

Frequently Asked Questions

What is backyard burning?

'Backyard burning' means the burning of piled-up or standing vegetation, as well as other material on urban blocks and rural-residential properties.

Backyard burning doesn't include forestry burning or fuel hazard reduction burns undertaken by government agencies, nor does it refer to small backyard fires that are solely used for heating and/or cooking. However, if you use a fire to get rid of unwanted garden or other waste, you *are* backyard burning.

In Tasmania, the main rules for backyard burning are in Part 4 of the *Environmental Management and Pollution Control (Smoke) Regulations 2019*¹. These rules apply across the whole State.

Are there any other rules covering backyard burning?

Your local council may have bylaws that restrict backyard burning – check with them first to make sure you can go ahead.

In addition, section 53 of the *Environmental Management and Pollution Control Act 1994 (EMPCA)*² has a general requirement that a person should not cause an 'environmental nuisance'. This includes smoke emissions.

Section 53 can be used by council officers when an activity is not specifically covered by the Smoke Regulations **OR** when apparent compliance with the Regulations still results in excessive smoke.

Even if you are acting in accordance with the Smoke Regulations, your burning activities may still have the potential to create an environmental nuisance. It is your responsibility to do everything you can to minimise the smoke you create.

If you are on a typical suburban block, there are usually other options available such as composting, chipping and offsite disposal. Burning should only be used as a last resort.

Do the Smoke Regulations ban backyard burning?

No. They simply place some common sense legal and practical boundaries around the activity to minimise its effects on neighbours and the wider community.

The Regulations place two types of restriction on backyard burning:

1. Regulation 9 makes it an offence to undertake backyard burning *for any purpose* on land with an area of <2,000m²;

UNLESS it is done in accordance with any relevant fire permit, environment protection notice (EPN) or council bylaw;

AND all practicable means are taken to prevent or minimize air pollution (i.e. by having regard to weather conditions, proximity of neighbours and by only burning dry vegetation*).

(*Refer to regulation 9 for more details.)

¹ <https://www.legislation.tas.gov.au/view/html/inforce/current/sr-2019-034>

² <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1994-044>

2. Regulation 8 makes it an offence to burn 'prohibited waste' on any land, unless authorised (e.g. by an emergency authorisation under section 34 of EMPCA).

Prohibited waste includes asbestos, tyres, coated wire, paint & chemical containers and residues, rubber, painted & treated wood*, plastic, oil, household waste, linen, foam rubber and polystyrene.

(* Refer to the definition of prohibited waste in regulation 3 for more details.)

Are barbecues, outdoor fireplaces and firepots included under these restrictions?

Barbecues and other small fires used solely for heating or cooking are not considered to be backyard burning. However, if you use them to get rid of vegetative or other types of waste, then the backyard burning restrictions do apply. The rules for barbecues etc. are explained in EPA Tasmania's Factsheet - Rules for Wood-Fired Heating and Cooking³.

What can I burn in my backyard?

You can burn the following solid fuel* - unpainted / untreated / uncontaminated wood, vegetative waste, pellet fuel, briquettes, paper, coal, charcoal and peat. Cardboard is a valuable resource and should be disposed of through kerbside recycling or by taking it to a recycling facility. Cardboard can also be used to suppress garden weeds, particularly when placed under a layer of mulch.

(* As defined in regulation 3. Burning of solid fuel is also subject to the conditions in regulation 9.)

How much can I be fined if my backyard burning breaches the Regulations?

A council officer can issue an infringement notice, or you may be prosecuted. An infringement notice applies an on-the-spot fine of 5 penalty units* (\$860 in 2020/21). The maximum court penalty for backyard burning is 50 penalty units* (\$8600 in 2020/21), but it is expected that court action will be taken only if other approaches consistently fail.

*penalty unit value is adjusted every year based on the CPI.

Do I need a Fire Permit for backyard burning?

Not unless there is a Fire Permit period in force. If in doubt, visit the Tasmania Fire Service website⁴. You will need to comply with the conditions on any relevant Permit. Under section 66 of the *Fire Service Act 1979*, a person who lights and controls a fire in accordance with the conditions of a permit granted under that section is exempt from the provisions of EMPCA. However, in the interests of public health and enjoyment you should still make all efforts to minimize the smoke you create.

What is meant by 'dry vegetation'?

Garden clippings (tree branches and the like) will typically take 6 to 12 months before they are sufficiently dry to allow clean burning. A rule of thumb is that a branch which cannot be cleanly

³ <https://epa.tas.gov.au/Documents/Factsheet - Rules for Wood-Fired Heating and Cooking June 2019.pdf>

⁴ <http://www.fire.tas.gov.au/>

snapped or broken is not dry enough to burn. Green leaves and branches also indicate the material is unlikely to be dry enough.

What if my property is larger than 2000m²?

You can backyard burn, but you will still need to do it in accordance with any relevant TFS permit, Council bylaws or EPN. You should also apply the principles given in regulation 9 to make sure you don't cause an 'environmental nuisance' under section 53 of EMPCA. It is your responsibility to minimise the smoke you produce from any backyard burning, whatever the size of your property. Consider all other options – green waste collection, onsite chipping / composting / mulching - before resorting to burning.

Can I burn demolition or other types of building waste?

Only if it doesn't contain any of the prohibited wastes described above, or if you have some form of lawful approval to burn them. In practical terms this means you are limited to burning clean, dry timber. Many building materials contain hazardous chemicals that will be released during a fire. Recycling should always be your first option. If the waste can't be recycled, it needs to be taken to a facility that can lawfully receive such waste. Contact your local council to discuss disposal options.

For more information contact:

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