

BURNING OF VEGETATION POLICY

Responsible Department:	Planning and Sustainability
Responsible Section:	Regulatory Compliance
Responsible Officer:	Manager Regulatory Compliance

Objective

To address Council's statutory responsibilities in relation to pile burning.

Introduction

This Policy provides a framework for the consideration of proposals for the burning of dead and dry vegetation (pile burn) within the Narrabri Shire Local Government Area.

Council may grant approval to burn, under clause 13(2) of the *Protection of the Environment Operations (Clean Air) Regulation 2021*. The approval is giving permission to pollute and is not giving permission to light a fire. The manager or owner of the land is to seek additional information from the NSW Rural Fire Service (RFS) or NSW Fire and Rescue (FRNSW) about approvals required from those agencies.

A summary of the relevant legislation is as follows:

- *The Protection of the Environmental Operations (Clean Air) Regulation 2021* and *Rural Fires Act 1997* regulate the burning of materials in New South Wales.
- Under clause 13 of the *Protection of the Environmental Operations (Clean Air) Regulation 2021*, approvals to burn may be granted by Council for the 'burning of dead and dry vegetation on the premises from which the vegetation grew'. All other approvals to burn can only be granted by the Environment Protection Authority (EPA).
- *The Protection of the Environment Operations (Clean Air) Regulation 2021*:
 - Requires anyone who burns anything in the open or in an incinerator to do so in a manner that prevents or minimises air pollution (Clause 13(3));
 - Prohibits the burning of tyres, coated wire, paint or solvent containers and residues, and timber treated with copper chromium arsenate or pentachlorophenol (Clause 11);
 - Controls the burning of domestic waste and vegetation (Clause 12);
 - Permits agricultural, cooking and recreational fires in certain circumstances (Clause 12(4));
 - Prohibits the burning of domestic waste without approval where there is a domestic waste collection service available (Part 3).

Policy

1. General

1.1. A 'blanket approval' is granted for properties with an area of not less than 4000m² and zoned under the *Narrabri Local Environmental Plan 2012*:

- (a) Primary Production (RU1);

- (b) Forestry (RU3);
 - (c) Primary Production Small Lots (RU4);
 - (d) Villages (RU5); and
 - (e) Environmental Management (E3)
- 1.2. Properties outside these zones or smaller than 4000m² are to apply for a Council Burning Permit and follow the assessment process.
- 1.3. Approval to burn under this policy is only for the purpose of disposal of dead and dry vegetative material through pile burning. Vegetative material must consist only of that which accumulates on the prescribed parcel of land during the normal use of the land. Council cannot approve any other type of burning other than the burning of dead and dry vegetation.
- 1.4. This notice of approval does not imply approval to burn for any other purpose, such as:
- (a) Hazard reduction burning of the land;
 - (b) Land clearing;
 - (c) Disposal of vegetation cleared in accordance with a development consent under the *Environmental Planning and Assessment Act 1979* (NSW);
 - (d) Burning the land for bush fire hazard reduction; and/or
 - (e) Approval to burn non-vegetative waste.
- 1.5. This approval does not remove the requirement, or exempt the person from the obligation, to obtain relevant permits or licences under other legislation including the *Rural Fires Act 1997*, *Protection of the Environment Operations Act 1997* and *Biodiversity Conservation Act 2016*.
- 1.6. Council reserves the right to modify this notice of approval to burn dead and dry vegetation at any time. The General Manager or their delegate is authorised to do so.

2. Application for Burning Permit

- 2.1. Residents seeking a fire-burning permit must apply to Council for one.
- 2.2. Council may grant a permit on a case-by-case basis.
- 2.3. Applications must be accompanied by the prescribed application fee.
- 2.4. Residents are to consider other options such as taking dead and dry vegetation to the landfill before applying for a fire-burning permit.
- 2.5. Council will consider the application and make a determination in accordance with this policy.
- 2.6. The person responsible for the burn must conduct the burn in accordance with relevant Rural Fire Service standards.
- 2.7. Council issues fire permits depending on the land zoning and the size of the property:

3. Conditions of Approval

- 3.1. The following conditions will apply to all approvals, standing and case-by-case, at a minimum:
- (a) Only vegetation generated on the land on which the burning is to be undertaken may be burnt pursuant to this Approval.
 - (b) Material forming piles to be burnt must only consist of vegetation material that has originated from the process of maintaining existing cleared or landscape areas. No other material is permitted to be burnt with vegetation burnt pursuant to this policy;
 - (c) Only one pile of vegetation may be burnt on any parcel of land at one time. The fire must not exceed 4 metres in diameter and 1.5 metres in height;
 - (d) An open fire must be at least 20 metres away from any dwelling, other building or unmanaged vegetation;

- (e) No combustible material shall be within 4.5m of the fire;
- (f) An open fire must be supervised by a responsible adult at all times;
- (g) Adequate supply of water and firefighting equipment in good working order is to be immediately on hand to ensure the pile burn can be immediately extinguished, if necessary for fire safety or nuisance concerns;
- (h) Adjacent property owners must be given 24 hours verbal or written notification before the open fire;
- (i) Burning should only take place when weather conditions are suitable, with winds under 19km/h and predicted to remain so. If the winds speed increases during the burning, the burning is to be terminated by the immediate extinguishment of the fire;
- (j) Burning must not cause nuisance to neighbours or a smoke hazard to traffic;
- (k) Activities must be undertaken in accordance with the NSW Rural Fire Service requirements with the exception of pile size, where condition 2 of this Approval prevails;
- (l) Any residue waste from the burning must be disposed of in an environmentally satisfactory manner and in accordance with *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Waste) Regulation 2014*.
- (m) On completion of the burn, the burnt area must be maintained in a condition that minimises or prevents the emission of dust and prevents sediment or ash from fires being washed from the area into surrounding waterways (natural or constructed);
- (n) For properties within the RFS Jurisdiction land managers/owners must notify their local RFS not less than 24 hours prior to an intended burn;
- (o) For properties within the FRNSW Jurisdiction land managers/owners must notify FRNSW after Council's approval has been granted and not less than 24 hours prior to an intended burn.

4. No Burn Days or Total Fire Bans

- 4.1. In the event of a total fire ban or a fire danger rating of high or above being declared, any fire approval issued by Council is suspended. Any existing fire is to be extinguished and cannot be re-commenced until the fire ban is lifted and the fire danger rating recedes below high.
- 4.2. In the event of a no burn day being declared by the EPA, any approval issued by Council is suspended for the duration of the declaration. When a No Burn Notice is issued, it applies to the lighting of new fires in the declared areas. Existing fires should be allowed to continue as extinguishing them would result in more smoke. No Burn Notices are usually available from 4pm the day before they come into effect. Information is available by calling 131 555 or via the NSW Department of Planning and Environment.

Bushfire Danger Period

- 4.3. During the Bushfire Danger Period (usually 1 October to 31 March), a Fire Permit must be obtained from the Rural Fire Service for open burning anywhere in a Rural Fire District. RFS cannot issue fire permits for fires lit within FRNSW Fire District and conversely, FRNSW cannot issue Fire Permits for fires located within RFS jurisdiction.
- 4.4. This policy does not remove the necessity, or exempt the person from the requirement, to obtain relevant permits or licences under other legislation including *the Rural Fire Act 1997*, *Protection of the Environment Operations Act 1997* and *Biodiversity Conservation Act 2016*.

5. Enforcement

- 5.1. An authorised officer of Council or of the EPA can issue directions to extinguish a fire and not to light or maintain a similar fire at any premises for a period of up to 48 hours in accordance with Section 134 of the *Protection of the Environment Operations Act 1997* if:

- (a) The fire is prohibited by an order of the EPA under Section 133 of the Act; or
- (b) Air pollution from the fire is injurious to the health of any person or is causing or likely to cause serious discomfort or inconvenience to any person.

5.2. The authorised officer may give this direction to:

- (a) The occupier of the premises; or
- (b) The person apparently in charge of the premises; or
- (c) The person apparently in charge of the fire.

5.3. A direction to extinguish a fire, and not to light or maintain a similar fire at premises for a period of up to 48 hours, overrides any approval for certain fires or incinerators granted.

6. Penalties

- 6.1. A person who, without reasonable excuse does not comply with the conditions of approval (as stated above) is guilty of an offence, Maximum Penalty 30 Penalty units (*Protection of the Environment Operations Act 1997* Section 135).
- 6.2. The burning of vegetation in the Narrabri Shire Council without approval may incur a Maximum Penalty of 100 Penalty Units (Corporation) and 50 Penalty Units (Individual). This excludes exempt fires as described in the background section of this policy, as per the *Protection of the Environment Operations (Clean Air) Regulation 2021* clause 12.

References

- *Rural Fire Act 1997* (NSW).
- *Protection of the Environment Operations Act 1997* (NSW).
- *Biodiversity Conservation Act 2016* (NSW).

History

Minute Number	Meeting Date	Description of Change
202/2008	September 25, 2018	New policy adopted
	June 2, 2020	Rebranded
336/2022	October 18, 2022	Adopted