

Fraser Coast Regional Council Community and Environmental Management (Amendment) Local Law (No. 1) 2023

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Part 1 Preliminary

1 Short title

This local law may be cited as *Community and Environmental Management (Amendment) Local Law (No. 1) 2023*.

2 Local law amended

This local law amends *Local Law No. 3 (Community and Environmental Management) 2011*.

Part 2 Amendment of local law

3 Amendment of s2 (Purpose and how it is to be achieved)

- (1) Section 2(2)(e), ‘;’—
omit, insert—
‘; and’.
- (2) Section 2(2)(f), (j) and (k)—
omit.
- (3) Section 2(2)(g), (h) and (i)—
renumber as section 2(2)(f), (g) and (h).
- (4) Section 2(2)(h), ‘;’—
omit, insert—
‘.’.

4 Amendment of s5 (Application of part)

Section 5(1) and (2)—

omit, insert—

‘Subject to section 48(3) of the *Biosecurity Act 2014*, this part does not apply to a biosecurity matter² that is, under the *Biosecurity Act 2014*—

- (a) mentioned as a prohibited matter³; or
- (b) declared to be a prohibited matter; or
- (c) prescribed by regulation as a prohibited matter; or
- (d) mentioned as a restricted matter⁴; or
- (e) declared to be a restricted matter; or

² See the *Biosecurity Act 2014*, section 15.

³ See the *Biosecurity Act 2014*, section 19.

⁴ See the *Biosecurity Act 2014*, section 21.

- (f) prescribed by regulation as a restricted matter; or
- (g) a controlled biosecurity matter; or
- (h) a regulated biosecurity matter.’.

5 Amendment of s6 (Declaration of local pests)

- (1) Section 6(1), ‘an animal or plant’—
omit, insert—
‘an invasive animal or an invasive plant’.
- (2) Section 6(4), ‘*Land Protection (Pest and Stock Route Management) Act 2002*’—
omit, insert—
‘*Biosecurity Act 2014*’.

6 Amendment of s7 (Emergency declarations)

- (1) Section 7(1) and (2)—
omit, insert—
‘(1) This section applies if the local government is satisfied urgent action is needed because—
 - (a) a species of animal has, or is likely to have, a significant adverse impact on a biosecurity consideration because of the introduction, spread or increase in population size of the species in an area; or
 - (b) a plant species has, or is likely to have, a significant adverse impact on a biosecurity consideration because of the introduction, spread or increase in the population size of the species in an area.
- (2) The local government may, by resolution, declare to be a local pest—
 - (a) an animal which satisfies the criteria specified in subsection (1)(a);
 - (b) a plant which satisfies the criteria specified in subsection (1)(b).’.
- (2) Section 7(3)(c)—
omit, insert—
‘(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.’.
- (3) Section 7(4)—
omit.

7 Amendment of s10 (Pest control notices)

- (1) Section 10, heading, ‘Pest’—
omit, insert—
‘**Local pest**’.
- (2) Section 10(1), ‘the owner of land, require the owner⁶’—
omit, insert—
‘the owner or occupier of land, require the owner⁶ or occupier’.
- (3) Section 10(2)(f), ‘.’—
omit, insert—
‘; or’.
- (4) After section 10(2)(f)—
insert—
‘(g) surrender the declared local pests to an authorised person for destruction.’.

8 Amendment of s13 (Overgrown allotments)

- (1) Section 13(1), after ‘reptiles’—
insert—
‘or vermin’.
- (2) Section 13(1), ‘Maximum penalty — 10 penalty units.’—
omit, insert—
‘Maximum penalty—
 - (a) for a first contravention of subsection (1) in a 12 month period—10 penalty units;
 - (b) for a second contravention of subsection (1) in a 12 month period—25 penalty units;
 - (c) for a third or subsequent contravention of subsection (1) in a 12 month period—50 penalty units.’.
- (3) Section 13(2), after ‘reptiles’—
insert—
‘or vermin’.
- (4) Section 13(3), ‘Sustainable Planning Act 2009’—
omit, insert—
‘Planning Act 2016’.

⁶ 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.

- (5) Section 13(4), footnote 8—
- (a) ‘Nature Conservation Act 1994’—
omit, insert—
‘Nature Conservation Act 1992’;
 - (b) ‘Sustainable Planning Act 2009’—
omit, insert—
‘Planning Act 2016’.

9 Amendment of s14 (Accumulation of objects and materials on allotments)

- (1) Section 14(1) after ‘reptiles’—
insert—
‘or vermin’.
- (2) Section 14(1), ‘Maximum penalty — 10 penalty units.’—
omit, insert—
‘Maximum penalty—
- (a) for a first contravention of subsection (1) in a 12 month period—
10 penalty units;
 - (b) for a second contravention of subsection (1) in a 12 month period—
25 penalty units;
 - (c) for a third or subsequent contravention of subsection (1) in a 12 month
period—50 penalty units.’.
- (3) Section 14(2), ‘Maximum penalty — 10 penalty units.’—
omit, insert—
‘Maximum penalty—
- (a) for a first contravention of subsection (2) in a 12 month period—
10 penalty units;
 - (b) for a second contravention of subsection (2) in a 12 month period—
25 penalty units;
 - (c) for a third or subsequent contravention of subsection (2) in a 12 month
period—50 penalty units.’.
- (4) Section 14(3), after ‘reptiles’—
insert—
‘or vermin’.
- (5) Section 14(3) ‘Sustainable Planning Act 2009’—
omit, insert—
‘Planning Act 2016’.

- (6) Section 14(6), ‘Sustainable Planning Act 2009’—
omit, insert—
‘Planning Act 2016’.

10 Amendment of s15 (Regulation of lighting and maintaining fires in the open)

Section 15—
omit, insert—

‘15 Application of this part

- (1) Sections 15A and 15B do not apply to the lighting and maintaining of a fire—
- (a) that is authorised or required under the *Fire and Emergency Services Act 1990*¹⁰; or
 - (b) that is, subject to subsection (2), used as part of a cultural, ceremonial or theatrical performance or similar event; or
 - (c) by a person if the lighting and maintaining of the fire by the person is authorised or required in the performance of the duties of the person under another Act; or
 - (d) that is used to cook food in a barbeque, pizza oven, food smoker or similar device, where the fire is not in direct contact with the ground; or
 - (e) if the lighting and maintaining of the fire forms part of an Australian Scouts or similar function.
- (2) A fire lit or maintained as part of a cultural, ceremonial, or theatrical performance or similar event must be of a size, nature and duration that does not present a fire hazard.

15A Prohibition on burning waste

- (1) A person must not set fire to or burn waste on any land in the local government area.
- Maximum penalty — 50 penalty units.
- Examples of waste—
- commercial waste, domestic waste, green waste and recyclable waste.
- (2) Subject to subsection (3), subsection (1) does not prohibit an owner or occupier of rural area land from setting fire to or burning green waste on that land.
- (3) A person must not set fire to or burn green waste on rural area land in contravention of the *Fire and Emergency Services Act 1990*.

¹⁰ See the *Fire and Emergency Services Act 1990*, section 63, regarding fires authorised by notification, section 65 regarding fires 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.

- (4) In proceedings for a contravention of subsection (1), the occupier of the land is deemed to be the person who set fire to or burnt the waste, including green waste.
- (5) The presumption in subsection (4) may be rebutted by sufficient evidence to the contrary.

15B Regulation of lighting and maintaining fires in the open

- (1) A person must not light or maintain a fire in the open on any land in the local government area unless—
 - (a) the person is an owner or occupier of the land or the person has the consent of the owner or occupier of the land to light or maintain a fire in the open; and
 - (b) the fire is lit and maintained within a fire pit or brazier; and
 - (c) the fire does not present a fire hazard; and
 - (d) smoke from the fire pit or brazier does not cause a smoke impact.

Maximum penalty—50 penalty units.

- (2) In proceedings for a contravention of subsection (1), the occupier of the land is deemed to be the person who lit or maintained the fire.
- (3) The presumption in subsection (2) may be rebutted by sufficient evidence to the contrary.’.

11 Amendment of s16 (Fire hazards)

- (1) Section 16(2)—

omit, insert—

- ‘(2) The authorised person may, by compliance notice¹¹ given to the responsible person for the allotment, require the responsible person to take specified action to reduce or remove the fire hazard.¹²’.

- (2) Section 16(3), ‘means’—

omit, insert—

‘includes’.

12 Amendment of s17 (What is a community safety hazard)

- (1) Section 17(a), ‘or structure’ —

omit, insert—

‘, structure, thing or object’.

¹¹ See footnote 5.

¹² See also the *Fire and 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.

- (2) Section 17, ‘in an urban area’—
omit, insert—
‘in an area that is not rural area land’

13 Omission of pt 6 (Noise standards)

Part 6—
omit.

14 Amendment of s24 (Retailers responsibility for shopping trolleys)

Section 24(1), ‘Maximum penalty—20 penalty units’—
omit, insert—

‘Maximum penalty—

- (a) for a first contravention of subsection (1) in a 12 month period—10 penalty units;
- (b) for a second contravention of subsection (1) in a 12 month period—25 penalty units;
- (c) for a third or subsequent contravention of subsection (1) in a 12 month period—50 penalty units.’.

15 Amendment of s28 (Additional power)

- (1) Section 28(3)—
renumber as section 28.
- (2) Section 28, ‘section (26) and (27) of this Division’—
omit, insert—
‘sections 26 and 27’.

16 Amendment of s31 (Direction to retrieve)

- (1) Section 31(1)—
renumber as section 31.
- (2) Section 31—
omit —
‘centre. —
Maximum penalty. —’
insert—
‘centre.
Maximum penalty—’.

17 Omission of pt 8 (Smoke free areas)

Part 8—

omit.

18 Amendment of s38 (Duty to maintain building appearance)

Section 38(2), from ‘the building’ to ‘repainting.’—

omit, insert—

‘building is—

- (a) in a dirty condition; or
- (b) in a state of disrepair, or
- (c) in need of repainting, including, for example, if the building is likely to detract from the appearance of other buildings in, or the visual amenity of, the designated area because the building is marked by graffiti.’.

19 Omissions of pt 11 (Domestic Swimming Pools)

Part 11—

omit.

20 Amendment of s41 (Subordinate local laws)

- (1) Section 41 (b), (f), (h) and (k)—

omit.

- (2) Section 41(c), (d), (e), (g), (i) and (j)—

renumber as section 41(b), (c), (d), (e), (f) and (g).

- (3) Section 41(g), ‘; or’—

omit, insert—

‘.’.

21 Amendment of sch (Dictionary)

- (1) Schedule—

insert—

‘biosecurity consideration has the meaning given in the *Biosecurity Act 2014*.

biosecurity matter has the meaning given in the *Biosecurity Act 2014*.

controlled biosecurity matter has the meaning given in the *Biosecurity Act 2014*.

fire ban area has the meaning given in the *Fire and Emergency Services Act 1990*.

fire hazard, for the purposes of sections 15, 15A and 15B, means the danger, in terms of potential harm and degree of exposure, arising from the start and spread of fire, including any danger to persons or property.

invasive animal has the meaning given in the *Biosecurity Act 2014*.

invasive plant has the meaning given in the *Biosecurity Act 2014*.

land has the meaning given in the *Local Government Act 2009*.

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

occupier has the meaning given in the *Local Government Act 2009*.

owner has the meaning given in the *Local Government Act 2009*.

prohibited matter, in relation to biosecurity matter, has the meaning given in the *Biosecurity Act 2014*.

regulated biosecurity matter has the meaning given in the *Biosecurity Act 2014*.

restricted matter, in relation to biosecurity matter, has the meaning given in the *Biosecurity Act 2014*.

rural area land means a single allotment which—

- (a) has an area greater than 20,000m²; and
- (b) is in a zone designated rural or rural residential in the Fraser Coast Planning Scheme 2014.

smoke impact means smoke that causes an unreasonable interference with a person's health, amenity, comfort or convenience.

vermin means—

- (a) bed bugs, lice, fleas, parasites and cockroaches; and
- (b) uncaged guinea pigs and other rodents capable of carrying or transmitting a notifiable condition; but
- (c) does not include—
 - (i) a protected animal within the meaning of the *Nature Conservation Act 1992*; or
 - (ii) a local government public health risk.

waste has the meaning given in the *Environmental Protection Act 1994*.

- (2) Schedule, definitions **domestic swimming pool** and **prescribed water quality standards** —
omit.

This and the preceding 9 pages bearing my initials is a certified copy of *Community and Environmental Management (Amendment) Local Law (No. 1) 2023* made in accordance with the provisions of the *Local Government Act 2009* by Fraser Coast Regional Council by resolution dated the day of 2023.

.....
Chief Executive Officer