

8.2 Policy (Review) - Backyard Burning

POLICY NAME: DRAFT REVIEW
BACKYARD BURNING

POLICY REF: B03

MEETING REVIEWED: MAY 2011

POLICY HISTORY: 22 June 2006
Resolution No. 220606(012)



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OBJECTIVE

To prevent air pollution from air borne particulates and chemicals and eliminate localised nuisance caused by smoke and odour generated by inefficient backyard burning off.

BACKGROUND

Burning of domestic waste is prohibited throughout the shire except where no domestic waste collection service is available.

The Protection of the Environment Operations (Clean Air) Regulation 2010 forms the basis of this policy which is designed to prevent air pollution from air borne particulates and chemicals and eliminate localised nuisance caused by smoke and odour generated by inefficient backyard burning off.

The Council considered a report on the earlier Regulation and after advertising for comment resolved to adopt the principles outlined in this document at its meeting of 27 July 2000. A further report was considered at Council's meeting of 22 June 2006 when the areas covered under the Regulation were expanded. This document includes the change made in June 2006 that has been carried over into the remake of the Regulation in 2010.

DEFINITIONS

The Act Protection of the Environment Operations Act 1997

The Regulation Protection of the Environment Operations (Clean Air) Regulation 2010.

SCOPE OF POLICY

This policy applies to:

- Ballina Shire residents.

RELATED DOCUMENTATION

- Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (Clean Air) Regulation 2010
- Rural Fires Act 1997

POLICY

1. General Obligations

The following obligations apply in all areas of NSW:

- Prohibition of burning certain items including tyres, coated wire, solvent containers & residues, paint containers & residues and treated timber – copper chromium arsenate (CCA) & pentachlorophenol (PCP); except where exempted in accordance with **Clause 11 of the Regulation.**

- A general obligation for any person to prevent or minimise pollution when burning.

2. Local Obligations

Ballina Shire Council has resolved to implement provisions to better control backyard burning especially in closely settled areas.

3. Burning of Domestic Waste (Not Vegetation)

Ballina Shire Council has adopted Schedule 8 Part 3 of the Regulation that deals with the burning of general waste.

Burning of domestic waste is prohibited throughout the shire except where no domestic waste collection service is available.

4. Burning of Vegetation

Council has adopted Schedule 8 Part 2 of the Regulation that deals with burning of vegetation.

Council has applied the controls on burning vegetation only to the area within the towns and villages and known urban zonings. Maps that form part of this Policy clearly delineate where the restriction on burning vegetation applies. Burning of vegetation (subject to the general obligations) is permitted other than within the area identified in the maps referred to above. This Policy constitutes an approval to such burning under Clause 13 of the Regulation.

Note: Council is not precluded from considering individual cases or cases involving a class of persons for the burning of dry vegetation on their merits within the controlled area. Council officers are required under the regulation to assess each application presented against a number of heads of consideration and issue a written approval if satisfied with it. Council must keep a copy of each approval and maintain in a public register.

5. General Exemptions

The Regulation exempts:

- Bush Fire Hazard Reduction work under the Rural Fires Act 1997;
- Destruction by burning of prohibited plants or drugs under the Drug Misuse & Trafficking Act 1985;
- Destruction by means of burning of an animal that has died or suspected of having died of a disease proclaimed under the Stock Diseases Act 1923 or an emergency animal disease within the meaning of the Animal Diseases (Emergency Outbreaks) Act 1991.

6. Specific Exemptions

It is not an offence under clause 12 of the Regulation:

- (a) to cook or barbecue in the open, or to light, maintain or use a fire for recreational purposes such as camping, picnicking, scouting or other similar outdoor activities, so long as only dry seasoned wood, liquid petroleum gas (LPG), natural gas or proprietary barbecue fuel (including a small quantity of fire starter) is used, or

- (b) to burn vegetation, in the course of carrying on agricultural operations, on premises on which the vegetation grew, including:
- (i) the burning of vegetation for the purposes of clearing (other than for construction), or
 - (ii) the burning of stubble, orchard prunings, diseased crops, weeds or pest animal habitats on farms, or
 - (iii) the burning of pasture for regenerative purposes, or
- (c) to burn anything for the purposes of the giving of instruction in methods of fire fighting by:
- (i) an officer or member of a fire fighting authority, or
 - (ii) a fire control officer within the meaning of the Rural Fires Act 1997, or
 - (iii) an industrial fire control officer,
- when acting in his or her official capacity.

(d) to burn anything under the authority of, and in accordance with, a bush fire hazard reduction certificate issued under the Rural Fires Act 1997

The Regulation also provides exemptions for:

- Licensed incinerators and incinerators which meet specific technical requirements, and
- Flaring of waste gases.

7. Health & Other Issues

Note: There are provisions in the Act that enable Council's authorised officers to require extinguishment of any fire, which the officer can confirm is causing a serious risk to the health of any person. A similar provision applies where it can be confirmed that a fire is not conducted in such a manner as to minimise air pollution.

Inquiries may be made to Council's Regulatory Services Group regarding any aspect of this Policy. After hours numbers may be contacted especially where a person believes that a fire is causing a serious risk to health.

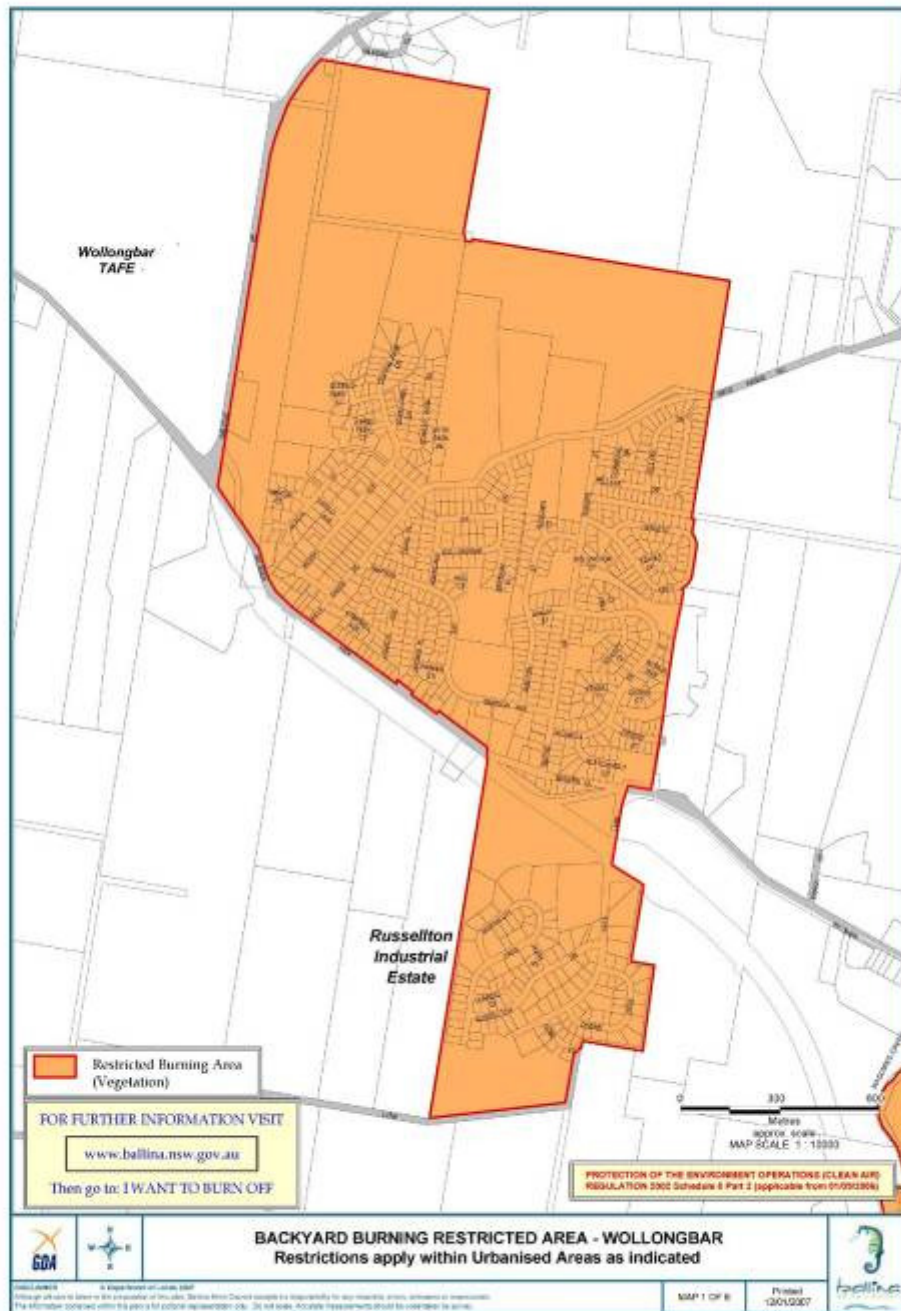
Note: Residents are reminded that this Policy does not relate to the safety aspects of burning off. Obligations under the Rural Fires Act 1997 require the seeking of permits during the bushfire danger period. There are notifications required both to Council and to adjoining neighbours for the conducting of fires at any time of year. More details regarding these requirements are available from the Rural Fire Service or the Town Brigades.

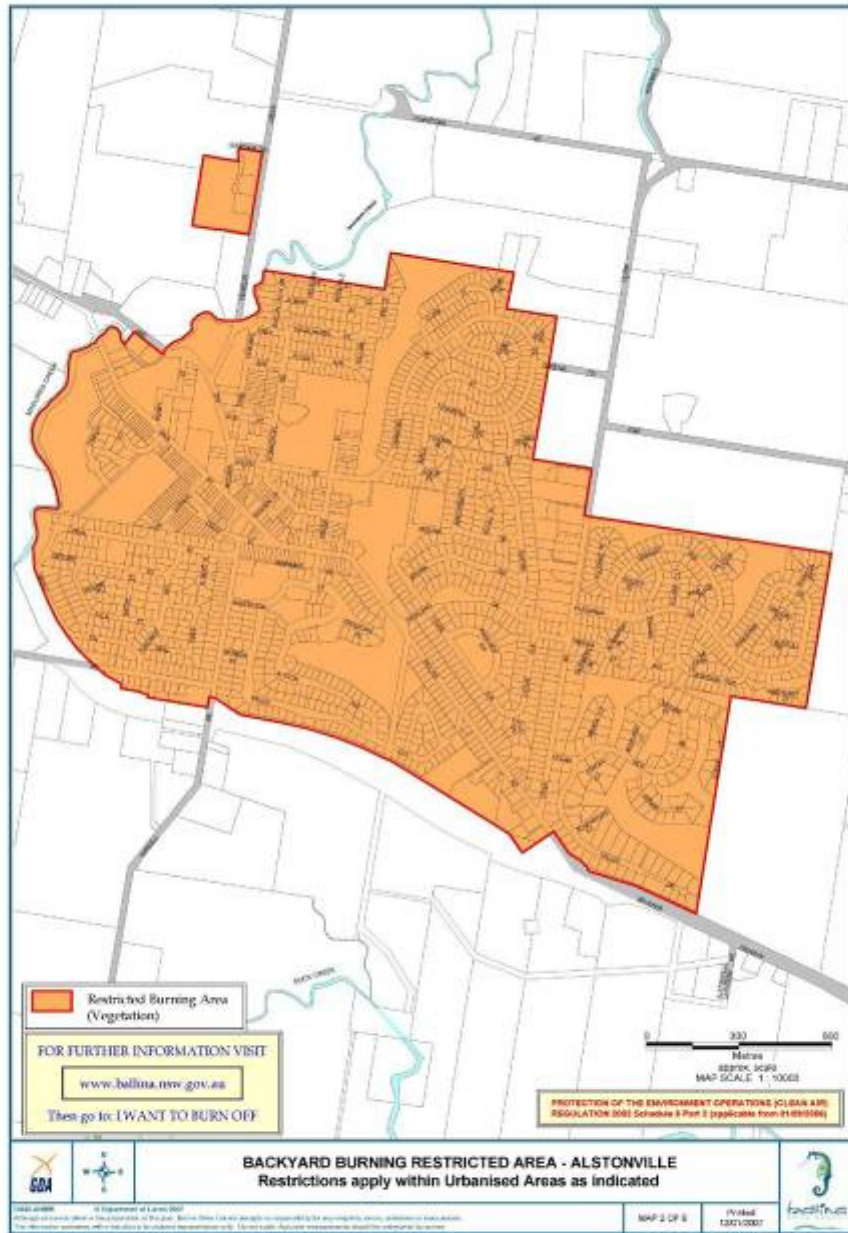
8. Penalties

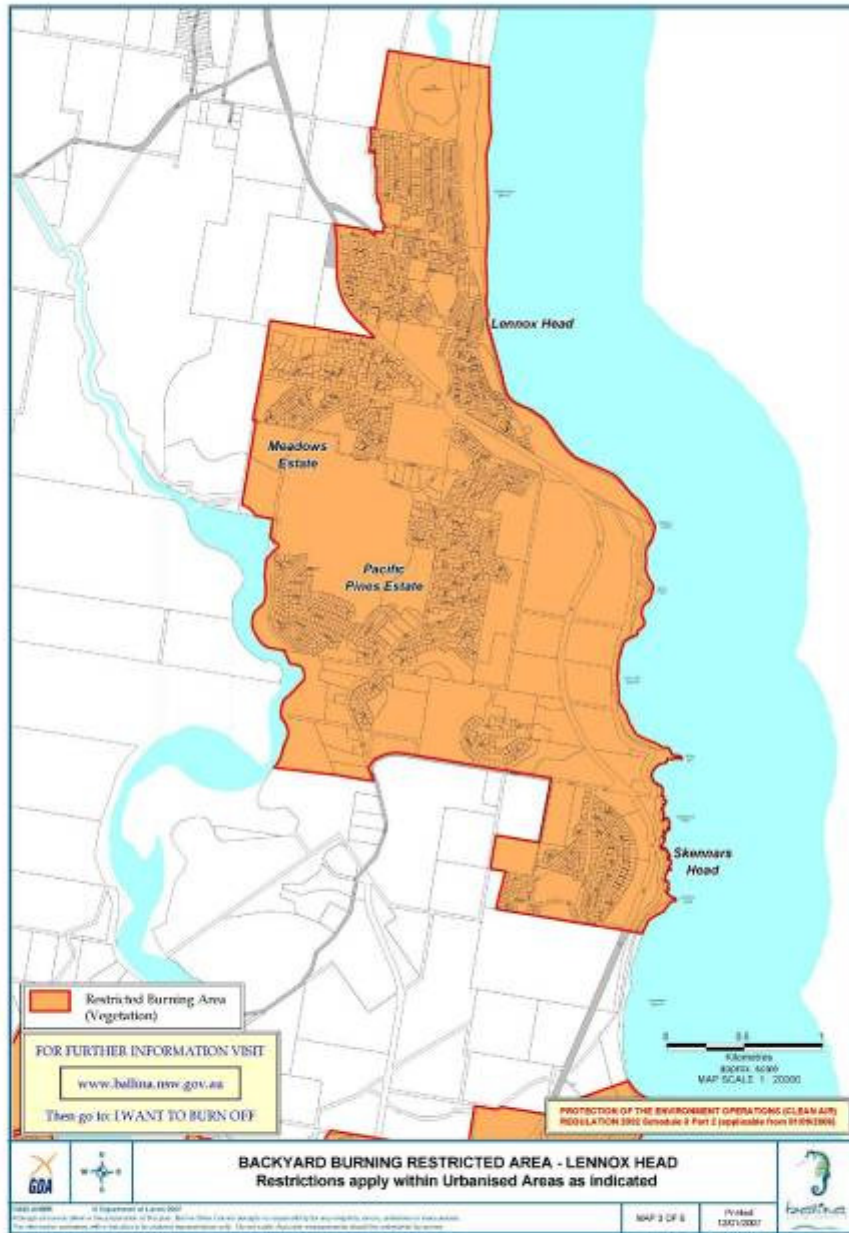
Council authorised officers and certain officers of other authorities, are empowered to serve penalty infringement notices where it can be established there has been a breach of the Regulation. Penalties are \$500 against individuals and \$1000 against corporations. Higher penalties apply if a matter is prosecuted in Court.

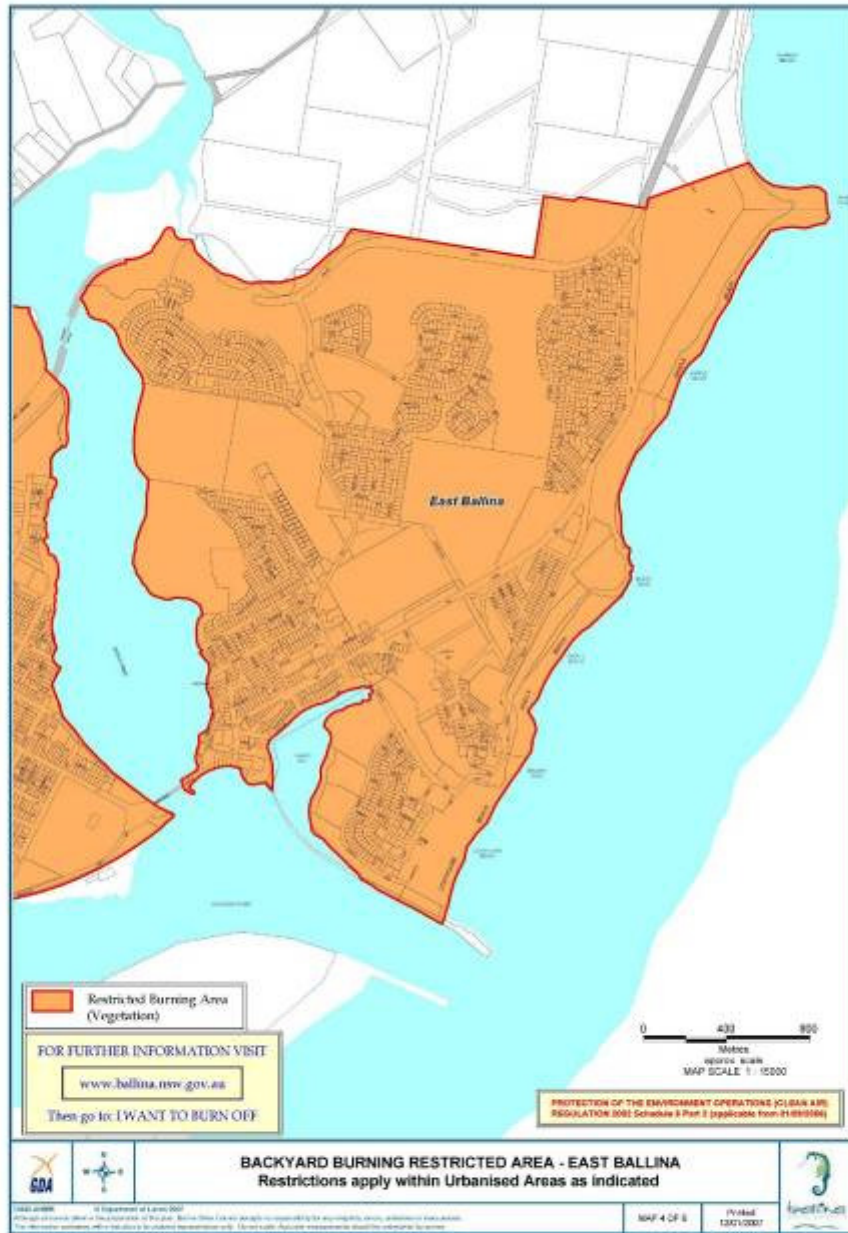
REVIEW

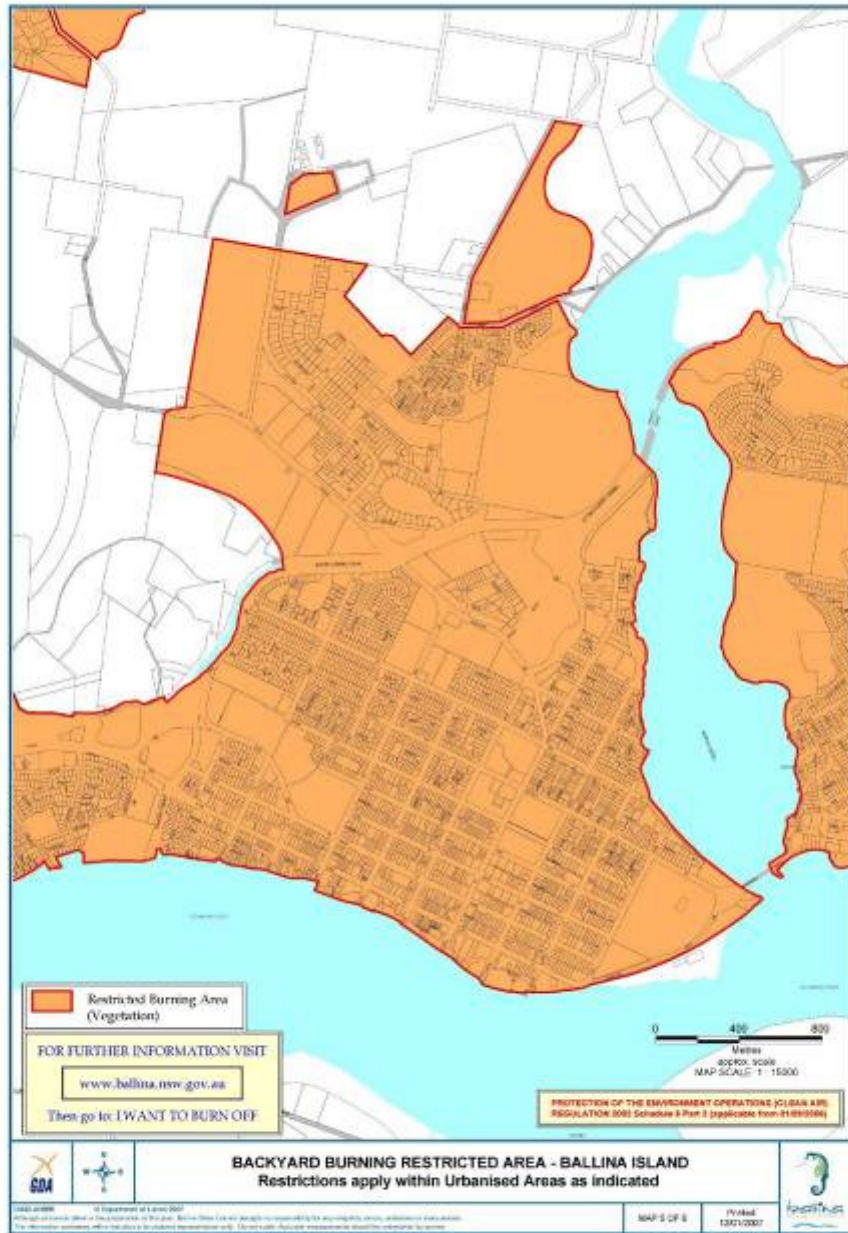
The Backyard Burning Policy is to be reviewed every four years.

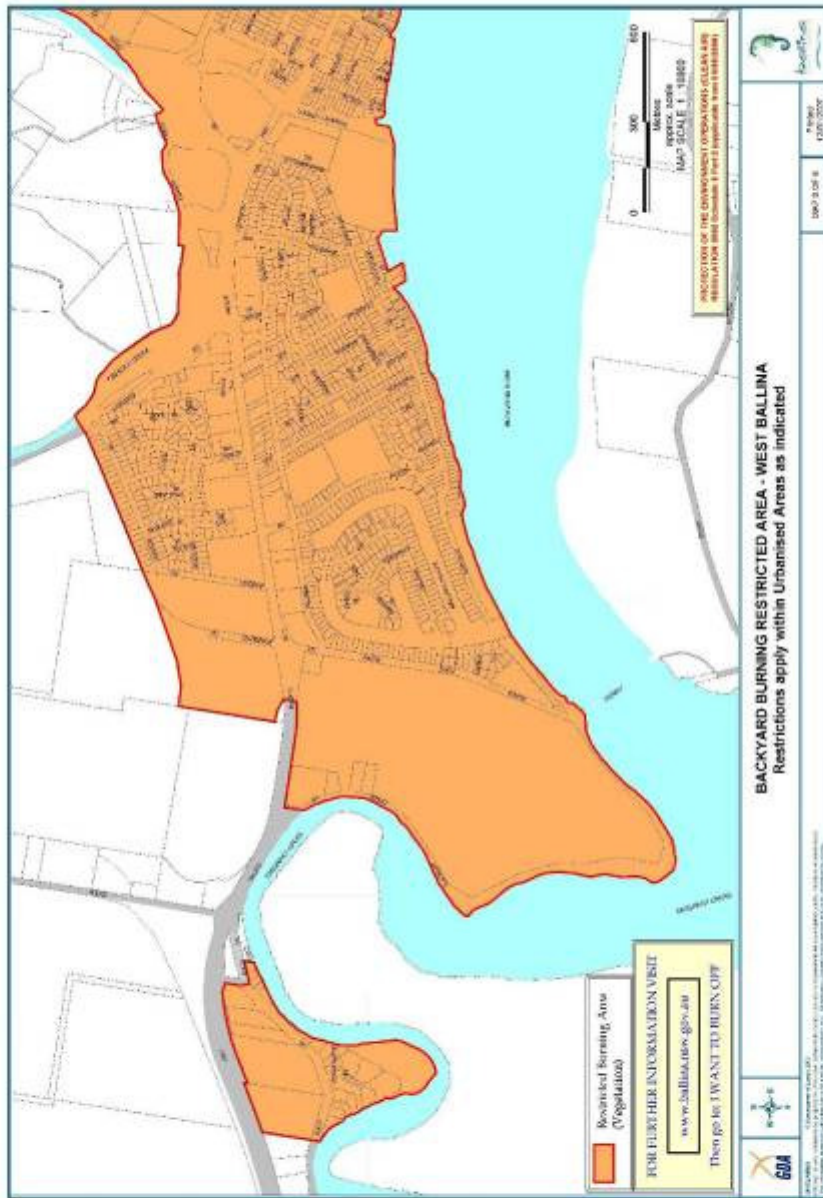


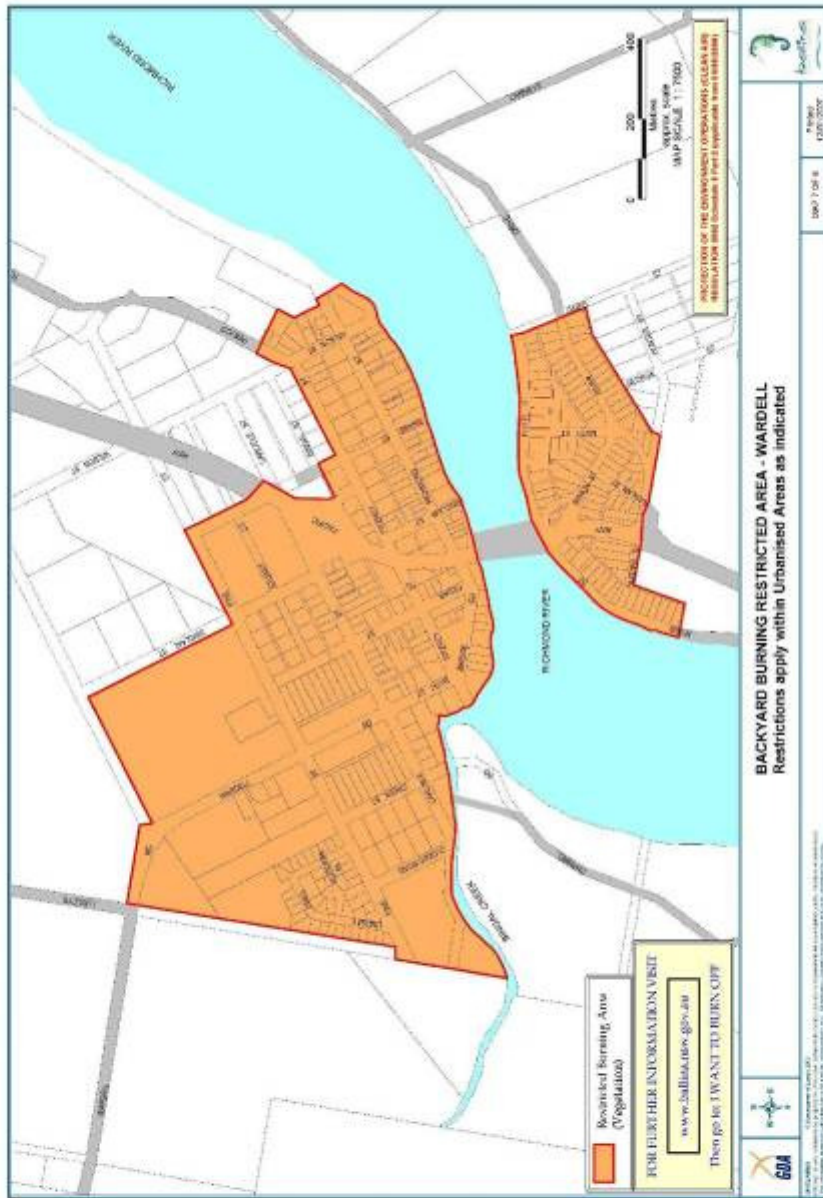


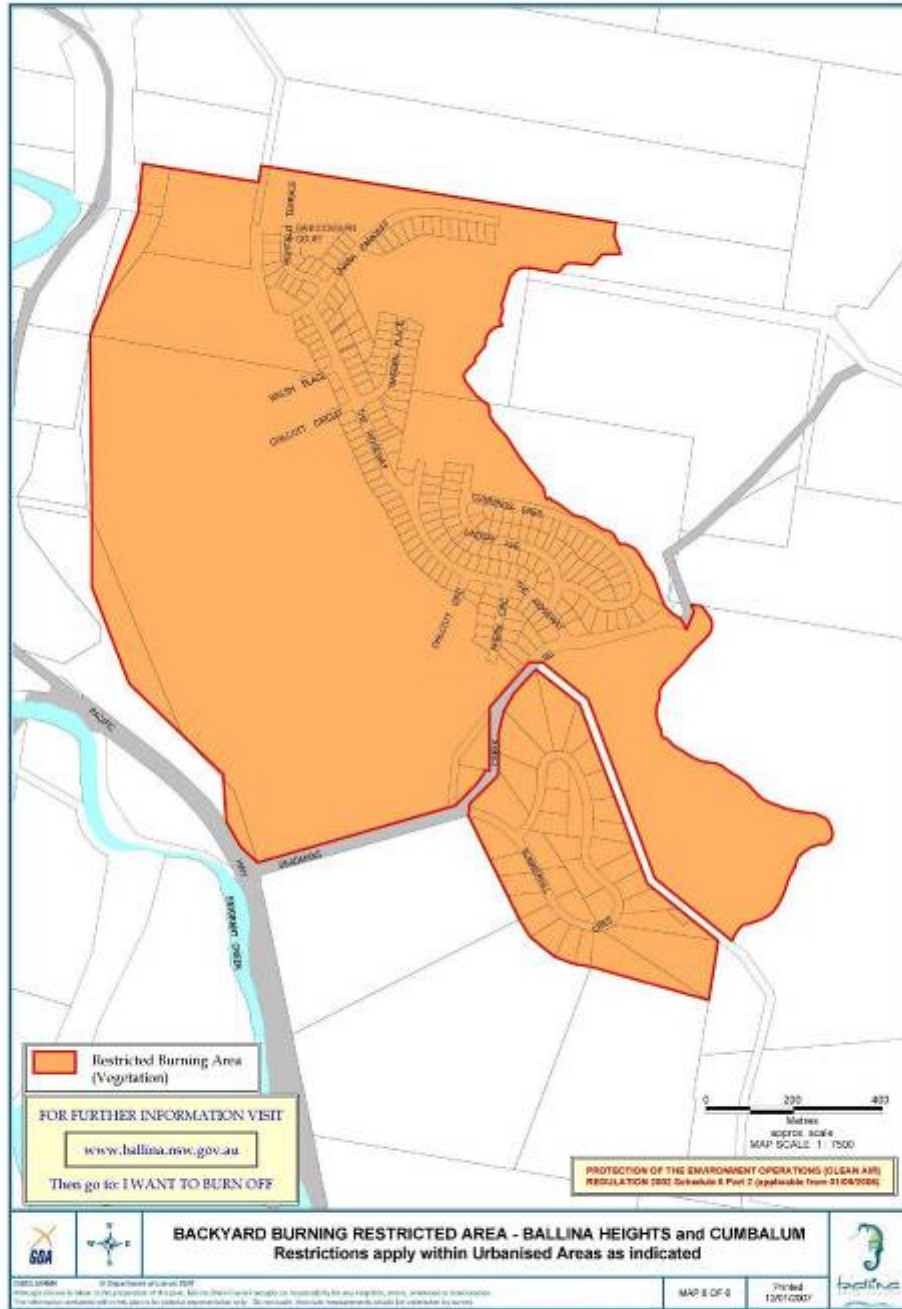












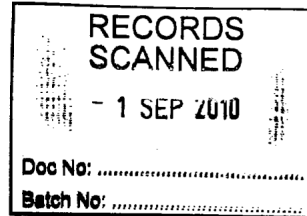


**Environment,
Climate Change
& Water**

25 August 2010

Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Our reference: DOC10/38050/FIL08/2857-03



Dear Mr Hickey

PROTECTION OF THE ENVIRONMENT (CLEAN AIR) REGULATION 2010

I refer to my letter of 7 June 2010 bringing to your attention the remake of the Protection of the Environment Operations (Clean Air) Regulation 2002 and requesting comments on the Regulatory Impact Statement.

The Protection of the Environment Operations (Clean Air) Regulation 2010 was remade on 13 August 2010 and will commence on 1 September 2010.

The 2010 Regulation is in substance exactly the same as the proposed 2010 Regulation accompanying the Regulatory Impact Statement except for changes to Schedule 8 requested by Warren Shire Council and Camden Council.

All submissions received have been considered. Some submissions raised issues (including regulation of outdoor heating) that require more extensive public consultation and these issues will be taken into account during the next review of the relevant Part of the Regulation.

Parliamentary Counsel have made a few additional adjustments to simplify language or structure of the Regulation. There has been a further adjustment to the numbering of the clauses and I enclose an updated reference table that matches the clause numbers and Parts of the 2002 Regulation with those of the 2010 Regulation.

Please note that the savings provision in clause 79 of the proposed Regulation provides that any act, matter or thing that has effect under the current Regulation, will continue to have effect under the proposed Regulation.

If you have any questions relating to the proposed Regulation, please contact Nadia Kanhoush on 9995 5827 or Nelma Akhund on 9995 6035.

Yours sincerely

ANN-LOUISE CROTTY
Manager Air Policy

Enclosure

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CLAUSE COMPARISON

**Protection of the Environment Operations (Clean Air) Regulation 2002
and the
Protection of the Environment Operations (Clean Air) Regulation 2010**

2002 Regulation	2010 Description	2010 Regulation
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Note: clauses 13, 19A, 19B and 19C of the 2002 Regulation have been repealed.