



Local Nuisance and Litter Control Act 2016

Explanatory report for reforms

Local Nuisance and Litter Control Act 2016 reforms – Explanatory report

Author: Abbey Griffiths, Policy Officer

For further information please contact:

Information Officer
Environment Protection Authority
GPO Box 2607
Adelaide SA 5001

Telephone: (08) 8204 2004

Facsimile: (08) 8124 4670

Free call (country): 1800 623 445

Website: <https://www.epa.sa.gov.au>

Email: yourepa@sa.gov.au

ISBN 978-1-925521-00-9

October 2022

© Environment Protection Authority

This document may be reproduced in whole or part for the purpose of study or training, subject to the inclusion of an acknowledgment of the source and to it not being used for commercial purposes or sale. Reproduction for purposes other than those given above requires the prior written permission of the Environment Protection Authority.

Contents

Abbreviations	1
1 Introduction	3
1.1 Purpose of the Act	3
1.2 Why is the Act being reviewed	3
1.3 Consultation process to date	3
2 Draft bill to amend the LNLC Act and other consequential acts	4
2.1 General amendments	4
2.2 Trolley related amendments	6
2.3 Stormwater management systems	8
2.4 New provisions	9
2.5 Consequential amendments	10
3 Variation regulations	11
3.1 Light as an agent of local nuisance	11
3.2 Clause 5 of Schedule 1 amendments	12
3.3 Public infrastructure works	13
3.4 Hyperlink in Regulation 4	13

Abbreviations

EPA	South Australian Environment Protection Authority
EP Act	<i>Environment Protection Act 1993</i>
LGA	Local Government Association
LL Act	<i>Liquor Licensing Act 1997</i>
LNLC Act	<i>Local Nuisance and Litter Control Act 2016</i>
SA	South Australia

1 Introduction

The *Local Nuisance and Litter Control Act 2016* is administered by local government and provides the community with an effective and consistent local service for the management of nuisance complaints and heightened deterrence for littering and illegal dumping.

The LNLC Act provides a modern legislative scheme for litter control in South Australia including:

- tiered offences depending on the type of litter (small versus large quantities, dangerous and hazardous litter)
- improvements in the use of surveillance for evidence gathering in the case of illegal dumping (linking an offence to the registered owner of a vehicle)
- allowing non-government organisations to undertake compliance activities (subject to approval)
- for public reporting of littering and illegal dumping.

1.1 Purpose of the Act

The objects of the LNLC Act are to:

- protect individual and communities from local nuisance
- prevent littering; improve the amenity value of local areas
- promote the creation and maintenance of a clean and healthy environment.

1.2 Why is the Act being reviewed

The EPA commenced review of the legislation in August 2018 (after a full year of being in operation) to identify any opportunities to improve the legislation and ensure the legislation was allowing councils to deliver its objectives.

1.3 Consultation process to date

A discussion paper was completed in collaboration with the Local Government Association (LGA), and was released in July 2019 with a three-month consultation period. The consultation program included a public meeting held in Adelaide and a meeting with local government representatives hosted by the LGA. The consultation was advertised in *The Advertiser* and there was coverage through local media and talkback radio.

A total of 47 submissions were received and the consultation report was published on the EPA website in February 2021¹.

¹ https://www.epa.sa.gov.au/files/14821_Inlc_act_consultation_2019.pdf

2 Draft bill to amend the LNLC Act and other consequential acts

2.1 General amendments

2.1.1 Waste collection vehicles – application beyond roads and road related areas

The LNLC Act is designed so that the majority of activities licensed by the EPA are excluded as these are already regulated under the EP Act. The exceptions are activities associated with a vehicle, such as earthworks drainage, dredging and waste transport.

There are two reasons for the exceptions.

- 1 Litter from earthworks drainage, dredging and waste transport vehicles are better dealt with under the provisions of the LNLC Act. Excluding these vehicles from the LNLC Act would make the operation of public litter reporting more difficult as checks would need to be made against a frequently updated list of vehicle registrations associated with EPA licences.
- 2 The appropriate reporting of other forms of nuisance from these activities, particularly noise. The neighbours of an EPA licensed site would generally report directly to the EPA as they know the site is licensed. However, a person who wishes to report nuisance from a mobile activity is unlikely to know that the activity is licensed by the EPA and would not report to them. This person should have confidence that their local council can deal with all mobile activities, whether EPA licensed or not.

The wording of the current exclusion is limited to 'roads and road-related areas' as defined in the *Road Traffic Act 1961*:

- **road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving of motor vehicles
- **road-related area** means any of the following:
 - an area that divides a road
 - a footpath or nature strip adjacent to a road
 - an area that is not a road and that is open to the public and designated for use by cyclists or animals
 - any public place that is not a road and on which a vehicle may be driven, whether or not it is lawful to drive a vehicle there.

The way the exclusion is written means that in the case of waste transport vehicles the LNLC Act generally applies to nuisance generated by them **except** when operating on private property that is not accessible to the public.

There does not appear to be any policy reason as to why nuisance from waste vehicles when they are operating on private property should be treated differently than any other circumstance.

Section 5(5) of the LNLC Act is proposed to be amended to separate activities of category A and B waste transport businesses from dredging and earthworks drainage activities. The LNLC Act will still apply to these activities. The amendment will allow for the LNLC Act to specifically apply to the activities of waste transport business when operating on private property.

2.1.2 Exemptions from the LNLC Act for causing local nuisance

Under section 19 persons creating nuisance may apply for an exemption from the LNLC Act. The current process for applying for this exemption includes submitting a site nuisance management plan containing the details prescribed by regulation; any other information in connection with the application that the council may require; and a fee of an amount fixed by regulation. This section acknowledges that there are some necessary activities in the community that will cause local nuisance which is largely unavoidable. If granted, the exemption will last for a maximum period of three months. The

person must apply for another exemption using the same process if an activity that causes local nuisance lasts longer than three months .

The amendments proposed for section 19 include:

- Addition of subsection (2a): a provision such that where a council is satisfied that the nuisance will be of a limited nature and is unavoidable the council may waive the requirement for a site nuisance management plan as required by section 19(2)(a).
- Addition of subsection (4a): a provision that allows councils to extend exceptions without the need for a further detailed application.
- Addition of subsection (4b): this provision outlines the criteria for making an application for an extension of declaration.
- Amendment of section 6: removal of 'not exceeding three months' and replacing with: (a) for a period as determined by the council to be reasonable in the circumstances and specified on the declaration, (b) until the declaration is revoked by the council under this section, or (c) if the period of its operation is extended by the council under this section – until the end of that period.
- Addition to section 19(7): insertion of 'or extensions' after variations so that the section reads: 'A council must publish a declaration made under this section, and any variations **or extensions** of the declaration, on a website determined by the council'.

The amendments are to allow councils to manage exemptions with flexibility, so they are better able to meet the needs of their community.

2.1.3 Allowing councils to clean up and recover costs after if a hazard exists

The current LNLC Act does not prevent councils from urgent clean-up of litter that may be posing an environmental, health or physical hazard. However it does not allow for cost recovery in these circumstances from the alleged offender. If the alleged offender is known, a litter abatement notice can be issued to the person that requires, among other things, that they clean the litter up. This notice would also include a timeframe for the clean up to occur. If the notice is not complied with then the council may clean it up and charge the clean-up cost to the person responsible.

In situations where there is material that is littered that causes a hazard, whether a health, environmental or physical hazard, it may be reasonable for the community to expect that the material is cleaned up immediately. This may be carried out by the council even if the alleged offender is unknown.

In this scenario, section 45 of the LNLC Act provides for the court to order costs be paid for such matters **only** where there is a conviction. Section 34 outlines the civil penalty provisions; however they do not provide a specific remedy in this regard as the maximum civil penalty is the maximum penalty for the offence plus an illegally obtained economic benefit. It could be argued that part of the penalty applied could be used to offset the cost of clean-up or alternatively, that the clean-up cost was an avoided cost of economic benefit to the alleged offender and recoverable.

The proposed amendment to the LNLC Act is the insertion of a new section that provides for the recovery of costs of urgent clean-up of litter from public place. This section allows for councils to recover reasonable costs and expenses in situations where they have taken urgent action to clean up litter (that is considered to be a hazard) from the person who disposed of the litter if they are later identified. The costs and expenses may include those reasonably incurred by the council 'in taking samples or in conducting tests, examinations, monitoring or analysis in relating to taking action...'.

Under this section an amount must be paid by the person to the council within the period specified in the notice, being not less than 28 days from the date of the notice. If the amount is not paid within that period, the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid. If the amount to council is not paid, the amount may be recovered as debt by the council.

2.1.4 Bill posting – car parks and expiations

Under the LNLC Act a person must not post a bill on property without the consent of the owner or occupier. The Act covers the posting of bills on buildings, cars and other property but is unclear with regard to bill posting occurring on vehicles within a carpark and whether the carpark constitutes property or only the cars that the bills are posted to. This is important as the owner of a carpark may be aggrieved by bill posting on their land but may not have recourse to deal with it under the Act. However, the owner of the carpark will be responsible for removing litter and, if offensive material is being distributed, may suffer reputational damage. The ability to address the bill posting would rest with the owner of the car in the carpark and this may be impractical.

Currently, the Act only provides for a court-imposed penalty for person who authorised the bill posting. Court proceedings are a considerable cost to councils and alleged offenders.

Section 23(5) has been proposed to be amended to insert the definition of property:

property includes, in the case of a vehicle (other than a vessel), the land on which the vehicle is located

This allows the 'consent' element of section 23(1) to extend to either the owner of the vehicle **or** the owner of the land. The intent of this amendment is to allow the owners of carparks to appropriately deal with bill posting on vehicles in their carparks without consideration as to whether the vehicle owner had an issue. This amendment also extends to councils dealing with bill posting with regard to public lands and roads.

Section 23(2) provides the maximum penalties for bill posing on property without consent of the owner or occupier. A person who distributes or authorised the distribution of the bill for posting is guilty of an offence. Currently, the LNLC Act has only provided the maximum penalties. This section has been amended to provide an expiation of \$500 and will not include differential expiations.

2.1.5 Expiations

The deterrence value of expiations will differ depending on the context of their use. There is a limit on how laws can address this matter as even a \$5,000 expiation may be of limited deterrence for a multi-million-dollar project. Feedback received from consultation was that the expiation fee amount of \$500 is not a sufficient deterrent for many local nuisance issues and is seen by some to be the 'cost of doing business' or is simply so small compared to the scale of the nuisance that it has no impact.

Amendments to various sections of the LNLC Act are proposed to provide differentiation for expiations between body corporate and natural persons for the following offences:

- 18(2) – Body corporate \$1,000, an individual \$500
- 20 – Body corporate \$500, an individual \$210
- 22(a) – Body corporate \$2,000, an individual \$1,000
- 22(b) – Body corporate \$1,000, an individual \$500
- 22(c) – Body corporate \$500, an individual \$210
- 24 – Body corporate \$500, an individual \$210
- 30(9) – Body Corporate \$1,000, an individual \$500.

2.2 Trolley related amendments

Trolleys that are dumped outside of shopping centres constitute litter under the LNLC Act although the offence applies to the person doing the littering, not the owner of the trolley. Council officers are rarely present to witness the act of littering and there is little in the Act to resolve the problem effectively. The majority of councils consider the current provisions for the management of abandoned trolleys to be ineffective.

2.2.1 Shopping trolleys as definition of general litter

Section 22(5) is proposed to be amended to include shopping trolleys within the definition on general litter to confirm the current interpretation.

2.2.2 Trolley identification

The LNLC Act has been proposed to be amended to insert a new section 24A – Identification of shopping trolleys. A person who provides shopping trolleys for the use of customers in the course of the business must ensure the shopping trolleys are marked with, or have securely attached to them the following information:

- the trading name of the business; and
- the contact phone number (or QR code) for the reporting of trolleys found outside of the business or associated shopping area (including car park) that facilitates collection.

Failure to put identification on the trolley would result in a maximum penalty of \$5,000 or an expiation of \$210.

2.2.3 General duty

An additional section, 21A – General duty to prevent or minimise litter–person carrying on business, is proposed to be included under Part 4 Division 2 of the LNLC Act that applies to businesses. This section creates a general duty for businesses to take all reasonable and practicable measures to prevent litter associated with a business. This is not limited solely to littering by a business but also litter from patrons such as fast food litter and trolleys.

For the purpose of this section, business includes a business not carried out for profit. Failure to comply with the section does not itself constitute an offence however, compliance may be enforced through a litter abatement notice or taken as a contravention of the LNLC Act for the purpose of section 48 – Recovery of administrative and technical costs associated with contraventions.

2.2.4 Litter abatement notices

Section 30(2)(f)(ii) allows for a litter abatement notice to be issued that imposes a requirement for keeping a specified area (not exceeding 100 m) around business premises free from litter (which currently includes trolleys). To better allow for this section to be used for trolleys as a compliance tool it is proposed to be amended to increase the specified area around a business free from litter to 1 km for trolleys and 100 m for all other litter.

To allow for the further inclusion as trolleys within this section the term business premises is proposed to be defined to include any ancillary carpark, and where the business is co-located with other businesses, to include the joint areas of the broader shopping community.

2.2.5 Trolley management plan to satisfaction of council

Section 30(2)(f) allows council to require a plan of action for the purpose of preventing the escape of litter from the premises and keeping a specified area around a business litter free. It is proposed to specify that a plan for abandoned trolleys (shopping trolley management requirements) may include:

- Current name and contact details of the store manager or their delegate to be responsible for liaison with local government representatives about trolley management.
- Actions requiring the provision and maintenance of a list of contacts for their store/stores in the local government area (including phone numbers and emails), with additional company contacts at senior management level.
- Actions to ensure that trolley collection services are sufficiently resourced to enable collection within 72 hours of notification or as otherwise agreed with the council.

- Actions to ensure that trolleys reported as posing significant risk or nuisance are collected immediately upon notification and all other trolleys reported are collected within 72 hours of notification or as otherwise as agreed by the council.
- Actions to maintain records of all trolleys reported and collected or the time at which a trolley collector attended to collect a reported trolley if no trolley was found at that location.
- Actions to inform customers that trolleys should not be removed from the premises or abandoned, and that penalties apply for the dumping of trolleys outside the retail outlet/complex, including indoor and outdoor signage.
- Actions regarding the provision of suitable, well-signed trolley bays at exit points to retail outlets or complexes.
- Actions regarding the provision to council, on request, an up-to-date map showing trolley collection routes and schedules.
- Actions to achieve compliance with any aspect of the Act.

This plan is to be produced to the satisfaction of the council.

The LNLC Act already applies to trolleys and a council can issue a litter abatement notice with the requirement that the retailer provide a plan for improved management of abandoned trolleys. The purpose of the proposed amendments is to provide better guidance, to local councils, on how the existing litter abatement notices can be used for managing trolley abandonment.

The proposed amendments provide councils with further powers to require businesses to implement strategies to reduce excessive trolley abandonment or for the collection of abandoned trolleys where there is a significant issue of trolley abandonment. The amendments are intended as a middle ground between feedback from industry and local government, and provides for a structured understanding and dialogue between the councils and retailers.

These amendments are not designed to unfairly burden or apply unnecessary costs on retailers that manage their trolleys well or do not experience trolley abandonment. The notices will be issued on an individual basis by local councils where there is an issue of trolley abandonment.

2.3 Stormwater management systems

The cleaning of stormwater cleansing devices is a considerable issue in that stormwater quality devices such as oil separators are often installed in developments such as carparks and petrol stations but there is no obligation regarding their ongoing maintenance.

2.3.1 Maintain and clean

A new provision is proposed to be added requiring a person who carries on a business, which owns a stormwater management system, to take all reasonable and practicable measures to prevent or minimise litter that escapes from the stormwater management system. Failure to comply with the section does not itself constitute an offence however, compliance may be enforced through a litter abatement notice or may be taken as a contravention of the LNLC Act for the purpose of section 48 – Recovery of administrative and technical costs associated with contraventions.

2.3.2 Stormwater management system definition

The following definition for stormwater management systems is proposed to be included in section 3 – Interpretation the LNLC Act:

Stormwater management systems means any infrastructure or equipment (including vegetated assets) used for collecting, containing, conveying or treating stormwater for the purposes of stormwater management;

2.3.3 General litter definition

Section 22(5) of the LNLC Act is proposed to be amended to include a further example under general litter:

(oa) a material deposited (either directly or indirectly) into, or that otherwise enters, a stormwater management system (other than stormwater);

2.3.4 Abatement notices

The Minister or local council can issue a litter abatement notice requiring a plan of action for the purpose of securing compliance with the LNLC Act. It has been proposed to insert a new subsection into section 30. This new subsection (2b) allows for situations where a litter abatement notice has been issued, without limiting any other provision within section 30, a requirement can be included regarding the provision, maintenance and cleaning of litter prevention systems such as stormwater management systems.

2.4 New provisions

2.4.1 Abatement notices – linkage to land

One of the main tools for addressing nuisance from fixed machines such as air conditioners and pool pumps is a nuisance abatement notice. Appropriate elements of the notice may include limiting hours of operation or requiring the maintenance of an acoustic barrier.

Local government has identified that the change of ownership of a property with a problematic fixed machine that has controls applied within a notice is not able to be transferred to the new owner of the property and a new regulatory process will need to be undertaken.

New provisions are proposed to allow councils to register a nuisance abatement notice onto land. This will be done through the insertion of section 30A – Registration of nuisance abatement notice in relation to land.

2.4.2 Improving cost recovery

Cost recovery is an important element of any regulatory function performed by government. The LNLC Act contains a number of cost recovery provisions, generally linked to contraventions of the legislation that are directed at recovering costs from alleged offenders. Where such measures are not being utilised or are not completely effective the residual cost is, by default, recovered through general rates as a service provided for the benefit of the broader community.

A new provision is proposed to be added to the LNLC Act to the effect that litter collected by a council or any other material causing local nuisance collected by a council (under section 31 – Action on non-compliance with notice) and for clean-ups where an alleged offender is not identified, is not subject to the *Unclaimed Goods Act 1987*. This Act legislates for the sale and disposal of unclaimed goods in SA.

This proposed new provision includes material causing local nuisance (dead animals, unsightly premises and insanitary conditions) which may not necessarily meet the definition of litter. A further element of this provision is such that, in the case of material removed because it is causing local nuisance only (as there is a link to ownership), any money recouped from the sale or recycling of material is to be provided by the council to the person subject to the nuisance abatement notice notwithstanding the recovery of any costs due.

2.4.3 New offence provision – installation of external lights or air conditioners that cause local nuisance

An amendment to the LNLC Act is proposed to create a new offence provision regarding the installation of devices in locations where it is reasonably likely to create or potentially cause a local nuisance. For the purpose of this provision 'device' will be defined as limited to air conditioners and external lights. Often nuisance associated with these is a result of poor location and there is a cost to the owner to relocate the device. This provision ensures installers give due consideration to the location of the installation of the device.

This is proposed to replace the existing condition in clause 4(f) of Schedule 1 that deems installing a fixed machine on a domestic premises in a poor location, a nuisance.

2.5 Consequential amendments

2.5.1 Liquor Licensing Act 1997

Conditions that are not local nuisance are listed under clause 5 of Schedule 1 of the LNLC Act for the purpose of avoiding duplication with other legislation. Nuisances related to the service of alcohol are regulated under the Liquor Licensing Act 1997 (LL Act) and are not local nuisance under the LNLC Act.

It is proposed that paragraph (k) be deleted from clause 5 of Schedule 1 of the LNLC Act and replaced with:

(k) noise or behaviour in respect of which a complaint may be lodged with the Liquor Licensing Commissioner under section 106 of the Liquor Licensing Act 1997;

To further clarify that nuisances related to the service of alcohol are not regulated under the LNLC Act, it is proposed that section 106 of the LL Act be amended. The proposed amendments to the LL Act are to limit the application of the section to noise from entertainment and patrons, or any other activity directly associated with the liquor licence issued under the LL Act.

3 Variation regulations

3.1 Light as an agent of local nuisance

Light was included in the definition of local nuisance when the initial draft bill was first consulted on in 2015 but removed due to feedback from councils that the definition of light in the bill was too broad. The Environmental Defenders Office noted in the recent consultation period that ‘given every other sensory nuisance is included it seems prudent to include light considering its ability to interfere with enjoyment of land’.

It is proposed to amend clause 2 of Schedule 1 of the LNLC Act to include light as an agent of local nuisance. The addition of light as an agent of local nuisance is proposed to come with a number of exclusions to avoid an increase in responsibility for regulators (councils). Only issues of light nuisance that may reasonably be resolved are to remain as a result of the various proposed exclusions.

Light is proposed to be declared an agent of local nuisance. The following light sources in Schedule 1 are excluded:

- public street lighting
- public infrastructure works
- airports
- harbours
- vehicles
- railway premises
- bus stations and depots
- public transport operating centres and facilities
- goods vehicles operating and transport centres
- traffic control devices
- navigational aids
- premises or facilities used by an emergency services organisation
- correctional institutions
- premises or facilities of an arm of the Australian Defence Forces (including training areas)
- lights required for the reasonable and safe operation of business premises during times when the business is operating where reasonable efforts have been made to reduce the light impact on neighbouring premises.
- public lights
- Christmas light displays
- natural sources (including the reflection of natural light).

Part 1—Interpretation has been proposed to include the following definition for emergency services organisation.

Emergency services organisation means:

- a an emergency services organisation within the meaning of the *Fire and Emergency Services Act 2005*; and
- b in relation to a particular emergency within the meaning of *the Emergency Management Act 2004* – the control agency for the emergency under that Act; and
- c SA Ambulance Service Inc; and
- d South Australian Police; and

- e a local government council engaged in duties in connection with an emergency;

3.2 Clause 5 of Schedule 1 amendments

Clause 5 of schedule 1 outlines conditions that are not local nuisance for the purpose of section 17(1).

3.2.1 Construction activities

Clause 5(d) of Schedule 1 prescribes noise or other nuisance from activities carried out in accordance with an authorisation granted under any other Act (other than the LNLC Act) as not being local nuisance. The authorisation must impose requirements to control, minimise or eliminate (as far as is reasonably practicable) any noise or other forms of nuisance likely to result from the activity and those requirements are complied with by those conducting the activity.

This clause is proposed to be amended to ensure that construction activities associated with an approval are no longer part of what is not local nuisance.

3.2.2 Noise from public infrastructure – application to vibration and extent of the exclusion

Noise from public infrastructure works is prescribed as ‘not local nuisance’ under clause 5(h) of Schedule 1 of the LNLC Act so that infrastructure works which benefit the public are not unduly regulated where the nuisance is unavoidable. Examples of this include evening or overnight roadworks or water infrastructure maintenance where a certain amount of noise is unavoidable and must be carried out overnight to avoid traffic disruption. Although vibration is a very uncommon form of nuisance associated with public infrastructure works, it is evident that public infrastructure earthworks may result in some level of vibration impact caused by compacting of road base associated with the works.

Under the *Environment Protection Act 1993* the definition of noise includes vibration. Under the LNLC Act noise and vibration are separate agents of nuisance and the exclusion of noise from public infrastructure does not include vibration.

Clause 5(h) of Schedule 1 of the LNLC Act is proposed to be amended so that noise, vibration, and light (subject to light being added as an agent of local nuisance) from public infrastructure works that are conducted due to an urgent public need or to avoid or reduce inconvenience to traffic or pedestrians during normal business hours or long term are not local nuisance.

3.2.3 Residential Tenancies Act 1995

Clause 5(j) of Schedule 1 states that noise or other nuisance that may be subject to proceedings under the *Community Titles Act 1996*, *Strata Titles Act 1988* or *Residential Tenancies Act 1995* are not local nuisance.

The current exemption for local nuisance in tenanted properties is limited to situations where local nuisance can be dealt with under the *Residential Tenancies Act 1995*. However, the remedy provided under this Act may include eviction, which is excessively punitive when compared to the LNLC Act.

The LNLC Act is proposed to be amended to delete the Residential Tenancies Act from this clause such that all local nuisance from tenanted properties fall under the scope of the LNLC Act.

3.2.4 Dust from unsealed public roads

There are tens of thousands of kilometres of unsealed roads in SA. It is not practical or cost effective to seal and maintain all these roads. To ensure councils are not deemed responsible for nuisance dust from unsealed roads, dust from unsealed public roads is proposed to be added to clause 5 of Schedule 1 as a further declaration of what is not local nuisance for the purpose of the LNLC Act.

3.2.5 Noise from refrigerated vehicles

Clause 5(i) of Schedule 1 (noise from vehicles) is proposed to be amended so that it does not include noise from refrigerated vehicles. The operation of a refrigerated truck at a premises is not dissimilar to the operation of a fixed machine such as an air conditioner or pool pump which are included in the definition of local nuisance under clause 4 of Schedule 1. This amendment is to be limited to the noise from the refrigeration mechanism of the vehicle.

3.3 Public infrastructure works

Clause 5(h) of schedule 1 defines public infrastructure works as not local nuisance. Clause 1, Part 1 of Schedule 1 of the LNLC Act is proposed to be amended to include a definition of public infrastructure works for the purpose of this clause.

public infrastructure means—

- (a) infrastructure, equipment, structures, works and other facilities used on or in connection with the provision of essential services or telecommunications; and
- (b) roads and their supporting structures and works;

essential services has the same meaning as the *Essential Services Commission Act 2002*

3.4 Hyperlink in Regulation 4

Regulation 4 of the LNLC Regulations provides a link to *Managing Unreasonable Complainant Conduct Practice Manual* published by the New South Wales Ombudsman. The link has been replaced as the current one has been removed. The document remains the same.