



**Amendment Local Law No.1 (Moreton Bay Regional
Council Local Law No. 7 (Waste Management) 2018)
2023**

Moreton Bay City Council Amendment Local Law No. 1 (Moreton Bay Regional Council Local Law No. 7 (Waste Management) 2018) 2023

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Moreton Bay City Council Amendment Local Law No. 1 (Moreton Bay Regional Council Local Law No. 7 (Waste Management) 2018) 2023

Part 1 Preliminary

1 Short title

This amending Local Law may be cited as the *Amendment Local Law No. 1 (Moreton Bay Regional Council Local Law No. 7 (Waste Management) 2018) 2023*.

2 Local Law amended

This amendment Local Law amends the *Moreton Bay Regional Council Local Law No. 7 (Waste Management) 2018 (Local Law)*.

3 Objects

The objects of this amendment Local Law are to—

- (a) amend the Local Law to consolidate and incorporate administrative and enforcement provisions into the Local Law which were previously contained in *Moreton Bay Regional Council Local Law No. 1 (Administration) 2011*; and
- (b) amend the Local Law to consolidate and incorporate other administrative and enforcement provisions into the Local Law; and
- (c) amend the Local Law to consolidate and incorporate provisions relating to waste management which were previously contained in *Local Law No. 3 (Community and Environmental Management) 2011* and *Subordinate Local Law No. 3 (Community and Environmental Management) 2011*.

Part 2 Amendments to Local Law

4 Replacement of s 1 (Short title)

Section 1—

omit, insert—

1 Short title

This Local Law may be cited as the *Waste Management Local Law 2018*.

5 Amendment of s 2 (Objects)

- (1) Section 2, heading, ‘Objects’—

omit, insert—

Object

- (2) Section 2, ‘local law’—

omit, insert—

Local Law

- (3) Section 2(b), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

6 Amendment of s 3 (Relationship to other laws)

- (1) Section 3(1)—

omit, insert—

- (1) This Local Law is in addition to and does not derogate from—

- (a) any other laws that may regulate the management of waste; and
- (b) any provision of the *Local Government Act 2009*.

- (2) Section 3(2), ‘local law’—

omit, insert—

Local Law

7 Amendment of s 4 (Definitions)

- (1) Section 4, ‘local law’—

omit, insert—

Local Law

- (2) Section 4, ‘(Dictionary)’—

omit.

8 Amendment of s 6 (Owner or occupier of premises to supply waste containers)

- (1) Section 6(1)(a)(ii), ‘subordinate local law’

omit, insert—

Subordinate Local Law

- (2) Section 6(1)(b)(ii), ‘subordinate local law’

omit, insert—

Subordinate Local Law

9 Amendment of s 7 (Requirements for storing general waste in waste containers)

- Section 7(1)(a)(ii), ‘subordinate local law’

omit, insert—

Subordinate Local Law

10 Amendment of s 8 (General requirements for keeping waste containers at serviced premises)

- (1) Section 8(1), ‘subsection (2)’

omit, insert—

subsections (1A) and (2)

- (2) Section 8(1)(b), ‘subordinate local law’

omit, insert—

Subordinate Local Law

- (3) Section 8(1)(c), ‘paragraphs (a) and (b)’

omit, insert—

subsection (1A) and paragraphs (a) and (b)

- (4) After section 8(1)—

insert—

- (1A) Where the waste container supplied for the serviced premises cannot be kept at a

place within the property boundary of the premises, the occupier of the premises must ensure that the waste container is kept at the place directed by the authorised person.

Maximum penalty— 50 penalty units.

(5) Section 8(2), ‘Subsection (1) does’

omit, insert—

‘Subsections (1) and (1A) do’

11 Amendment of s 9 (Other requirements for storing general waste at particular serviced premises)

Section 9(2)(b), ‘subordinate local law’

omit, insert—

Subordinate Local Law

12 Amendment of s 11 (Depositing or disposal of general waste from premises other than serviced premises)

Section 11(3)(a), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

13 Amendment of s 12 (Requirements for storing industrial waste)

Section 12(2)(b), ‘subordinate local law’

omit, insert—

Subordinate Local Law

14 Amendment of s 13 (Requirement to treat industrial waste for disposal)

(1) Section 13(a)(i), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (2) Section 13(a)(ii), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (3) Section 13(b), ‘subordinate local law’

omit, insert—

Subordinate Local Law

- (4) Section 13(b)(i), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (5) Section 13(b)(ii), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

15 Amendment of s 14 (Unlawful disposal of waste at Moreton Bay Regional Council waste facility)

- (1) Section 14, heading, ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (2) Section 14(1), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (3) Section 14(1)(h), ‘subordinate local law’

omit, insert—

Subordinate Local Law

16 Amendment of s 15 (Restrictions on burning waste at a Moreton Bay Regional Council waste facility)

- (1) Section 15, heading, ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (2) Section 15, ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

17 Amendment of s 16 (Restrictions on use of a Moreton Bay Regional Council waste facility)

- (1) Section 16, heading, ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (2) Section 16(1), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (3) Section 16(2)(c), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

18 Amendment of s 17 (Person to comply with directions and give information)

- (1) Section 17(1), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (2) Section 17(2)(b), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (3) Section 17(3), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

- (4) Section 17(3)(a), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

(5) Section 17(3)(b), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

19 Insertion of new pts 3A, 3B and 3C

After part 3—

insert—

Part 3A Offences and enforcement

Division 1 What this part is about

17A Overview

This part outlines—

- (a) further offences relating to this Local Law; and
- (b) the enforcement mechanisms that can be utilised by the local government; and
- (c) offence proceedings in the Magistrates Court; and
- (d) defences for offences against this Local Law.

Division 2 Offences

17B Failing to ensure waste which is spilled during removal from a premises is cleaned up

An occupier must ensure that any persons engaged to remove waste from a premises immediately cleans up any waste spilled from the waste container during that removal.

Maximum penalty— 50 penalty units.

17C Providing false or misleading information

A person must not give information in connection with this Local Law (either orally or in a document) that the person reasonably knows or ought to have known is false or misleading.

Maximum penalty— 20 penalty units.

17D Threatening an authorised person or other employee or agent of the local government

A person must not threaten, insult or use abusive language to—

- (a) an authorised person; or
- (b) any other employee or agent of the local government at a Moreton Bay City Council waste facility.

Maximum penalty— 50 penalty units.

17E Attempts to commit offences

- (1) A person who attempts to commit an offence under this Local Law commits an offence.

Maximum penalty— half the maximum penalty for committing the offence.

- (2) The provisions of the *Criminal Code* (relevant to attempts to commit offences) apply to the attempt.

17F Liability of third parties

- (1) Any person involved in a contravention of this Local Law commits an offence.

Maximum penalty— the penalty for which any person who committed the contravention would be liable.

- (2) For subsection (1), a person involved in a contravention of this Local Law is any person who—

- (a) has aided, abetted, counselled or procured the contravention; or
- (b) has induced, whether by a threat or a promise or otherwise, the contravention; or
- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with another person to effect the contravention; or
- (e) has knowingly benefited from or knowingly was capable of benefiting from the contravention.

Division 3 Powers of the local government

17G Appointment of authorised persons

The document that appoints an authorised person must state this Local Law, or the provisions of this Local Law, as the Local Law or the provision for which the person is appointed as an authorised person.

17H Directions generally

- (1) An authorised person may direct a person contravening this Local Law to—
 - (a) cease any conduct or activity which contravenes this Local Law; and
 - (b) take such action determined by the authorised person to ensure that the person does not contravene this Local Law.
- (2) A person must comply with a direction of an authorised person given under subsection (1).

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

17I Compliance notice for contravention of Local Law

- (1) This section applies if a person contravenes this Local Law.
- (2) An authorised person may give a notice, in writing (*compliance notice*), to—
 - (a) a person who contravenes this Local Law; or
 - (b) any person involved in the contravention of this Local Law under section 17F.
- (3) The compliance notice may require a person to—
 - (a) stop a contravention, if the contravention is of a continuing or recurring nature; or
 - (b) take reasonable steps necessary to stop or remedy the contravention, by the date and time specified in the compliance notice, whether or not the contravention is of a continuing or recurring nature.
- (4) The compliance notice must state the following—
 - (a) the particular provision of this Local Law the authorised person believes is being, or has been, contravened; and

- (b) briefly, how the provision of this Local Law is being, or has been, contravened; and
- (c) the date and time by which the person must stop or remedy the contravention; and
- (d) the reasonable steps necessary to remedy the contravention or avoid further contravention; and
- (e) that it is an offence to fail to comply with the compliance notice; and
- (f) the maximum penalty for failing to comply with the compliance notice.

Examples of reasonable steps to avoid further contravention for paragraph (d)—

- *The repetition of a specified action at stated intervals for a certain period.*
- *Stopping taking an action that is prohibited by this Local Law.*

- (5) The date and time under subsection (4)(c) must be reasonable having regard to—
 - (a) the action required to stop or remedy the contravention; and
 - (b) the risk to public health and safety, the risk of damage to property or loss of amenity and the risk of environmental harm posed by the contravention; and
 - (c) how long the person has been aware of the contravention.
- (6) The compliance notice must include, or be accompanied by, a decision notice.
- (7) A person who is given a compliance notice must comply with the compliance notice.

Maximum penalty for subsection (7)— 50 penalty units.

Note—

a compliance notice may be a remedial notice under the Local Government Act 2009, chapter 5, part 2, division 2.

17J Local government power to seize and cost recover

- (1) An authorised person may seize, by dismantling if necessary, and impound an item where the item has been brought onto or installed in, on, across, under or over land or road within the local government area in a manner that contravenes this Local Law, if—

- (a) in the reasonable opinion of the authorised person, the immediate removal of the item is necessary in the interests of public health or safety or to prevent environmental harm, property damage or loss of amenity; or
 - (b) a person has not complied with a compliance notice requiring the person to remove the item.
- (2) The local government may recover the cost of action taken under this section as a debt from the person responsible for the item seized under subsection (1) being brought onto or installed in, on, across, under or over land or road within the local government area.

17K Dealing with impounded items

- (1) This section applies where an item has been seized and impounded under section 17J (an *impounded item*).
- (2) If an impounded item is, in the reasonable opinion of an authorised person, perishable or of negligible commercial value, then the local government may immediately dispose of it as the chief executive officer directs.
- (3) If the local government possesses an impounded item, then a person may reclaim that impounded item from the local government by—
- (a) making a written application to the chief executive officer to reclaim the impounded item; and
 - (b) producing proof, to the satisfaction of the chief executive officer, that the person is the owner of the impounded item; and
 - (c) paying the prescribed fee for the impounding of the impounded item.
- (4) If an impounded item is not reclaimed under subsection (3) within 20 business days of the item being seized and impounded under section 17J, that item is forfeited to the local government.
- (5) If an impounded item has been forfeited to the local government under subsection (4), then the local government may dispose of that impounded item—
- (a) if, in the reasonable opinion of the authorised person, the commercial value of the impounded item is so slight that it would not cover the reasonable cost of seizing, impounding and selling the impounded item— as the chief executive officer directs; or

- (b) by sale through a public auction; or
 - (c) if the impounded item has been offered for sale under paragraph (b) but has not been sold within a period that, in the reasonable opinion of the authorised person, is reasonable for the sale of that type of item— as the chief executive officer directs.
- (6) Where an impounded item has been sold under this section, the proceeds of the sale must be applied in order—
- (a) firstly, towards the direct and indirect costs of the sale; and
 - (b) secondly, towards the local government in an amount equivalent to the prescribed fee for the impounding of the impounded item as if it was to be reclaimed under subsection (3); and
 - (c) thirdly, if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cth)— in payment of the amount owing under the security interest; and
 - (d) fourthly, to the former owner of the impounded item.
- (7) If no person establishes a valid claim for the amount to which the former owner of an impounded item that has been sold under this section is entitled to under subsection (6)(d) within 3 months of the date of that entitlement arising, the amount becomes the property of the local government.
- (8) Except where expressly stated, the local government incurs no liability to a person, and no person has any claim for relief or compensation against the local government, in respect of any action taken by the local government under this section or section 17J, if the local government has acted in good faith and without negligence.

Division 4 Offence proceedings in Magistrates Court

17L Enforcement orders

- (1) After hearing proceedings for an offence against this Local Law, a Magistrates Court may make an order (an *enforcement order*) for the defendant to take stated action within a stated period.
- (2) The enforcement order may be in terms the Court considers appropriate to secure compliance with this Local Law.

- (3) An enforcement order must state the period within which the defendant must comply with the order.
- (4) An enforcement order may be made under this section in addition to the imposition of a penalty.

17M Joint and several liability

- (1) Where this Local Law imposes a liability on an owner or occupier of a place, or a person engaged in a particular activity, and 2 or more persons are the owners or occupiers of the relevant place, or are jointly engaged in the relevant activity, the liability is joint and several.
- (2) This section applies both to civil liabilities and liabilities enforced by summary proceedings under the *Justices Act 1886*.

Division 5 Defences

17N Defence of reasonable excuse

If a person is charged with an offence involving a contravention of this Local Law, it is a defence to prove that the person had a reasonable excuse for the contravention.

17O Owners and occupiers must ensure compliance with this Local Law

- (1) Except where the owner and occupier of a place is the local, State or Commonwealth government, the owner and occupier of the place must ensure that an offence is not committed in or on a place.
- (2) If an offence is committed in or on a place, the owner and occupier of the place also commit an offence, namely the offence of failing to ensure that an offence is not committed in or on the place.

Maximum penalty— the penalty for the commission of the offence in or on the place.

- (3) Evidence that an offence has been committed on a place is evidence that the owner and occupier of the place committed the offence of failing to ensure that the offence is not committed in or on the place.
- (4) However, it is a defence for an owner or occupier to prove that—
 - (a) the owner or occupier exercised reasonable diligence to ensure that an offence was not committed in or on the place; and

- (b) the offence was committed in or on the place without that person's knowledge or consent.

(5) In this section a *place* includes—

- (a) commercial premises; and
- (b) domestic premises; and
- (c) premises where there is industrial waste.

Part 3B Reviewing decisions

17P Application for review

- (1) A person who is given, or is entitled to be given, a decision notice may apply to the local government for a review of the decision (a *review application*).
- (2) The review application must be made within 15 business days of—
 - (a) if the person is given a decision notice— the day the person receives the notice; or
 - (b) if paragraph (a) does not apply— the day the person otherwise becomes aware of the decision.
- (3) The review application must be in writing and accompanied by a statement of the grounds on which the applicant seeks the review of the decision.

17Q Review decision

- (1) The local government must review the original decision within 20 business days of receiving a review application and make a decision (the *review decision*) to—
 - (a) confirm the original decision; or
 - (b) amend the original decision; or
 - (c) substitute another decision for the original decision.
- (2) The application must not be dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision unless that person was the chief executive officer.
- (3) The local government must, within 5 business days of the

review decision being made, give the applicant notice of the decision (the **review notice**).

- (4) If the review decision is not the decision sought by the applicant, the review notice must also state the reasons for the review decision.
- (5) If the local government does not give the review notice to the applicant in accordance with subsection (3), the local government is taken to have made a review decision confirming the original decision.

17R Stay of operation of original decision

A review application does not stay the original decision that is the subject of the application.

Part 3C Administrative provisions

17S Fees

- (1) If this Local Law provides for payment of a fee, and does not itself fix the amount of the fee, the fee is to be fixed by resolution under the *Local Government Act 2009*, chapter 4, part 2.
- (2) A resolution fixing a fee may provide for the reimbursement of the fee in appropriate circumstances.
- (3) Unless specific provision to the contrary is made in this Local Law or resolution fixing a fee, the local government may, in an appropriate case, waive or partially remit a fee.

17T Rewards

- (1) The local government may, by public notice, offer a reward for information leading to the conviction of a person for an offence against this Local Law.
- (2) The amount of the reward, and the conditions on which it is payable, must be decided by resolution of the local government.

17U Extrinsic material

- (1) The local government may make an explanatory note to assist in the interpretation of this Local Law.
- (2) The local government makes an explanatory note by—
 - (a) passing a resolution to make the explanatory note; and
 - (b) publishing the explanatory note on the local

government's website.

- (3) An explanatory note made in accordance with this section is declared to be a relevant document for the purposes of section 14B of the *Acts Interpretation Act 1954* (as modified by section 15 of the *Statutory Instruments Act 1992*).

Note—

Pursuant to part 4, division 1 of the *Statutory Instruments Act 1992*, the *Acts Interpretation Act 1954* (AIA) is modified so that a document declared by a Local Law to be a “relevant document” for the purposes of section 14B of the AIA is extrinsic material which may assist in the interpretation of a provision of this Local Law.

20 Amendment of pt 4 (Subordinate local laws)

Part 4, heading, ‘local laws’—

omit, insert—

Local Laws

21 Amendment of s 18 (Subordinate local laws)

- (1) Section 18, heading, ‘local laws’—

omit, insert—

Local Laws

- (2) Section 18, ‘subordinate local law’—

omit, insert—

Subordinate Local Law

- (3) Section 18(a), ‘local law’—

omit, insert—

Local Law

- (4) Section 18(a), ‘Schedule (Dictionary)’—

omit, insert—

dictionary Schedule

- (5) Section 18(j), ‘Moreton Bay Regional Council waste facility’—

omit, insert—

Moreton Bay City Council waste facility

22 Amendment of s 19 (Continuation of chapter 5A requirements)

- (1) Section 19(1), ‘local law’—

omit, insert—

Local Law

- (2) Section 19(2), ‘local law’—

omit, insert—

Local Law

- (3) Section 19(3), ‘local law’—

omit, insert—

Local Law

23 Insertion of new s 20

After section 19—

insert—

20 Other transitional provisions

The transitional provisions for decisions made under the repealed *Moreton Bay Regional Council Local Law No. 1 (Administration 2011)*, as they relate to this Local Law, are set out in the *Commercial Use of Public Land and Roads Local Law 2023*, part 7.

24 Amendment of Schedule 1 Dictionary

- (1) Schedule, heading, ‘Schedule 1’—

omit, insert—

Schedule

- (2) Schedule—

insert—

Act—

- (a) has the same meaning as in the *Acts Interpretation Act 1954*, sections 6 and 7; and
- (b) includes a local law made by the local government.

chief executive officer means the chief executive officer of the local government.

compliance notice means a compliance notice given under section 17I.

decision means a decision made by an authorised person to give a compliance notice under section 17I.

decision notice, for a decision, means a written notice stating the following—

- (a) the decision; and
- (b) any relevant details about the decision; and
- (c) the reasons for the decision; and
- (d) that the person to whom the notice is given may apply for a review of the decision within 15 business days after the notice is given; and
- (e) how to apply for a review.

Examples for paragraph (b)—

- *The date on which the decision takes effect or actions required under the notice must be taken.*

enforcement order see section 17L(1).

facility person see section 17(3).

impounded item see section 17K(1).

item means any material thing, including a building, structure or vehicle, other than an animal.

land—

- (a) has the same meaning as in the *Planning Act 2016*, Schedule 2; and
- (b) includes land occupied by water.

local government means Moreton Bay City Council.

local government area means the local government area of the local

government under the *Local Government Act 2009*, including an area taken to be part of the local government area under the *Local Government Act 2009*.

Examples of areas taken to be part of a local government area—

- *Bathing reserves.*
- *Foreshore.*

Local Law includes any Subordinate Local Laws made under this Local Law.

prescribed fee means a fee fixed by the local government under section 17S or under the section 97 of the *Local Government Act 2009*.

prescribed provision see section 19(2).

public notice means a notice that is published in a newspaper that is circulating generally in the local government area or on the local government's website.

review application see section 17P(1).

review decision see section 17Q(1).

review notice see section 17Q(3).

road has the same meaning as in the *Transport Infrastructure Act 1994*.

(3) Schedule—

omit, insert—

authorised person means a person—

- (a) appointed by the chief executive officer as an authorised person under section 202 of the *Local Government Act 2009*; and
- (b) whose instrument of appointment provides that they are an authorised person for this Local Law, or provisions of this Local Law.

occupier of premises—

- (a) means the person who occupies, or has the control or management of, or is apparently in charge of, the premises or activities or structures in the premises; and
- (b) includes a person who has a lease, permission, approval, right or authority to occupy the place, including under an Act.

(4) Schedule, *Moreton Bay Regional Council waste facility*, '*Moreton Bay Regional Council waste facility*'—

omit, insert—

Moreton Bay City Council waste facility

(5) Schedule, ***waste***, ‘subordinate local law’—

omit, insert—

Subordinate Local Law