

Whitsunday Regional Council
Subordinate Local Law No. 3 (Community and Environmental Management) 2014

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Whitsunday Regional Council Subordinate Local Law No. 3 (Community and Environmental Management) 2014*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Whitsunday Regional Council Local Law No. 3 (Community and Environmental Management) 2014*, 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) declaration of noise standards.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Whitsunday Regional Council Local Law No. 3 (Community and Environmental Management) 2014* (the **authorising local law**).

4 Definitions

Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.

In this subordinate local law -

General Waste means—

- a) Generally, waste other than regulated waste (*as defined in the Waste Reduction and Recycling Act 2011*); or
- b) Any of the following—
 - (i) Commercial waste – means waste, other than green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of commercial premises;
 - (ii) Domestic waste – means waste, other than domestic clean-up waste, green waste, recyclable waste, interceptor waste or waste discharged to a sewer, produced as a result of the ordinary use or occupation of domestic

premises;

- (iii) Recyclable waste – for a local government’s area, means clean and inoffensive waste that is declared by the local government to be recyclable waste for the area.

Examples of waste that may be declared to be recyclable waste–

Glass bottles, newspaper, cardboard, steel and aluminium cans and green waste.

Generator means– an engine that converts mechanical energy into electricity to serve as a power source

Lot has the meaning given in the *Sustainable Planning Act 2009*

Non-urban area includes all areas not contained within the definition of an urban area contained within the *Sustainable Planning Regulation (2009)*

Planning scheme means– the relevant planning instrument in effect for the Local Government area.

Property means–

- a) a lot; or
- b) if a person owns and occupies 2 or more adjoining lots – the parcel of land comprising all of the lots owned by the person

Residential activities means the following defined uses under the Planning scheme–

- a) Accommodation units, Bed and breakfast, Caravan park, Caretaker’s residence, Dual occupancy, Dwelling house, Guest accommodation, Health facility, Institution, Integrated resort, Multiple dwelling units and Rural works dwelling as defined by the *Whitsunday Shire Planning Scheme 2009*; or
- b) Accommodation building, Annexed apartment, Bed and breakfast, Caretakers residence, Caravan park, Dwelling house, Institutional residence and Retirement village as defined by the *Bowen Shire Planning Scheme 2006*.

Urban area is that defined under the *Sustainable Planning Regulations (2009)*.

Occupier of a place includes–

- a) The person who has the control or management of the place; or
- b) A person in charge of or responsible for activities in the place that result in contravention of or a nuisance under this local law; or
- c) With respect to noise nuisances – a person in attendance at the place who is the person making the excessive noise or in a position to abate the noise nuisance.

Owner has the meaning given in the *Sustainable Planning Act 2009*.

Part 2 Declared local pests

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

Overgrown and unsightly allotments include land with an abandoned sugar cane crop which has not been harvested for 24 months or more and which is likely to attract or harbour reptiles.

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 fires¹—
 - (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;
 - (d) a fire lit out-doors, unless 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 substantial accumulation of grass clippings that is liable to spontaneous combustion;
- (c) dry vegetation that could be easily ignited or other flammable materials;

¹ 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 conforms with any local law. Local laws can therefore regulate these types of fire, which is the purpose of this subordinate local law.

- (d) abandoned sugar cane crops which have not been harvested for 24 months or more;
- (e) accumulation of goods and materials that could ignite or cause danger to persons or property.

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) a plant on premises which—
 - (i) is dangerous or attracts reptiles; or
 - (ii) has caused, or is, in the opinion of an authorised person, likely to cause—
 - (A) personal injury or property damage; or
 - (B) a negative impact on the amenity of the surrounding area; and
- (b) an act or omission on premises which—
 - (i) is dangerous or attracts reptiles; or
 - (ii) has caused, or is, in the opinion of an authorised person, likely to cause—
 - (A) personal injury or property damage; or
 - (B) a negative impact on the amenity of the surrounding area; and
- (c) a dead animal on premises which—
 - (i) is dangerous or attracts reptiles; or
 - (ii) has caused, or is, in the opinion of an authorised person, likely to cause—
 - (A) personal injury or property damage; or
 - (B) a negative impact on the amenity of the surrounding area; and
- (d) a disused well;
- (e) general waste.

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 21(2)

- (1) For section 21(2) of the authorising local law, the noise standard in column 2 of schedule 5 is prescribed for the section of the *Environmental Protection Act 1994*, chapter 8, part 3B, division 3 stated in column 1 of schedule 5.
- (2) For section 21(2) of the authorising local law, the noise standard in column 2 of schedule 5 applies in the corresponding part of the local government's area mentioned in column 3 of schedule 5.

Part 7 Miscellaneous

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

Schedule 1 Declared local pests**Section 5**

	Column 1 Applicable part of local government's area	Column 2 Declared local pest
1	Entire local government area	<p>See <i>Land Protection (Pest and Stock Route Management) Regulation 2003</i> for a list of plants and animals that are already declared pests under the <i>Land Protection (Pest and Stock Route Management) Act 2002</i>. See also the <i>Fisheries Regulation 2008</i> for a list of fish that are already declared as “noxious fisheries resources” under the <i>Fisheries Act 1994</i>.</p> <p>Milkweed (<i>Euphorbia heterophylla</i>) Castor Oil Plant (<i>Ricinus communis</i>) Japanese Sunflower (<i>Tithonia diversifolia</i>) Caltrop (<i>Tribulus cistoides, T. terrestris</i>) Coral Vine (<i>Antigonon leptopus</i>) Khaki Weed (<i>Alternanthera pungens</i>) Noogoora Burr (<i>Xanthium strumarium</i>) Blackeyed Susan (<i>Thunbergia alata, T. species</i>) Neem Tree (<i>Azadirachta indica</i>) Leucaena (<i>Leucaena leucocephala</i>) Itch Grass (<i>Rottboellia cochinchinensis</i>) Candle Bush (<i>Senna alata</i>)</p>

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

Section 6(2)

	Column 1 Exempt Person	Column 2 Declared local pest
1	Authorised persons of, or persons engaged by, a local, State or Commonwealth government authority while acting under the direction of the authority	Milkweed (<i>Euphorbia heterophylla</i>) Castor Oil Plant (<i>Ricinus communis</i>) Japanese Sunflower (<i>Tithonia diversifolia</i>) Caltrop (<i>Tribulus cistoides</i> , <i>T. terrestris</i>) Coral Vine (<i>Antigonon leptopus</i>) Khaki Weed (<i>Alternanthera pungens</i>) Noogoora Burr (<i>Xanthium strumarium</i>) Blackeyed Susan (<i>Thunbergia alata</i> , <i>T. species</i>) Neem Tree (<i>Azadirachta indica</i>) Leucaena (<i>Leucaena Leucocephala</i>) Itch Grass (<i>Rottboellia cochinchinensis</i>) Candle Bush (<i>Senna alata</i>)

Schedule 3 Prohibited fires

Section 7(2)

	<p style="text-align: center;">Column 1</p> <p style="text-align: center;">Applicable part of local government's area</p>	<p style="text-align: center;">Column 2</p> <p style="text-align: center;">Prohibited fire</p>
1	Entire local government area	<p>(1) A fire that is not contained in a commercial standard incinerator constructed in accordance with Australian Standard 1875 (or any other applicable Australian Standard); or</p> <p>(2) Any fire on private property having an area less than 4,500 square metres, unless it is enclosed in a fireplace so constructed as to prevent the escape of fire or any burning material therefrom. E.g a fire that is contained in a domestic barbeque or brazier; or</p> <p>(3) Any fire that is not directly associated with the bona fide use of any appliance or equipment for cooking or heating purposes provided all reasonable and practical measures have been taken by the person in control of the fire to minimise smoke creation; or</p> <p>In subsection (4) –</p> <p><i>Reasonable and practical measures</i> include the selection of a suitable fuel for the burning activity and the maintenance of conditions which promote efficient combustion of that fuel.</p> <p>(4) 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; or</p> <p>(5) A fire that in the opinion of an authorised person exposes property to the risk or damage or destruction by fire.</p>

2	Local government controlled areas	A fire that is not in a fireplace, barbeque or incinerator constructed by the local government.
3	Bathing reserves	Any fire.

Schedule 4 Prescribed requirements for community safety hazards

Section 10

	Column 1 Community safety hazard	Column 2 Prescribed requirements to be met by owner of land
1	Barbed wire fencing.	<ul style="list-style-type: none"> (1) Fencing not to be installed along a boundary adjoining a public park; (2) Barbed wire to be used in urban areas only in a security fence with the barbed wire to be more than 2 metres off the ground.
2	Electric fencing.	<ul style="list-style-type: none"> (1) Fencing that adjoins any road or public land to have warning signs of a size that can be read from a distance of 5 metres and fixed at 5 metre intervals along the fence; (2) Fencing must be situated at least 1500mm from a fence located on or within the boundary of the premises OR such that if the fencing is installed on the boundary of the premises the lowest point of the fencing capable of imparting an electric shock when touched is at least 2000 mm in height; (3) Fencing must be installed, operated and maintained in accordance with AS/NZS 3014:2003; (4) Fencing for security must be installed, operated and maintained in accordance with AS/NZS 3016:2002.
3	Roof sheeting, guttering, sheet metal	Any materials not fixed to a structure to be weighted down or tied down to prevent them from becoming airborne during high winds.
4	Disused machinery Broken down machinery parts Severely rusted vehicles Accumulations of bottles, containers or packaging	<ul style="list-style-type: none"> (1) Must be stored in a structure or way considered appropriate by an authorised person.

	Refuse or scrap metal	
5	Objects that are unsecured or inadequately secured and likely in the opinion of an authorised person to be carried away in high winds with possible risk of personal injury or property damage	(1) Objects or materials to be safely secured to the satisfaction of an authorised person; or (2) Objects or materials to be stored in an area where they are not subject to movement by high winds
6	Smoke from outdoor cooking ovens or fires	Must not in the opinion of an authorised person cause a nuisance to another person.
7	Fish frames, scraping, carcasses or guts	Must not be discarded in water courses etc.
8	Vegetation which overhangs another property which, because of its nature or its position, poses a significant risk of causing injury to a person or property.	The vegetation must be trimmed or removed to an extent that the vegetation does not pose a risk or cause an injury to a person or property.
9	A disused well or dam	The disused well or dam must be filled in, barricaded or otherwise made safe.
10	A fence or structure within 6 meters of the point of meeting of the alignment of respective allotments having frontages to a road intersection or road junction	The fence or structure must not be constructed to a height greater than 1 meter unless the location of the fence or structure is permitted by the planning scheme.
11	Landscaping within 6 meters of the point of meeting of the alignment of respective allotments having frontages to a road intersection or road junction	Plants and trees must not be permitted to exceed 1 meter in height.
12	Artificial illumination	Stop and further prevent the light spillage or reduce it to a level which is in the opinion of the authorised person, acceptable.
13	Atmospheric pollutants e.g odour or dust	Stop and further prevent the emission of odours, dust or other atmospheric pollutants; or Reduce the emission to a level which in the opinion of an authorised person is acceptable; or Take any other action reasonable required to remedy and further prevent the nuisance.
14	Goods, objects, materials or other things stored or deposited on land. E.g Shipping containers	Remove goods, objects, materials or other things from the land.

<p>15</p>	<p>General Waste</p>	<ul style="list-style-type: none"> (1) Supply enough standard general waste containers at the premises to contain the general waste produced at the premises; or (2) If required by the local government, supply at the premises, enough waste containers, to contain the general waste produced at the premises– <ul style="list-style-type: none"> (a) if a local government supplies a general waste container to premises the reasonable cost of supplying the container is a debt payable by the owner or occupier of the premises to the local government. (3) The occupier of premises must– <ul style="list-style-type: none"> (a) store general waste at the premises in a standard general waste container or, if required by the local government, another type of waste container; and (b) keep each waste container at the premises clean, hygienic and in good repair; and (c) ensure that each waste container at the premises is securely covered, except when the waste is being placed in, or removed from, the container; (4) A person must not– <ul style="list-style-type: none"> (a) place any of the following in a waste container– <ul style="list-style-type: none"> (i) a liquid, semi-liquid or moist substance, unless the substance is securely wrapped or contained to prevent the substance leaking from the wrapper or container; (ii) material that is
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		<p style="text-align: right;">smouldering or aflame;</p> <p>(iii) matter or a thing that is alive; or</p> <p>(b) remove or disturb the cover of a waste container, except when placing waste in the container; or</p> <p>(c) use or damage a waste container so that it is not weatherproof or serviceable or can not be securely covered; or</p> <p>(d) disturb or otherwise interfere with the contents of a waste container.</p> <p>(5) The occupier of serviced premises must ensure that a waste container supplied for the premises is kept—</p> <p>(a) if the local government requires the container to be kept at a particular place at the premises, at the place; or</p> <p>(b) otherwise, at ground level close to the rear alignment of a building at the premises.</p> <p>(6) The occupier of the premises must place a waste container in a place (a designated location) outside the premises for the collection of general waste from the container, where—</p> <p>(a) the local government has arranged to collect waste from the container at the designated location; and</p> <p>(b) the container is in the designated location for no longer than—</p> <p>(i) the period, if any, allowed under a local law of the local government; or</p> <p>(ii) is otherwise reasonably appropriate before and after the collection.</p>
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		<p>(7) If a local government has arranged for the collection of general waste from a waste container at premises, the occupier of the premises must ensure there is unobstructed access to the container for removal of the waste;</p> <p>(8) A person must not deposit or dispose of the waste unless the person deposits or disposes of the waste—</p> <ul style="list-style-type: none">(a) at a waste facility; or(b) in accordance with—<ul style="list-style-type: none">(i) an approval by the local government for disposal of the waste; and(ii) if the approval has been given on conditions, the conditions of the approval
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Schedule 5 Prescribed noise standards

Section 11

Column 1 Section of the Environmental Protection Act 1994, chapter 8, part 3B, division 3	Column 2 Prescribed noise standard	Column 3 Applicable part of local government's area
440R Building work	Building Work (1) a person must not carry out building work in a way that makes an audible noise— a) on a business day or Saturday, before 6.30am or after 6.30pm; or b) on any other day, at any time. (2) The reference in subsection (1) to a person carrying out building work— a) includes a person carrying out building work under an owner-builder permit; and b) otherwise does not include a person carrying out building work at premises used by the person only for residential activities.	Entire local government area
440S Regulated Devices	Regulated devices – General A Regulated device for the purposes of this section means any of the following— a) a compressor; b) a ducted vacuuming system; c) a generator; d) a grass-cutter; e) an impacting tool; f) a leaf-blower; g) a mulcher; h) an oxyacetylene burner; i) an electrical, mechanical or pneumatic power tool; <i>Examples of a power tool—</i> chainsaw, drill, electric grinder or sander,	Entire local government area

	<p>electric welder, nail gun;</p> <p>j) any other device declared by resolution of the local government to be a regulated device for the purposes of this provision.</p> <p>(1) This section 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 activities, other than under an owner-builder permit.</p> <p>(2) A person must not use or operate a regulated device in a way that makes an audible noise—</p> <p>a) between 7.00pm and 7.00am on a business day or Saturday; or</p> <p>b) between 7.00pm and 8.00am on any other day.</p> <p>(3) For the purposes of subsection (2), if the person using or operating the regulated device is a minor, liability instead attaches to a parent, guardian or person with actual or apparent care of the minor.</p> <p>(4) 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 or an employee or contractor of Whitsunday Regional Council operating a grass-cutter, leave blower or street sweeper being operated under an authority of the Whitsunday Regional Council</p> <p>(5) Subsection (2)(a) does not apply to a person operating a regulated device at a manual arts facility at an educational institution between 7.00pm and 10.00pm.</p>	
<p>440T Pumps</p>	<p>Pumps</p> <p>(1) This section applies to premises at or for which there is a pump.</p> <p>(2) An occupier of the premises must not use, or permit the use of the pump on any day—</p>	<p>Entire local government area</p>

	<p>a) between 10.00pm and 7.00am, if it makes an audible noise; or</p> <p>b) between 7.00am and 7.00pm, if it makes a noise of more than 5dB(A) above the background level; or</p> <p>c) between 7.00pm and 10.00pm, if it makes a noise of more than 3dB(A) above the background level.</p> <p>(3) Subsection (2)(a), (b) and (c) do not apply to a noise made at an educational institution, that is not more than 5dB(a) above the background level.</p> <p>(4) In this section—</p> <p>Pump—</p> <p>a) means an electrical, mechanical or pneumatic pump; and</p> <p><i>Examples—</i> Liquid pump, air pump, heat pump</p> <p>b) includes a swimming pool pump and a spa blower.</p>	
<p>440U Air-conditioning equipment</p>	<p>Air-conditioning equipment</p> <p>(1) This section applies to premises at or for which there is air-conditioning equipment.</p> <p>a) an occupier of the premises must not use, or permit the use of, the equipment on any day if it makes a noise of more than 5dB(a) above the background level.</p>	<p>Entire local government area</p>
<p>440V Refrigeration equipment</p>	<p>Refrigeration equipment</p> <p>(1) This section applies to a person who is –</p> <p>a) an occupier of premises at or for which there is plant or equipment for refrigeration (<i>refrigeration equipment</i>); or</p> <p>b) an owner of refrigeration equipment that is on or in a vehicle, other than a vehicle used or to be used on a railway.</p> <p>(2) The person must not use, or permit the use of, the refrigeration equipment on any day—</p>	<p>Entire local government area</p>

	<p>a) between 10.00pm and 7.00am, if it makes a noise of more than 3dB(A) above the background level; or</p> <p>b) between 7.00am and 10.00pm, if it makes a noise of more than 5dB(A) above the background level; or</p> <p>(3) In this section– Vehicle includes a trailer.</p>	
	Noise levels produced 3m immediately in front of speaker systems do not exceed 100dB at times before 7.00pm and between 10.00pm and 12 midnight, and/or 110dB at times between 7.00pm and 10.00pm, so that the use or activity authorised under the licence does not cause a nuisance.	<p>Airlie Esplanade Reserve</p> <p>Airlie Lagoon Precinct</p> <p>Bowen Front Beach</p> <p>Cannonvale Foreshore</p>
	Noise levels produced 3m immediately in front of speaker systems must not exceed 90dB so that the use or activity authorised under the licence does not cause a nuisance.	<p>Airlie Main Street</p> <p>Proserpine Main Street</p> <p>Herbert Street Bowen between Santa Barbara Parade and Powell Street</p>
	Noise levels produced 3m immediately in front of speaker systems does not exceed 100dB at times before 7.00pm and between 10.00pm and 12 midnight, and/or 110dB at times between 7.00pm and 10.00pm, so that the use or activity authorised under the licence does not cause a nuisance.	Parkland or reserve throughout entire local government area

Drafting certificate

This and the preceding 19 pages bearing my initials is a certified copy of *Whitsunday Regional Council Subordinate Local Law No. 3 (Community and Environmental Management) 2014*, has been drafted in accordance with the *Local Government Act 2009* by Whitsunday Regional Council by resolution dated 10th day of September 2014.

Scott Waters

Chief Executive Officer

Whitsunday Regional Council