

**POLICY NAME:** BACKYARD BURNING

**POLICY REF:** B03

**MEETING ADOPTED:** 23 November 2023  
Resolution No. 231123/18

**POLICY HISTORY:** 230519/13; 230415/12; 260511/4; 220606/12



**TABLE OF CONTENTS**

**OBJECTIVE..... 1**

**POLICY..... 1**

1. General Obligations..... 1

2. Local Obligations..... 1

3. Burning of Domestic Waste (Not Vegetation)..... 1

4. Burning of Vegetation..... 1

5. General Exemptions..... 2

6. Specific Exemptions..... 2

7. Health & Other Issues..... 2

8. Penalties..... 3

**BACKGROUND..... 3**

**DEFINITIONS..... 3**

**SCOPE OF POLICY..... 3**

**RELATED DOCUMENTATION..... 3**

**REVIEW..... 3**

**MAPS – BACKYARD BURNING RESTRICTED AREA..... 4 - 11**

## 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.

## POLICY

### 1. General Obligations

The following obligations apply in all areas of NSW:

- Prohibition of burning certain items including tyres, coated wire, solvent containers and residues, paint containers & residues and treated timber – copper chromium arsenate (CCA) or pentachlorophenol (PCP), except where exempt in accordance with Clause 11 of the Regulation.
- A general obligation for any person to prevent or minimise pollution when burning. The means of preventing or minimising air pollution may include the following:
  - (a) mitigating the potential for smoke impacting on a person, considering -
    - (i) wind direction, and
    - (ii) weather conditions, and
    - (iii) the likely length of burning time of the material,
  - (b) taking reasonable measures to ensure the material being burnt is not wet,
  - (c) burning only material that is suitable for disposal by burning, considering the possible effects on human health and the environment.

### 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 1 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 1 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.

**Note:** Council is not precluded from considering individual cases for the burning of dry vegetation on their merits within the restricted 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

Clause 8 of the Regulation exempts:

- Emergency 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;
- Burning of biosecurity matter or a carrier to minimise or eliminate a biosecurity risk if carried out by an authorised officer or authorised person under the Biosecurity Act 2015.

## 6. Specific Exemptions

It is not an offence under clause 14 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 of the NSW Rural Fire Service, 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
- Burning air impurities to prevent or minimise air pollution by flaring.

## 7. Health & Other Issues

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 Planning and Environmental Health Division 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 or the environment, such as air pollution.

This Policy does not relate to the safety aspects of burning. 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 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.

## **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 2022 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.

The Council considered a report on the earlier Regulation and after advertising for comment resolved to adopt the principles outlined in this Policy at its meeting of 27 July 2000.

## **DEFINITIONS**

**The Act**                      Protection of the Environment Operations Act 1997.

**The Regulation**        Protection of the Environment Operations (Clean Air) Regulation 2022.

## **SCOPE OF POLICY**

This policy applies to:

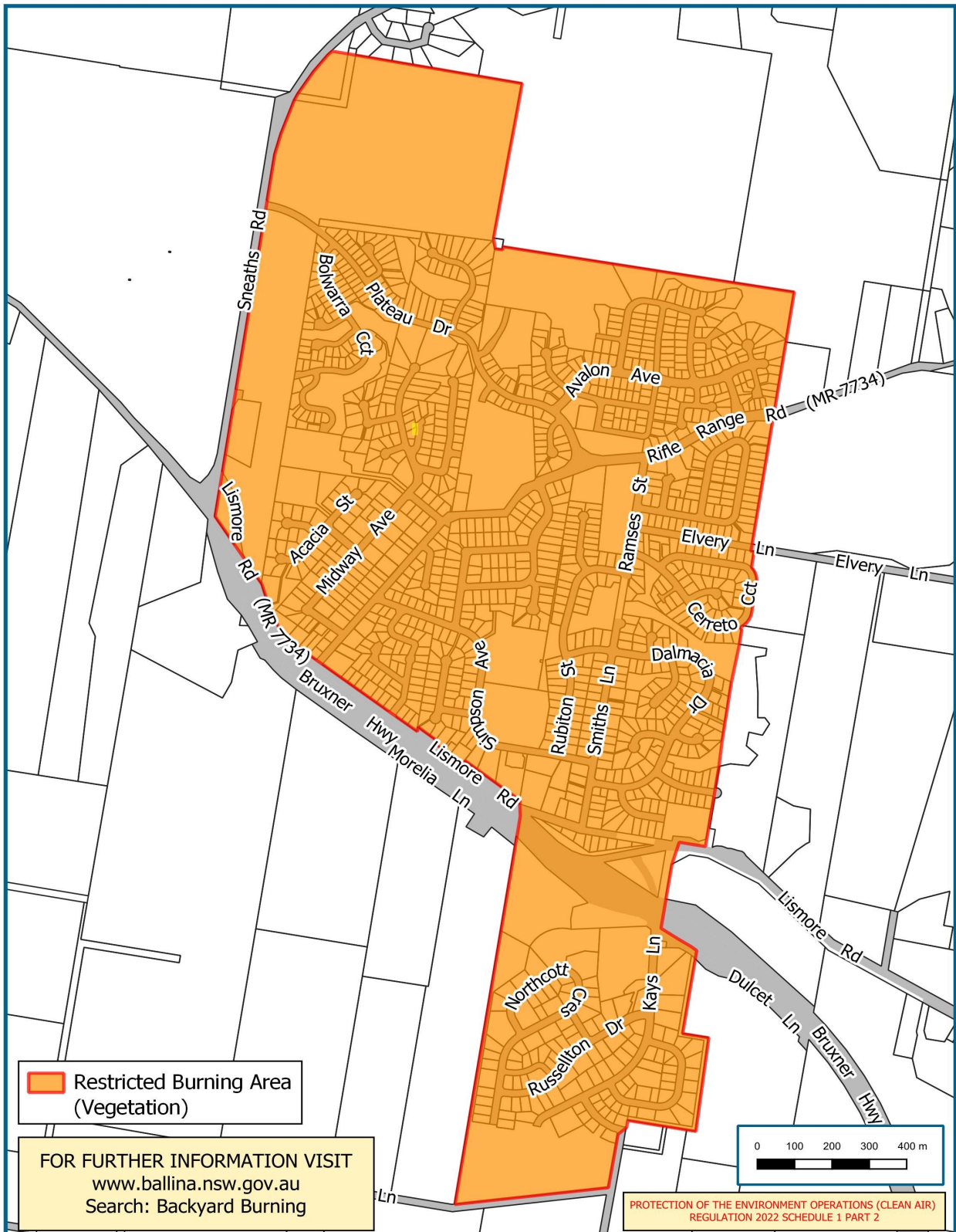
- Community members
- Council employees

## **RELATED DOCUMENTATION**

- Protection of the Environment Operations Act 1997
- Protection of the Environment Operations (Clean Air) Regulation 2022
- Rural Fires Act 1997
- Biosecurity Act 2015
- Drug Misuse & Trafficking Act 1985

## **REVIEW**

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



		<b>BACKYARD BURNING RESTRICTED AREA - WOLLONGBAR</b> <b>Restrictions Apply within Urbanised Areas as Indicated</b>	
<small>DISCLAIMER © NSW Spatial Services 2019        Although all care has been taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies.        The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.</small>		Map 1 of 8	Printed 17/10/2023



