facts and circumstances that are the basis of the grounds; and
 - (d) that the owner may make written submissions, within a stated reasonable time of at least 14 days after the notice is given, why the proposed action should not be taken.
- (3) If, after considering any submissions made within the stated time, the authorised person decides that a ground no longer exists to give a compliance notice, the authorised person must take no further action about the show cause notice and give written notice to the owner about the decision.
- (4) If, after considering any submissions made within the stated time, the authorised person still considers there is a ground to take the proposed action, the authorised person may-
 - (a) give a compliance notice to the owner under section 27 of *Local Law No. 1 (Administration) 2011*; or
 - (b) agree to the owner entering into an enforcement agreement under section 21D; or
 - (c) take no further action about the show cause notice and give written notice to the owner about the decision.
- (5) Before taking action under subsection (4)(a), the authorised person must give the owner written notice of the decision.
- (6) If the owner of a building is given a notice about a decision made under subsection (4)(a), the notice must include, or be accompanied by, an information notice.

21D Enforcement agreement

- (1) The local government may enter into a written agreement (an ***enforcement agreement***) with the owner of a building which may include statements, or terms and conditions, about any, or all, of the following—
 - (a) that the enforcement agreement is entered into under this section;
 - (b) that the owner has failed to fulfil the duty of the owner under section 21B;
 - (c) that the owner will undertake specified work to remedy the breach of section 21B, including particulars of-

- (i) the standard of the work; and
 - (ii) the timing of the undertaking of the work;
 - (d) the estimated value of the work to be undertaken;
 - (e) that an irrevocable undertaking of a bank or a security deposit will be lodged with the local government in a specified amount to secure the undertaking of the work which may be forfeited to the local government if the work is not undertaken-
 - (i) to the standard required; or
 - (ii) within the agreed time;
 - (f) that the local government, its employees and agents may enter the land on which the building is situated to undertake the work if it is not undertaken as agreed by the owner;
 - (g) that, if the local government undertakes the whole, or any part, of the work required under the enforcement agreement, the local government may recover the cost of the work undertaken by the local government;
 - (h) that the enforcement agreement may be varied only with the prior written consent of the local government;
 - (i) that the local government may terminate the enforcement agreement at any time;
 - (j) that if the owner breaches the enforcement agreement, the local government may take court action to enforce the enforcement agreement;
 - (k) any other terms necessary or convenient to ensure the owner's compliance with the duty of the owner under section 21B.
- (2) The local government may apply to the court for enforcement of an enforcement agreement entered into under this section.
- (3) When making orders for the enforcement of an enforcement agreement entered into under this section, a court may—
- (a) order the owner to comply with the enforcement agreement or 1 or more of the terms of the enforcement agreement; and
 - (b) order the owner or the occupier of the building to allow the local government and its employees or agents to enter the land on which the building is situated to undertake work under the enforcement agreement; and
 - (c) order that the owner put in place suitable signage or advertising relating to the work that the owner is required to undertake under the enforcement agreement; and
 - (d) order the owner to pay to the local government any amount nominated in the enforcement agreement for the undertaking of the work or, if the local government has already undertaken the work, the actual cost of undertaking the work; and
 - (e) order the owner to pay the costs of the local government which have been incurred by the local government under the enforcement agreement which may include an award of punitive damages; and
 - (f) any other order that the court considers appropriate.

Part 7

Miscellaneous

22 Subordinate local laws

The local government may make subordinate local laws about-

- (a) declaring animals or plants of specified species to be local pests;¹⁷ or
- (b) lighting and maintaining of fires in the open;¹⁸ or
- (c) fire hazards;¹⁹ or
- (d) community safety hazards;²⁰ or
- (e) prescribed requirements relating to community safety hazards;²¹ or
- (f) prescribed noise standards for the *Environmental Protection Act 1994*;²⁴ or
- (g) declaring the whole or a part of its area to be a designated area.²²

¹⁷ See section 15(2).

¹⁸ See section 16(3)(b).

¹⁹ See section 17(c).

²⁰ See section 20(1).

²¹ See section 21(2).

²² See section 21A(1).

allotment means an individual parcel or piece of land.

animal means an organism (other than a human being) that is not a plant and includes eggs and semen.

building see *Building Act 1975*, schedule 2.

compliance notice means a compliance notice mentioned in *Local Law No. 1 (Administration) 2011*, section 27.

court means the Magistrates Court.

declared local pest means a plant or animal declared to be a pest under section 6 or 7.

designated area see section 21A.

enforcement agreement see section 21D.

information notice see *Local Law No. 1 (Administration) 2011*, schedule 1.

local government public health risk has the meaning given to that term in the *Public Health Act 2005*.

notifiable disease means any disease, parasite or virus that is identified as prohibited matter or restricted matter under the *Biosecurity Act 2014* or a notifiable condition under the *Public Health Regulation 2018*.

owner, of a building or structure, see *Building Act 1975*, schedule 2.

plant means vegetation of any type, including its flowers, roots, seeds and other parts.

reasonable written notice means a written notice given at least 7 days before a property is to be entered, that informs the owner and the occupier of the property of-

- (a) the local government's intention to enter the property; and
- (b) the reason for entering the property; and
- (c) the days and times when the property is to be entered.

responsible person means the person who has control or management of the place and includes a person in charge of activities or structures in the place that may result in contravention of this local law.

Show cause notice see section 21C.

structure see *Building Act 1975*, schedule 2.

the Act means the *Local Government Act 2009*.

vermin means—

- (a) bed bugs
- (b) lice;
- (c) fleas;
- (d) parasites;

- (e) cockroaches;
- (f) guinea pigs;
- (g) rodents capable of carrying or transmitting a notifiable disease;

but does not include—

- (h) a protected animal within the meaning of the *Nature Conservation Act 1992*; or
- (i) a local government public health risk; or
- (j) an animal being kept in a proper enclosure as required by *Local Law No. 2 (Animal Management) 2011*.

Endnotes

1 Key

Key to abbreviations in list of amending local laws and annotations.

Key	Explanation	Key	Explanation
amd	= amended	prec	= preceding
amdt	= amendment	prev	= previous
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	renum	= renumbered
hdg	= heading	rep	= repealed
ins	= inserted	s	= section
num	= numbered	sch	= schedule
om	= omitted	sdiv	= subdivision
p	= page	sub	= substituted
para	= paragraph	unnum	= Unnumbered

2 Table of consolidated versions

Consolidated Version No.	Amendments included	Effective	Notes
1	<i>Amending Local Law No. 1 (Community and Environmental Management) 2021</i>	March 2021	

3 List of amending local laws

Amending Local Law No. 1 (Community and Environmental Management) 2021

Commenced on March 2021

4 List of annotations

Part 2 Declared Local Pests

s 5(1) and (2) om, ins 2021 No. 2 s 5(1)

s 5(1)(a) ins 2021 No. 2 s 5(2)

s 6 om, ins 2021 No. 2 s 5(3)

Part 3 Overgrown and unsightly allotments

s 13(1)(b) ins 2021 No. 2 s 6(1)

s 13(1)(c) ins 2021 No. 2 s 6(2)

s 14(1)(b) ins 2021 No. 2 s 6(3)

s 14(1) ins 2021 No. 2 s 6(4)

s 14(2)(a) ins 2021 No. 2 s 6(5)

s 14(2)(b) ins 2021 No. 2 s 6(6)

Part 5 Community safety hazards

s 19(2) ins 2021 No. 2 s 7(1)

Part 6 Noise standards

s 21(1) om, ins 2021 No. 2 s 8(1)

s 21(1) om, ins 2021 No. 2 s 8(2)

s 21(1) om, ins 2021 No. 2 s 8(3)

s 21(1) om, ins 2021 No. 2 s 8(4)

Dictionary

ins 2021 No. 2 s 9(1)

ins 2021 No. 2 s 9(2)