



**Tablelands Regional Council
Local Law No. 3 (Community and Environment) 2018**

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 3 (Community and Environment) 2018*.

2 Purpose and how it is to be achieved

- (1) The purpose of this local law is to protect the environment and public health, safety and amenity within the local government's area.
- (2) The purpose is to be achieved by providing for the elimination or reduction of risks and threats to the environment and public health, safety and amenity resulting from:
 - (a) inadequate protection against animal and plant pests;
 - (b) vegetation overgrowth;
 - (c) visual pollution including from accumulation of objects and materials;
 - (d) fires and fire hazards not regulated by State law;
 - (e) community safety hazards;
 - (f) noise that exceeds noise standards; and
 - (g) waste management.

3 Relationship with other laws

This local law is:

- (a) in addition to and does not derogate from laws for pest management, regulation of fires and environmental protection;
- (b) to be read with *Local Law No. 1 (Administration) 2018* which contains provisions and definitions that apply to all local laws; and
- (c) made under Chapter 3 of the LGA.

Part 2 Declared local pests

Division 1 Application

4 Application of part

- (1) This part does not apply to:
 - (a) an animal or plant that is dealt with under the *Biosecurity Act 2014*; or
 - (b) noxious fisheries resources or diseased fisheries resources.
- (2) In this section:

diseased fisheries resources see the *Fisheries Act 1994*, section 94.

noxious fisheries resources see the *Fisheries Act 1994*, schedule.

Division 2 Declaration of local pests

5 Declaration of local pests

The animal or plant described in column 2 of schedule 1 of *Subordinate Local Law No. 3 (Community and Environmental Management) 2018* is a declared pest in the corresponding part of the local government's area mentioned in column 1 of schedule 1.

6 Emergency declarations

- (1) This section applies if the local government is satisfied urgent action is needed to avoid or minimise an immediate risk of environmental harm posed by a plant or animal.
- (2) The local government may, by resolution, declare an animal or plant of the relevant species to be a local pest.
- (3) A declaration under this section:
 - (a) must be published in a newspaper circulating generally in the local government's area;
 - (b) comes into force on the date of publication; and
 - (c) comes to an end three months after the date of publication.
- (4) A declaration may apply:
 - (a) to the whole of the local government's area or in a specified part or parts of the area; and
 - (b) generally or only in specified circumstances.

Division 3 Control of local pests

7 Power to search for declared local pests

- (1) This section applies if an authorised person wants to enter a property to search for declared local pests.
- (2) After giving reasonable written notice to the owner and the occupier of the property, the authorised person may:
 - (a) enter the property without the permission of the occupier; and
 - (b) take reasonable action to search for declared local pests.
- (3) However, the authorised person:
 - (a) must, as soon as the authorised person enters the property, inform any occupier of the property:
 - (i) of the reason for entering the property;
 - (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and

- (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission to enter the home.

8 Pest control notices

- (1) An authorised person may, by compliance notice given to the owner of land, require the owner to take specified action to control declared local pests.
- (2) The specified action may include action to:
 - (a) destroy declared local pests on the land;
 - (b) minimise the risk of an outbreak of declared local pests on the land;
 - (c) prevent or minimise seeding or reproduction by declared local pests;
 - (d) contain infestation by declared local pests within a localised area;
 - (e) reduce the density or extent of infestation by declared local pests; or
 - (f) remove harbour provided to declared local pests.
- (3) The notice may require the repetition of a specified action at stated intervals or on the reappearance of the declared local pest within a specified period.

Division 4 Prohibition of sale and propagation

9 Prohibition on sale

A person must not:

- (a) sell or supply a declared local pest; or
- (b) offer or display a declared local pest for sale or supply.

Maximum penalty—50 penalty units.

10 Prohibition on introducing, propagating etc. a declared local pest

- (1) A person must not:
 - (a) introduce, propagate or breed a declared local pest; or
 - (b) provide harbour to a declared local pest.

Maximum penalty for subsection (1)—50 penalty units.

- (2) However, subsection (1) does not apply to a person mentioned in column 1 of schedule 2 of Subordinate *Local Law No.3 (Community and Environmental Management) 2018* 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.
- (3) In this section:
introduce means to introduce, or cause to introduce, into the local government's area.

Part 3 Overgrown and Unsightly Premises and Nuisances

11 Overgrown premises

- (1) This section applies where an authorised person forms the opinion that a premises is overgrown with vegetation to such an extent that:
 - (a) it has seriously affected the visual amenity of the premises; or
 - (b) is likely to attract or harbor vermin or reptiles.
- (2) A person must not allow a premises to become overgrown with vegetation to such an extent that:
 - (a) it has seriously affected the visual amenity of the premises; or
 - (b) is likely to attract or harbor vermin or reptiles.

Maximum penalty for subsection (2)- 5 Penalty units.
- (3) The authorised person may, by compliance notice given to the responsible person of the premises, require the responsible person to clear the vegetation to an extent specified in the notice.
- (4) However, the notice cannot prevent a use of land authorised under the Planning Act or the *Environmental Protection Act 1994*.

12 Accumulation of objects and materials on premises

- (1) This section applies where an authorised person forms the opinion that objects or materials brought on to, or allowed to accumulate on, premises:
 - (a) have seriously affected the visual amenity of the premises; or
 - (b) are likely to attract or harbor vermin or reptiles.

Examples for paragraph (1) of objects and materials that may seriously affect the visual amenity of premises:

 - *Discarded or disused machinery or machinery parts.*
 - *Broken-down or severely rusted vehicles.*
 - *Discarded bottles, containers or packaging.*
 - *Refuse or scrap material.*
- (2) A person must not allow objects or material to:
 - (a) seriously affect the visual amenity of the premises; or
 - (b) attract or harbor vermin or reptiles.

Maximum penalty for subsection (2) – 20 Penalty units.

- (3) The authorised person may, by compliance notice given to the responsible person of the premises, require the responsible person to:
- (a) remove objects or materials that are causing the circumstance mentioned in subsection (1); or
 - (b) take other specified action to remedy the circumstance mentioned in subsection (1).

Example of action that might be required under paragraph (b):

Erecting an appropriate structure (in accordance with requirements under the Planning Act) to screen unsightly objects or materials from public view.

- (4) However, the notice cannot prevent a use of land authorised under the Planning Act or the *Environmental Protection Act 1994*.

13 Maintenance of premises

- (1) A person must not allow premises or any structure, object or material upon premises to fall into a state of disrepair or dilapidation such that it becomes a risk to property or people in the neighbourhood.
- (2) A person must not cause or allow any structure, object or materials on premises to remain in a state where it becomes a visual blight on the neighbourhood.

Maximum penalty for subsection(1) - (2) – 20 penalty units.

- (3) In determining whether there is a visual blight on the neighbourhood the following factors will be considered:
- (a) whether the local government has received any complaints;
 - (b) the content of the complaints;
 - (c) the number of the complaints;
 - (d) the visual impact of the structure, object or material including:
 - (i) whether the structure, object or material is in a dirty condition;
 - (ii) whether the structure, object or material is in a state of disrepair or dilapidation; and
 - (iii) whether the structure, object or material is in need of repainting;
 - (e) the prominence of the structure, object or material for those living in the neighbourhood and those passing by the premises; and
 - (f) whether the content of the visual blight is offensive including whether it is racial, discriminatory, has content which is likely to incite hatred, or vilify persons or organisations.

Maximum penalty for subsection (3) - 20 penalty units.

- (4) If any structure, object or material is marked with graffiti the owner or responsible person for the place must remove the graffiti within 30 days, unless otherwise authorised by Council in writing.

- (5) An authorised person may give a compliance notice to the owner and responsible person requiring them to remove graffiti or to repair, clean or paint the structure, object or material so that it is not dilapidated or in a state of disrepair, or no longer a visual blight.

14 Public Nuisances

- (1) A person must not do an act or omit to do any act which causes a public nuisance.

Maximum Penalty – 50 penalty units.

- (2) A public nuisance is where:
 - (a) a person does an act or omission that gives rise to a risk of amenity for a person on a neighbouring premises; or
 - (b) a dead animal remains on premises:
 - (i) has caused harm to human health or safety or personal injury; or
 - (ii) is likely in an authorised person's opinion to give rise to a risk of harm to human health or safety or personal injury.

Part 4 Waste Management

Division 1 Waste Containers

15 Supply of waste collection containers

- (1) The owner or occupier of serviced premises must, subject to subsection (2), supply enough waste collection containers at the premises to contain the typical volume of waste produced at the premises.

Maximum penalty—20 penalty units.

- (2) The local government may supply to serviced premises the number of waste collection containers it reasonably considers is required to contain the volume of waste produced at the premises.
- (3) If the local government supplies a waste collection container to premises under subsection (2), the reasonable cost of supplying the container is a debt payable by the owner and occupier of the premises to the local government.
- (4) However, subsection (3) does not prevent the local government from supplying a waste collection container to premises without cost to the owner and occupier of the premises.

16 How to manage waste

- (1) A person must only put non-recyclable waste in a wheelie bin designated for non- recyclable waste.
- (2) A person must only put recyclable waste in a wheelie bin designated for recyclable waste.

- (3) Recyclable waste being plastic and glass bottles or jars, plastic containers, milk and juice cartons and steel and aluminium cans must be rinsed and tops removed before being put into a recyclable waste wheelie bin.
- (4) Unless authorised in writing by an authorised person or the local government, a person must not place any of the following in a waste collection container —
 - (a) 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;
 - (b) material that is smouldering or aflame; or
 - (c) any matter or thing that is alive.
- (5) Where the local government provides waste collection containers for collection, other than recyclable and non-recyclable waste wheelie bins, it may specify in writing the type of waste that can be put in the container and a person must only put in the container the specified type of waste.
Maximum penalty for subsections (1), (2), (3), (4) and (5)—20 penalty units.
- (6) The owner or occupier of the serviced premises must not allow a person to place a thing in a waste collection container at the premises in contravention of subsections (1), (2), (3), (4).or (5).
Maximum penalty—5 penalty units.
- (7) It is a defence in a proceeding against a person for an offence under subsections (6) for the person to prove the contravention was due to causes over which the person had no control.

17 Waste collection notices

- (1) The local government may give the owner or occupier of serviced premises a notice (a “waste collection notice”) stating any or all of the following—
 - (a) the days on which waste is to be collected;
 - (b) where waste collection containers are to be placed for collection of the waste (the designated location);
 - (c) the time by which a waste collection container is to be placed in the designated location for collection of the waste;
Example —occupiers of premises on streets with limited access for waste trucks may be required to place waste collection containers at a common designated location serving the street or a number of premises on the street.
 - (d) new types of non-recyclable or recyclable waste; and
 - (e) stating the designation of a wheelie bin as a non-recyclable wheelie bin or a recyclable wheelie bin.
- (2) A waste collection notice may be given by publication on the local government’s website.

18 Waste collection containers

- (1) The owner and occupier of a serviced premises must ensure that—
- (a) each waste collection container is kept clean and in good repair;
 - (b) each waste collection container is kept securely covered, except when the waste is being placed in, or removed from, the container or the container is being cleaned;
 - (c) vermin do not infest waste collection containers or the area where a waste collection container is stored;
 - (d) waste in a waste collection container does not cause an odour nuisance, which—
 - (i) in the opinion of an authorised person, unreasonably disrupts or inhibits the utilisation or enjoyment of a local government controlled road by the public; or
 - (ii) in the opinion of an authorised person, unreasonably disrupts or inhibits a lawful activity carried out on the premises or adjoining premises.

Maximum penalty—20 penalty units.

- (2) A person must not—
- (a) remove or disturb the cover of a waste collection container, except when placing waste in the container;
 - (b) use or damage a waste collection container so that it is not weatherproof or serviceable or cannot be securely covered; or
 - (c) disturb or otherwise interfere with the contents of a waste collection container.

Maximum penalty—20 penalty units.

- (3) The owner and occupier of a serviced premises must ensure that the waste collection container is:
- (a) kept on the serviced premises:
 - (i) in the location identified for storage on a development approval;
 - (ii) where (i) does not apply, so it is not visible from a road frontage; or
 - (iii) as otherwise directed in writing by an authorised person or the local government;
 - (b) not placed or deposited on the road or a State controlled road for collection more than 12 hours before the time notified by the local government as the time for collection (the “notified time”); and

- (c) not allowed to remain on the road or a State controlled road for more than 12 hours after the notified time.
- (d) placed in a location on the road where it will not affect the safety of road users, typically on the footpath of the road, and so that the waste collection vehicle can mechanically empty the waste collection container.

(e)

Maximum penalty—20 penalty units.

- (4) If subsection (3) is not complied with, the local government may remove the container and give notice to the owner or occupier that the waste collection container may be collected upon payment of the prescribed fee.
- (5) A container removed by the local government under sub-section (4) shall be returned to the owner or occupier if a valid reason is given by the owner or occupier to the local government for the non-compliance with subsection (3) (including providing evidence of this reason) or upon payment of the prescribed fee.
- (6) The owner and occupier of the premises must ensure there is unobstructed access to the waste collection container for removal of the waste for the notified time.

Maximum penalty—20 penalty units.

- (7) It is a defence in a proceeding against a person for an offence under subsection (6) for the person to prove the contravention was due to causes over which the person had no control.
- (8) A person must not place or attach to a waste collection container a notice, poster, sign or any other similar material or deface such a container in any other manner.

Maximum penalty—20 penalty units

- (9) Sub section (8) does not apply to a notice, poster, sign or other similar material that the local government requests in writing be affixed to a particular type of waste collection container.

Division 2 Littering and refuse likely to attract flies

19 Littering and refuse likely to attract flies

- (1) A person must not deposit or place waste on land other than at a waste disposal facility lawfully established for that purpose.

Maximum Penalty – 30 penalty units.

- (2) A person must not deposit or place waste in any place unless it is covered and treated so that it does not attract flies or become a breeding place for flies.

Maximum Penalty – 20 penalty units.

Part 5 Fires and fire hazards

20 Regulation of lighting and maintaining fires in the open

- (1) This section does not apply to the lighting or maintaining of a fire that is authorised under the *Fire and Emergency Services Act 1990*.
- (2) Lighting or maintaining a fire described in column 2 of schedule 3 of the *Subordinate Local Law No.3 (Community and Environment) 2018* is prohibited in the corresponding part of the local government's area mentioned in column 1 of schedule 3.
- (3) A person must comply with a prohibition or restriction imposed under this section.

Maximum penalty for subsection (3)—20 penalty units.

- (4) A person must not light or maintain a fire if the fire exposes property to the risk of damage or destruction by fire.

Maximum penalty for subsection (4)—20 penalty units.

- (5) A person does not commit an offence under subsection (3) or (4) if the person is authorised or required to light or maintain the fire in the performance of duties under another Act.

21 Fire hazards

- (1) This section applies where an authorised person forms the opinion that a fire hazard exists on premises.
- (2) A person must not allow a fire hazard to be created or maintained on a premises.

Maximum penalty for subsection (2) – 20 penalty units

- (3) The authorised person may, by compliance notice given to the responsible person for the premises, require the responsible person to take specified action to reduce or remove the fire hazard.

Part 6 Community safety hazards

22 What is a community safety hazard

A **community safety hazard** includes:

- (a) a fence or structure on land that, because of its nature or its position, poses a significant risk of causing injury to a person or damage to property;
- (b) objects or materials that are unsecured or inadequately secured and are likely to become airborne in periods of high wind in a way that will give rise to a possible risk of personal injury or property damage;
- (c) barbed wire fencing;
- (d) electric fencing;

- (e) disused machinery or machinery parts;
- (f) disused, broken down or severely rusted vehicles, or vehicle parts;
- (g) accumulation of bottles, containers or packaging;
- (h) refuse or scrap metal;
- (i) fish frames, scraping, carcasses and or guts;
- (j) smoke from outdoor cooking ovens or fires;
- (k) works, structures or things on a drainage easement or channel that have the potential to alter or obstruct, or alters or obstructs the flow of water through the drainage easement or channel;
- (l) failing to properly maintain a drainage easement or channel so that there is a potential to alter or obstruct, or alters or obstructs the flow of water through the drainage easement or channel; or
- (m) works, structures or things on or adjacent to a drainage easement or channel that have the potential to or actually do impact upon the drainage infrastructure.

23 Power to enter property to inspect for community safety hazards

- (1) This section applies if an authorised person wants to enter a property to inspect it to identify any community safety hazards.
- (2) After giving reasonable written notice to the owner and the occupier of the property, the authorised person may:
 - (a) enter the property without the permission of the occupier; and
 - (b) take reasonable action to inspect the property for community safety hazards.
- (3) However, the authorised person:
 - (a) must, as soon as the authorised person enters the property, inform any occupier of the property:
 - (i) of the reason for entering the property;
 - (ii) that the authorised person is authorised under this local law to enter the property, excluding a home on the property, without the permission of the occupier; and
 - (b) may enter a home that is on the property only with the permission of the occupier of the relevant part of the property.
- (4) If the occupier gives permission under subsection (3)(b), the authorised person may ask the occupier to sign a document that confirms that the occupier has given permission to enter the home.

24 Removal or reduction of community safety hazards

- (1) This section applies where an authorised person forms the opinion that a community safety hazard exists on premises.

- (2) A person must not allow a community safety hazard to be created or remain on a premises.

Maximum penalty for subsection (2) – 20 Penalty units.

- (3) The authorised person may, by compliance notice given to the responsible person of the premises, require the responsible person to take specified action in relation to the community safety hazard to:
 - (a) remove the community safety hazard; or
 - (b) reduce the level of risk to persons or property.

Example of specified action that might be required under paragraph (b) to reduce the risk to the community from a community safety hazard:

Securing objects or materials that may become airborne in periods of high wind.

25 Prescribed requirements

- (1) Owners of land that contains a community safety hazard listed in column 1 of schedule 4 of *Subordinate Local Law No. 3 (Community and Environment) 2018* must meet the requirements prescribed in the corresponding part of column 2 of schedule 4.
- (2) A responsible person must comply with requirements prescribed under this section.

Maximum penalty for subsection (2)—50 penalty units.

Part 7 Noise standards

26 Prescribed noise standards

- (1) This section applies if the local government is the administering authority for the *Environmental Protection Act 1994*, Chapter 8, Part 3B.
- (2) The noise standard in Column 2 of Schedule 5 of *Subordinate Local Law No.3 (Community and Environment) 2016* is prescribed for the section of the *Environmental Protection Act 1994*, Chapter 8, Part 3B, Division 3 stated in Column 1 of Schedule 5.
- (3) 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.
- (4) Where no noise standard is specified, the standards prescribed under the *Environmental Protection Act 1994* will apply.

- (5) A person must not make, or cause to be made, a noise that exceeds the noise standard in the whole, or designated parts, of the local government's area identified in Schedule 5.

Maximum penalty for subsection (5)—50 penalty units.

Part 8 Miscellaneous

27 Subordinate local laws

The local government may make subordinate local laws about:

- (a) declaring animals or plants of specified species to be local pests;
- (b) exempting certain persons in relation to declared pests;
- (c) prohibiting lighting and maintaining of fires;
- (d) prescribed requirements relating to community safety hazards; or
- (e) prescribed noise standards.

Part 9 Repeals

28 Repeal

This local law repeals –

- (a) Local Law No.3 (Community and Environmental Management) 2011.

CERTIFICATION

This and the preceding 12 pages bearing my initials is a certified copy of Tablelands Regional Council *Local Law No. 3 (Community and Environmental Management) 2018* made in accordance with the provisions of the *Local Government Act 2009*, by Tablelands Regional Council by resolution dated 2018.

Justin Commons
Chief Executive Officer
Tablelands Regional Council