



Torres Shire Council

Torres Shire Council Subordinate Local Law No. 3 (Community and Environmental Management) 2013

This Subordinate Local Law is to be read with Torres Shire Council *Local Law No. 3 (Community and Environmental Management) 2013*.

Made by local Government Resolution on

Correct as of 19 March 2013



Torres Shire Council

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Chapter 1 Introduction

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 3 (Community and Environment Management) 2013*.

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) 2013*, 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 *Local Law No. 3 (Community and Environment Management) 2013* (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.

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

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 fires¹—

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

- (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, 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 substantial accumulation of grass clippings that is liable to spontaneous combustion;
- (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;
-

regulate these types of fire, which is the purpose of this subordinate local law.

- (c) a building or structure that is:-
 - (i) unsanitary;
 - (ii) is not in a good state of order or repair;
 - (iii) is unsafe; or
 - (iv) is not fit for human habitation
- (d) storage of sheet metal roofing, guttering or other similar construction materials;
- (e) a tree that:-
 - (i) is located on land adjoining a local government controlled area or road; and
 - (ii) poses a significant risk of causing injury to a person using the area or road or damage to property located on the area or road.
- (f) discarded building materials containing asbestos or other toxic substance(s);
- (g) disused machinery and machinery parts, dilapidated rusted vehicles, accumulation of bottles and containers, scrap metal and the like;
- (h) fish frames, guts and carcasses;
- (i) containers or structures that can hold water located in close proximity to residences – creating a potential breeding site for the Dengue mosquito (*Aedes aegypti*) and the Asian Tiger mosquito (*Aedes albopictus*).

**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.

Schedule 1 Declared local pests

Section 5

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

Section 6(2)

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<p style="text-align: center;">Column 1</p> <p style="text-align: center;">Exempt Person</p>	<p style="text-align: center;">Column 2</p> <p style="text-align: center;">Declared local pests</p>
<p>Staff of an organisation using a particular local pest as part of a permitted education or scientific program</p>	<p>Any plants or animals declared by the local government as a local pest</p>

Schedule 3 Prohibited fires

Section 7(2)

	Column 1 Applicable part of local government's area	Column 2 Prohibited fire
1	Entire local government area	<ul style="list-style-type: none"> • 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 • 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 of any burning material therefrom. • Any fire that causes smoke that in the opinion of an authorised person is likely to cause severe irritation, annoyance or otherwise adversely affect any adjoining property owner.

Schedule 4 Prescribed requirements for community safety hazards

Section 10

	Column 1	Column 2
	Community safety hazard	Prescribed requirements to be met by owner of land
1	Barbed wire fencing	<p>Fencing not to be installed along a boundary adjoining a public park</p> <p>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]</p>
2	Electric fencing	<p>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</p> <p>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</p> <p>Fencing must be installed, operated and maintained in accordance with AS/NZS 3014:2003.</p> <p>Fencing for security must be installed, operated and maintained in accordance with AS/NZS 016:2002.</p>
3	Roof sheeting, guttering, sheet metal	Any materials not fixed to a structure to be weighted down or tied down to prevent

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		them from becoming airborne during high winds
4	Building or structure that is unsanitary, not in a good state of order or repair, unsafe or not fit for human habitation.	Building declared inhabitable and rendered inaccessible to the public until relevant building standards are met.
5	Buildings containing asbestos earmarked for structural work/changes or discarded building materials containing asbestos or other toxic substances.	Materials to be discarded or disposed of in accordance with the relevant Australian Standard and the materials must be rendered inaccessible to the public until relevant standard is met.
6	Disused machinery and machinery parts; dilapidated rusted vehicles; bottles, containers and scrap metal.	All the materials set out in column 1 must be stored or screened from public view to the satisfaction of an authorised person.
7	Any item that holds water for an extended period that could potentially provide mosquito breeding habitat.	Any item capable of holding water needs to be emptied, dried and cleaned once a week, or stored under cover, or turned upside-down, or disposed of, as appropriate.
8	Unscreened water tanks or water tanks with damaged screens (that enable female mosquitoes to enter and lay eggs inside the tank).	Screen all entry/exit holes with legal-sized mesh (1mm aperture size) of specified material (brass, copper, aluminium or stainless steel).
9	Fish frames, guts or carcasses.	All materials which are to be discarded or disposed of must not be discarded in water courses or where such disposal is likely to cause a nuisance or a public health risk in the opinion of an authorised person.

Schedule 5 Prescribed noise standards

Section 11

	Column 1	Column 2	Column 3
	Section of the <i>Environmental Protection Act 1994</i>, chapter 8, part 3B, division 3	Prescribed noise standard	Applicable part of local government's area
1	Section 440R – Building work	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; (c) whilst a funeral or tombstone opening is being held in the vicinity of the activity.	Entire local government area
2	Section 440S- Regulated devices	For the purposes of this section a regulated device is 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;	Entire local government area

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		<p>(g) a mulcher;</p> <p>(h) an oxyacetylene burner;</p> <p>(i) an electrical, mechanical or pneumatic power tool;</p> <p><i>Examples of a power tool</i> – chainsaw, drill, electric grinder or sander, electric welder, nailgun;</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>A person must not operate a regulated device in a way that makes audible noise: -</p> <p>(a) on a business day or Saturday, before 7.00am or after 7.00pm; or</p> <p>(b) on other day, before 8.00am or after 7.00pm; or</p> <p>(c) if the person using or operating the regulated device is a minor, liability instead attaches to a parent, guardian or person with the care of the minor;</p> <p>(d) this section does not apply to a person operating a regulated device under the authority of Torres Shire Council;</p> <p>(e) whilst a funeral or tombstone opening is being held in the vicinity</p>	
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		of the activity.	
3	Section 440T – Pumps	<p>In this section a pump means an electrical, mechanical or pneumatic pump.</p> <p>An occupier of the premises must not use, or permit the use of, the pump on any day –</p> <p>(a) before 7.00am, if it makes an audible noise; or</p> <p>(b) from 7.00am to 7.00pm, if it makes a noise of more than 3dB(A) above the background level; or</p> <p>(c) after 10.00pm, if it makes an audible noise; or</p> <p>(d) whilst a funeral or tombstone opening is being held in the vicinity of the activity.</p>	Entire local government area
4	Section 440U – Air-conditioning equipment’	<p>An occupier of the premises must not use, or permit the use of, the equipment on any day: -</p> <p>(a) before 7.00am, if it makes a noise of more than 3dB(A) above the background level; or</p> <p>(b) from 7.00am to 10.00pm, if it makes a noise of more than 5dB(A) above the background level; or</p> <p>(c) after 10.00pm, if it makes a noise of more than 3dB(A) above the background level.</p>	Entire local government area

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5	Section 440V – Refrigeration equipment	<p>The persons must not use, or permit the use of, the refrigeration equipment on any day: -</p> <p>(a) before 7.00am, if it makes a noise of more than 3dB(A) above the background level; or</p> <p>(b) from 7.00am to 10.00pm, if it makes a noise of more than 5dB(A) above the background level; or</p> <p>(c) after 10.00pm, if it makes a noise of more than 3dB(A) above the background level.</p>	Entire local government area
6	Section 440W – Indoor Venues	<p>An occupier of a building must not use, or permit the use of, the building as an indoor venue on any day –</p> <p>(a) before 7.00am, if the use makes an audible noise; or</p> <p>(b) from 7.00am to 10.00pm, if the use makes a noise of more than 5dB(A) above the background level; or</p> <p>(c) from 10.00pm to midnight, if the use makes a noise of more than 3dB(A) above the background level; or</p> <p>(d) whilst a funeral or tombstone opening is being held in the vicinity of the activity.</p>	Entire local government area
7	Section 440X –	An occupier of premises must not use, or permit the use of,	Entire local

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	Open-air events”	<p>the premises for an open-air event on any day –</p> <p>(a) before 7.00am, if the use causes audible noise; or</p> <p>(b) from 7.00am to 10.00pm, if the use causes noise of more than 70dB(A); or</p> <p>(c) from 10pm to midnight, if the use causes noise of more than the lesser of the following –</p> <p style="padding-left: 20px;">(i) 50dB(A);</p> <p style="padding-left: 20px;">(ii) 10db(A) above the background level; or</p> <p>(d) whilst a funeral or tombstone opening is being held in the vicinity</p>	government area
8	Section 440Y – Amplifier devices other than at indoor venue or open-air event.	<p>The person must not operate the device in any way that makes audible noise –</p> <p>(a) on a business day, before 7.00am, or after 10.00pm; or</p> <p>(b) on any day, before 8.00am or after 6.00pm; or</p> <p>(c) whilst a funeral or tombstone opening is being held in the vicinity of the activity.</p>	Entire local government area
9	Section 440ZA – Operating power boat engine at premises”	<p>A person must not operate, or permit the operation of, a power boat engine at premises in a way that makes audible noise –</p> <p>(a) on a business day or</p>	Entire local government area

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		<p>Saturday, before 7.00am or after 7.00pm; or</p> <p>(b) on any other day, before 9.00am or after 6.30pm; or</p> <p>(c) whilst a funeral or tombstone opening is being held in the vicinity of the activity.</p>	
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CERTIFICATION

This and the preceding 19 pages bearing my initials is a certified copy of *Torres Shire Council Subordinate Local Law No. 3 (Community and Environmental Management) 2013*, made in accordance with the provisions of the *Local Government Act 2009*, by Torres Shire Council by resolution dated 19 March 2013.

**Dalassa Yorkston
Chief Executive Officer
Torres Shire Council**