



**Douglas Shire Council  
Subordinate Local Law No. 3  
(Community and Environmental  
Management) 2020**

# Douglas Shire Council Subordinate Local Law No. 3 (Community and Environmental Management) 2020

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## Part 1 Preliminary

### 1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 3 (Community and Environmental Management) 2020*.

### 2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 3 (Community and Environment Management) 2018*, which provides for protecting the environment and public health, safety and amenity within the local government's area.
- (2) The purpose is to be achieved by providing for—
  - (a) declaration of local pests; and
  - (b) prohibition of lighting or maintaining certain fires; and
  - (c) declaration of fire hazards; and
  - (d) declaration of community safety hazards; and
  - (e) prescribed requirements for owners of land containing community safety hazards; and
  - (f) requirements regarding storage, removal, and disposal of waste; and
  - (g) declaration of noise standards.

### 3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 3 (Community and Environmental Management) 2020* (the **authorising local law**).

### 4 Definitions

Unless otherwise defined in the dictionary in schedule 6 particular words used in this subordinate local law have the same meaning as provided in the authorising local law.

## Part 2 Declared local pets

### 5 Declaration of local pests—authorising local law, s 6(1)

For section 6(1) of the authorising local law, the animal or plant prescribed in column 1 of schedule 1 is a declared pest in the corresponding part of the local government's area mentioned in column 2 of schedule 1.

### 6 Persons exempted from introducing etc. a declared local pest—authorising local law, s 12(2)

For section 12(2) of the authorising local law, a person mentioned in column 1 of schedule 2 is exempt from section 12(1) of the authorising local law in relation to introducing, propagating, breeding or providing harbour to a declared local pest mentioned in the corresponding part of column 2 of schedule 2.

## **Part 3 Overgrown and unsightly allotments**

*This part in the authorising local law does not contain any matters to be provided for by subordinate local law.*

## **Part 4 Fires and fire hazards**

### **7 Prohibition on lighting or maintaining fires—authorising local law, s 15(2)**

- (1) This section applies to the following fires<sup>1</sup>—
  - (a) a fire in which neither the height, width nor length of the material to be consumed exceeds 2 metres;
  - (b) a fire lit for the purpose of burning the carcass of a beast;
  - (c) a fire lit at a sawmill for the purpose of burning sawdust or other residue resulting from the operation of a sawmill; or
  - (d) a fire lit out-doors, if enclosed in a fireplace so constructed as to prevent the escape of fire or any burning material therefrom.
- (2) For section 15(2) of the authorising local law, lighting or maintaining a fire described in column 2 of schedule 3 is declared to be prohibited in the corresponding part of the local government's area mentioned in column 1 of schedule 3.

### **8 Fire hazards—Authorising local law, s 16(3)(b)**

For section 16(3)(b) of the authorising local law, the following are declared to be fire hazards—

- (a) live cinders or hot ash that is not enclosed in a fireplace so constructed as to prevent the escape of cinders or ash;
- (b) a large accumulation of grass clippings that is liable to spontaneous combustion; or
- (c) dry vegetation that could be easily ignited or other flammable materials.

## **Part 5 Community safety hazards**

### **9 Community safety hazards—authorising local law, s 17(c)**

For section 17(c) of the authorising local law, the following are declared to be community safety hazards—

- (a) barbed wire fencing adjoining a public park or reserve or located in an urban area;
- (b) electric fences adjoining public land;
- (c) an unfenced dam adjacent to a public park or reserve;

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<sup>1</sup> Pursuant to a notification by the Fire and Rescue Services Commissioner published in the gazette on 6 August 2004 under section 63 of the *Fire and Rescue Service Act 1990*, the listed fires can generally be lit without a permit issued by a fire warden, provided adequate precautions are taken to prevent the spread of fire and the fire confirms with any local law. Local laws can therefore regulate these types of fire, which is the purpose of this subordinate local law.

- (d) disused machinery or machinery parts;
- (e) broken down or several rusted vehicles, or vehicle parts;
- (f) accumulation of bottles, containers or packaging;
- (g) refuse or scrap metal;
- (h) fish frames, scraping, carcasses and/or guts;
- (i) vegetation on premises which:
  - (i) is located on land adjoining a local government controlled area or road; and
  - (ii) is dangerous or attracts vermin; or
  - (iii) has caused, or is, in the opinion of an authorised person, likely to cause:
    - A) personal injury to a person using the area or road; or
    - B) damage to property located on the area or road.

**10 Prescribed requirements for community safety hazards—authorising local law, s 20(1)**

For section 20(1) of the authorising local law, a responsible person for a community safety hazard listed in column 1 of schedule 4 must meet the requirements prescribed in the corresponding part of column 2 of schedule 4.

## **Part 6 Noise standards**

**11 Prescribed noise standards—authorising local law, s 39(2)**

- (1) The purpose of this local law is to complement the regulated parking provisions in chapter 5, part 6 of the TORUM Act by providing for the exercise of local government powers authorised under that Act.
- (2) For section 39(2) of the authorising local law, the noise standard in column 2 of Schedule 8 is prescribed for the section of the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3 stated in column 1 of Schedule 7.
- (3) For section 39(2) of the authorising local law, the noise standard in column 2 of Schedule 8 applies in the corresponding part of the local government's area mentioned in column 3 of Schedule 7.

**Schedule 1      Declared local pests**

Section 5

<b>Column 1</b> <b>Applicable part of local government's area</b>	<b>Column 2</b> <b>Declared local pest</b>
	<i>There are no additional declared pests identified in this local law</i>

## **Schedule 2      Persons exempted from offence of introducing etc. declared local pest**

Section 6

<b>Column 1 Exempt person</b>	<b>Column 2 Declared local pest</b>
<i>This table has been intentionally left blank</i>	

## Schedule 3 Prohibited fires

Section 7(2)

	<b>Column 1</b> <b>Applicable part of local government's area</b>	<b>Column 2</b> <b>Prohibited fire</b>
1.	Entire local government area	<p>A person must not light or maintain a fire in the open air (including the use of an incinerator) within 100 metres of a residence unless:</p> <ul style="list-style-type: none"> <li>(a) the fire is directly associated with the bona fide use of any appliance or equipment for cooking purposes; or</li> <li>(b) a Traditional Smoking Ceremony;<sup>2</sup> and</li> <li>(c) all reasonable and practical measures have been taken by the person in control of the fire to minimise smoke created by the fire.</li> </ul> <p>In this section—</p> <p><b>reasonable and practical measures</b> includes the selection of a suitable fuel for the burning activity and the maintenance of conditions which promotes efficient combustion of the fuel.</p> <p><b>suitable fuel</b> does not include grass cuttings, leaves.</p>
2.	Entire local government area	<p>A person must not light or maintain a fire that causes smoke or other products of combustion and is likely in the opinion of an authorised person to cause irritation, annoyance or distress to others.</p>

<sup>2</sup> See definition of **Traditional Smoking Ceremony** in schedule 6.



## Schedule 4 Prescribed requirements for community safety hazards

Section 10

	<b>Column 1 Community safety hazard</b>	<b>Column 2 Prescribed requirements to be met by owner of land</b>
1.	Barbed wire fencing	<p>(a) Barbed wire fencing must not be installed along a boundary adjoining a public park or residential property.</p> <p>(b) Barbed wire to be used in urban areas<sup>3</sup> only in a security fence with the barbed wire to be more than 2 metres above the ground.</p>
2.	Electric fencing	<p>(a) Electric fencing must only be used in rural areas.<sup>4</sup> Electric fencing must be installed, operated and maintained in accordance with AS/NZS 3014:2003 (or other equivalent Australian Standard).</p> <p>(b) Electric security fencing must be installed, operated and maintained in accordance with AS/NZS 3016:2002 (or other equivalent Australian Standard).</p>

<sup>3</sup> See definition of *Urban Areas* in the planning scheme

<sup>4</sup> See definition of *Rural Areas* in the planning scheme

## Schedule 5 Prescribed noise standards

Section 16

<b>Column 1</b> <b>Section of the</b> <b><i>Environmental</i></b> <b><i>Protection Act 1994,</i></b> <b>chapter 8, part 3B,</b> <b>division 3</b>	<b>Column 2</b> <b>Prescribed noise standard</b>	<b>Column 3</b> <b>Applicable</b> <b>part of local</b> <b>government's</b> <b>area</b>
440S      Regulated devices	<p>(1) This prescribed noise standard applies to—</p> <p>(a) a person carrying out an activity other than building work; and</p> <p>(b) a person carrying out building work, at premises used by the person only for residential purposes, other than under an owner-builder permit.</p> <p>(2) A person must not operate a regulated device in a way that makes an audible noise—</p> <p>(a) on a business day or Saturday, before 7.00a.m. or after 7.00p.m; or</p> <p>(b) on any other day, before 8.00a.m. or after 7.00p.m.</p> <p>(3) Subsection (2) does not apply to a person operating a grass-cutter or leaf-blower at a place that is a State-controlled road or a railway under an authority from the occupier of the place.</p> <p>(4) Subsection (2)(a) does not apply to a person operating a regulated device at a manual arts facility at an educational institution between 7.00p.m. and 10.00p.m.</p> <p>(5) This subsection applies to generators used or operated on premises north of the Daintree River that are without access to mains power—</p> <p>(a) An owner, occupier or person in control of the premises must not use, or permit the use of, the generator on any day—</p> <p>(i) between 10 pm and 7 am, if it makes an audible noise;</p> <p>(ii) between 7 am and 7 pm, if it makes a noise of more than 5dB(A) above the background level; or</p>	The entire local government area

	<p>(iii) between 7 pm and 10 pm , if it makes a noise of more than 3dB(A) above the background level.</p> <p>(b) Subsection (a)(i) and (ii) do not apply to a noise made by an educational institution that is not more than 5 dB(A) above the background level.</p> <p>(6) In this section—</p> <p><b>grass-cutter</b> means an electrical or mechanical device a function of which is to cut grass.</p> <p><i>Examples—</i> brush-cutter, edge cutter, lawnmower, ride-on mower, string trimmer</p> <p><b>leaf-blower</b> means an electrical or mechanical device a function of which is to blow leaves.</p> <p><b>Generator</b> means an engine that converts mechanical energy into electricity to serve as a power source.</p> <p><b>regulated device</b> means any of the following—</p> <p>(a) a compressor;</p> <p>(b) a ducted vacuuming system;</p> <p>(c) a generator</p> <p>(c) a grass-cutter;</p> <p>(d) an impacting tool;</p> <p>(e) a leaf-blower;</p> <p>(f) a mulcher;</p> <p>(g) an oxyacetylene burner;</p> <p>(h) an electrical, mechanical or pneumatic power tool.</p>	
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## Schedule 6 Dictionary

***north of the Daintree River*** means the area which is located on the northern side of the Daintree River within Council's local government area.

***Pest Plant and Animal Register*** means the Douglas Shire Biosecurity Plan incorporating the Pest Plant and Animal Register as amended from time to time, which is available for inspection and purchase at each public office of the local government.

***Traditional Owner*** means an Aboriginal person who is a member of a "native title claimant group", a "common law holder" or a "native title holder" as those terms are defined in the *Native Title Act 1993* (Cth).

***Traditional Smoking Ceremony*** means a cultural or spiritual activity conducted by a Traditional Owner which usually involves the smouldering of native plants to produce smoke which is believed to have cleansing properties and the ability to ward off bad spirits.