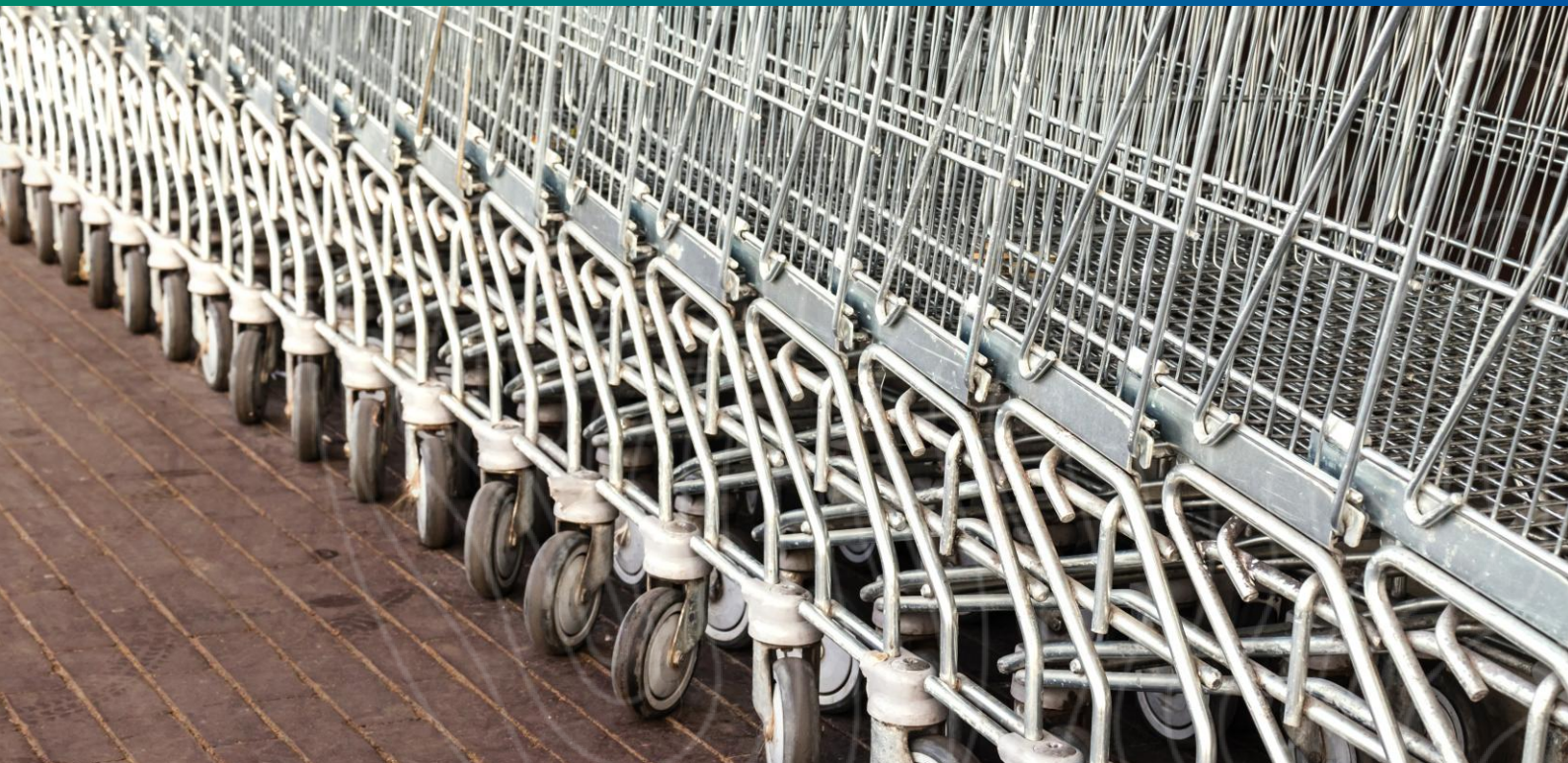


Discussion Paper: Shopping Trolley and Primary Production

Consultation on Local Nuisance and Litter Control Regulations
2017



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EPA for Reconciliation

We acknowledge the traditional custodians of the Country on which we live and meet, and pay our respects to their elders past and present.

We appreciate their traditional knowledge, care of, and spiritual connection to the air, land and sea.

We thank them for their ongoing stewardship and ways of seeing, thinking and being as part of Country.

Alongside Aboriginal nations, we strive to protect and grow the health of our beautiful state.

Artwork by Ngarrindjeri artist Jordan Lovegrove

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Background

The *Local Nuisance and Litter Control Act 2016* (LNLC Act) is South Australian legislation that gives councils powers to prevent and regulate local nuisances (such as excessive noise, smoke, dust, odours, unsightly conditions and littering). Allowing Councils to administer the LNLC Act enables them to more effectively respond to local nuisance and environmental issues within their communities. Under the LNLC Act, Councils can issue abatement notices, enforce compliance, and apply penalties to protect local amenity and the environment.

In 2018, the Environment Protection Authority (EPA), on behalf of the South Australian Government, began a review of the LNLC Act to determine whether the LNLC Act was fit for purpose by enabling councils to deliver their objectives. The review resulted in the *Local Nuisance and Litter Control (Miscellaneous) Amendment Act 2025* (LNLC Amendment Act), which commenced on 18 June 2026, except for Sections 7 and 14, which commence on 17 June 2027.

The LNLC Amendment Act introduced several new provisions to enable better administration of the LNLC Act. However, these new provisions may require changes to existing regulations.

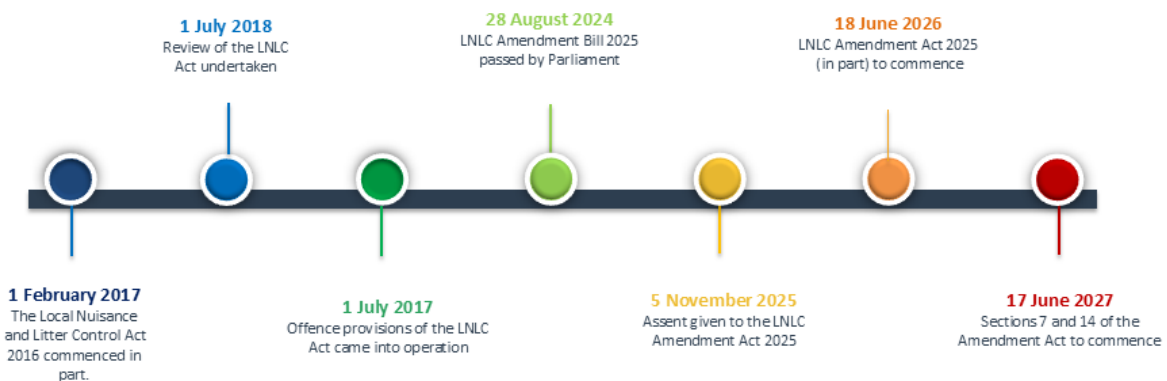


Figure 1 - Linear timeline of the LNLC (Miscellaneous) Amendment Act

Purpose

The purpose of this discussion paper is to identify whether changes to regulations are required to support the implementation of the LNLC Amendment Act. Specifically, whether:

- Additional consideration should be given to a business if a shopping trolley is not collected but is not causing a hazard
- Nuisance such as noise, dust, odour, smoke, fire, and/or burning from unlicensed primary production activities should be exempt under the LNLC Act.

The consultation aims to gather practical experience, evidence and stakeholder views before Government determines whether regulations should be made. Providing reasons and evidence for your comments will assist in the consideration of your feedback. You are not required to provide a response to all questions.

Invitation to comment

Consultation will be open for six weeks. Submissions are due: 23 October 2026.

Submissions are invited via the YourSAy consultation page

<https://yoursay.sa.gov.au/local-nuisance-litter-control-regulations-2017-consultation>

Important information about your submission

All submissions received by the EPA during the consultation period will be acknowledged and treated as public documents unless provided in confidence, subject to the requirements of the *Freedom of Information Act 1991* and may be quoted in reports.

Next steps

All submissions received in response to this discussion paper will be reviewed by the EPA and responded to through a consultation report. Following the consultation period a report will be submitted to the Minister for consideration.

The Government will determine if regulations are required to address the issues discussed in this paper. The EPA will assist the Government with the making of any regulations that they seek to progress.

Issues for Consultation

1. Defence for failing to collect a shopping trolley that is not causing a hazard

Government is seeking feedback on whether regulations should be made to prescribe *additional* circumstances or grounds for a defence for failure to collect a non-hazardous shopping trolley under section 14 of the LNLC Amendment Act.

Context

Section 14 of the LNLC Amendment Act inserts 24B into the LNLC Act. Section 24B outlines shopping trolley collection requirements. These requirements are split based on whether the shopping trolley is, or may cause, a hazard or not. This section also includes expiations and penalties for failure to comply and defence provisions for failure to collect a shopping trolley that is not causing a hazard.

If the shopping trolley is causing or may cause a hazard, retailers are required to collect the shopping trolley as soon as reasonably practicable upon notification of the location of the shopping trolley, but no later than the end of the next business day.

If the shopping trolley is not causing a hazard¹, retailers must collect the shopping trolley within three business days upon notification of the location of the shopping trolley.

The existing defences include.

In any proceedings where it is alleged that a person contravened subsection (3) it will be a defence if it is proved that—

- (a) the collection of the trolley posed an unacceptable risk to the health or safety of a person collecting the trolley; or*
- (b) the trolley was not reasonably able to be collected using standard means, equipment or machinery; or*
- (c) the trolley was not able to be collected on grounds, or in circumstances, prescribed by the regulations.*

The reasonableness defence applies to shopping trolleys that are not causing a hazard only.

Possible Change

The discussion paper is seeking examples of situations where the collection of a shopping trolley, that is not causing a hazard, cannot be achieved. Examples received will be reviewed to determine whether additional grounds or circumstances are required to be prescribed by regulation. If it is determined that no additional grounds or circumstances need to be prescribed, no regulation will be made.

¹ Obstructing traffic or pedestrian access or otherwise posing an environmental or human health and safety risk.

Questions

Are there any grounds or circumstances other than those listed above that you would consider to be a reasonable justification for not collecting a (non-hazardous) shopping trolley? Please provide a detailed explanation of these circumstances and the frequency with which they might arise

2. Nuisance from primary production activities

The Government is seeking feedback on whether regulations should be made to amend Schedule 1 of the LNLC Act to include primary production activities as **not** constituting a local nuisance under the LNLC Act. Examples of primary production activities include, cropping, grazing, horticulture, viticulture, market gardening and other routine farming operations. Nuisance arising from these activities are generally regulated by local councils under the LNLC Act, subject to licensing thresholds that may apply under Schedule 1 of the EP Act.

Presently the LNLC Act provides clarity on civil remedies for perceived environmental nuisance, including nuisance from primary production, which may, in certain circumstances protect primary producers from false or misleading complaints against primary producers.

Context

Primary production activities may be associated with a range of impacts such as noise, dust, odour, smoke, fire, and/or burning. These impacts are more evident where urban development is permitted to occur near primary production areas. Our state's regulatory settings attempt to appropriately balance impacts of environmental nuisance on communities, protect and support our valuable food producing areas and provide certainty for the operations of our food and wine producers.

The EPA regulates nuisance, but only if the nuisance results from an activity that is licensed by the EPA. Schedule 1 of the *Environment Protection Act 1993* (EP Act) lists the activities the EPA licenses, which are all defined as having a potentially *significant* environmental impact. Examples of primary production activities the EPA licenses include:

- animal husbandry activities (e.g. cattle feedlots and piggeries)
- food production
- animal and plant processing (e.g. meat processing works, wineries, or distilleries).

The *Planning, Development and Infrastructure Act 2016* (PDI Act) and Planning and Design Code, administered by the Department for Housing and Urban Development, also play a role in managing interaction between primary production activities and other land uses. This includes requirements to site sensitive receivers to mitigate adverse impacts of hazards, noise, dust, odour, light spill, or other emissions from existing legally operating land uses.

Possible Change

This discussion paper is seeking feedback on whether nuisance from primary production activities should no longer be regulated under the LNLC Act.

The LNLC Act gives effect to the “subsidiary principle” which is the idea that issues should be dealt with at level of government that can achieve their most efficient resolution. The LNLC Act makes it clear that local nuisance issues are best dealt with by local councils.

If the LNLC Act is amended to no longer regulate primary production activities, these activities may continue to be regulated in part under the EP Act.

- The General Environment Duty will continue to apply to primary production under section 25 of the EP Act. Section 25 sets out that everyone has a General Environmental Duty to take all reasonable and practicable measures to prevent or minimize environmental harm, including noise, dust, fumes, or odour pollution.
- Section 82 of the EP Act defines environmental nuisance as a specific outcome of pollution whereby pollution unreasonably interferes with amenity. Section 82 also makes it an offence to cause an environmental nuisance by polluting the environment, either intentionally, recklessly, or otherwise.

Submission of evidence about the potential impacts of such an amendment on primary producers, local communities and councils is sought. If it is determined that primary production is to remain with the LNLC Act, regulations will not be made to amend schedule 1 of the LNLC Act. Relevant matters to consider may include:

- Whether primary production activities have resulted in nuisance as defined by the LNLC Act
- Whether the provisions of the LNLC Act that set out fines for frivolous complaints about nuisance are sufficient to protect primary producers,
- Whether the PDI Act and EP Act sufficiently regulate activities with a negative impact on other land uses in the absence of the LNLC Act,
- Whether the adoption of new and/or emerging technology is impacted by the LNLC Act,
- Any perceived risks and/or benefits of changing the LNLC Act to exempt primary production activities from constituting a nuisance as defined by the LNLC Act.

Risks	Benefits
Nuisance from primary production from EPA unlicensed activities would not be regulated by the Council.	Councils will not be required to address nuisance complaints associated with primary production operations
Potential for increased risk of conflict between neighbours, businesses and councils.	Primary production businesses will not have to respond to nuisance complaints.
New and emergent technology in primary production practices may cause unforeseen nuisance in the future.	
Nuisance lighting generated by primary production activities may not be addressed as it is not included in other legislative provisions.	

Questions

- 1 Have you ever experienced a nuisance from primary production activities? If so, please explain the source and nature of the nuisance.
- 2 Has your primary production business been impacted by the LNLC Act? If so, please explain how it was impacted and what the result was.
- 3 Do you think noise and nuisance from an activity carried on in the normal course of a primary production business should be excluded from the LNLC Act? Please explain your answer.
- 4 What activities do you consider activities related to primary production business?
- 5 Do you have any suggestions for alternative approaches to managing nuisance from primary production?

Thank you for taking the time to review this information and provide your feedback to our online survey. Further enquiries may be directed to:

yourepa@sa.gov.au

(mark subject as *Local Nuisance and Litter Control Consultation 2026*)

Email submissions are preferred.

Or via post:

Local Nuisance and Litter Control Consultation 2026

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