

Name of policy:	Control of Open Burning		
Adoption by Council:	23 November 2022	Minute number:	462/2022
Last review date:	November 2022		
Review timeframe:	2 years		
Next scheduled review date:	November 2024		
Related legislation:	<i>Protection of the Environment Operations Act 1997</i> <i>Protection of the Environment Operations (Clean Air) Regulation 2021</i> <i>Rural Fires Act 1997</i>		
Associated policies/documents:	Community Strategic Plan: MidCoast 2032: Shared vision, shared responsibility MidCoast Council, Climate Change Policy (2021) Gloucester Local Environmental Plan 2010 Great Lakes Local Environment Plan 2014 Greater Taree Local Environment Plan NSW Rural Fire Service, Fire and Rescue NSW Standards for pile burning (2014)		
Responsible division:	Liveable Communities		

Policy objectives

- To manage open burning activities to protect local and regional air quality, local amenity and human health.
- To allow pile burning on certain land use zones without the need for an application to Council.
- To provide an application process for any other person seeking approval (in extenuating circumstances) on other land.

Policy statement

A balanced approach is required to manage excess dead and dry vegetation where the vegetation cannot reasonably be disposed of through Council's green waste service (where available) or mulching on-site, while prohibiting burning of other waste types. Provisions provided under the *Protection of the Environment Operations (Clean Air) Regulation 2021* in conjunction with this policy aim to ensure that burning is conducted safely and in a way that minimises smoke impacts.

Coverage of the policy

The policy relates to all land within the MidCoast region.

Strategic Plan link

The development of this policy aligns with Council's Community Strategic Plan, specifically:

1.4 We protect the health and safety of our communities	1.4.1 Uphold public health and safety standards and increase the capacity of our community to understand and meet them
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Policy content

1. Approval considerations

Application to Council for pile burning is not required on land parcels greater than 4000 m² and being land use zoned:

- *Greater Taree Local Environment Plan 2010: Zone RU1 Primary Production*
- *Greater Taree Local Environment Plan 2010: Zone RU4 Primary Production Small Lots*
- *Greater Taree Local Environment Plan 2010: Zone R5 Large Lot Residential*
- *Great Lakes Local Environment Plan 2014: Zone RU2 Rural Landscape*
- *Great Lakes Local Environment Plan 2014: Zone R5 Large Lot Residential*
- *Gloucester Local Environmental Plan 2010: Zone RU1 Primary Production*
- *Gloucester Local Environmental Plan 2010: Zone R5 Large Lot Residential*

The following conditions apply to the burning activity;

- All practical means must be taken to prevent or minimise air pollution;
- Burning must be limited to dead and dry vegetation that grew on the premises;
- Burn piles are to be constructed and burnt as per the NSW Rural Fires Service, Fire and Rescue NSW document *Standards for pile burning*;
- An open fire must be at least 20 metres from any building;
- Adequate water supplies must be immediately on hand to extinguish the fire if required;
- Adjoining neighbours must be given at least 24 hours' notice (verbal or written) of an intention to burn;
- An open fire must be supervised by a responsible adult at all times;
- All combustible material within 4.5 metres of the fire must be removed;

- Burning can only take place when weather conditions are suitable with winds under 15 km/h and predicted to remain so;
- Burn piles must be burnt efficiently and not be left to smoulder;
- Burning must not cause a nuisance to neighbours or a smoke hazard to motorists;
- The burning of vegetative material is not permitted before sunrise or after sunset;
- Land managers/owners in a Fire and Rescue NSW district (usually in urban areas) must notify the local fire station at least 24 hours before the intended burning.
- Land managers/owners in a NSW Rural Fire Service district must notify the NSW Rural Fire Service for their respective district at least 24 hours' before the intended burning;
- During the Bushfire Danger Period (usually 1 September to 31 March), a Fire Permit must be obtained from the NSW Rural Fire Service for open burning anywhere in a Rural Fire district;
- A Fire Permit must be obtained from Fire and Rescue NSW or the NSW Rural Fire Service for any open burning that might threaten a building, at any time of the year, for their respective fire districts;
- Open burning cannot be carried out on declared 'No Burn' days (related to air pollution) or days declared 'Total Fire Bans' (related to bushfire safety). This approval is suspended on such days. It is the responsibility of the approval holder to identify whether one of these days is occurring before lighting their fire; and
- Landowners consent must be obtained before burning.

For burning of piles on land other than detailed above, an application is required.

Approvals may be issued to any other person through a merit-based assessment. However, approvals are unlikely to be given to properties zoned other than those detailed above due to surrounding population density, amenity impact, and access to alternative disposal options including green waste bins and waste management facilities.

To obtain approval, an application (as provided on Council's website) must be lodged with Council for assessment at least fifteen (15) working days prior to the proposed burn. Any application received must be completed in full and include all supporting information as noted on the form.

2. Activities exempt from the approval process:

The prohibitions in the *Protection of the Environment Operations (Control of Burning) Regulation 2021* do not apply to activities identified under clause 12(4) of the Regulation. These activities include (in part):

- 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;

- To burn vegetation, in the course of carrying out agricultural operations, on premises on which the vegetation grew;
- To burn anything for the purposes of the giving of instruction in methods of firefighting by an officer, member or fire control officer within the meaning of the Rural Fires Act 1997 or an industrial fire control officer when acting in the person's official capacity;
- To burn anything under the authority of, and in line with, a Bush Fire Hazard Reduction Certificate issued under the *Rural Fires Act 1997*.

Note: other legislative controls exist in relation to the lighting of these fires.

3. Exclusions

This policy does not provide:

- Approval to burn land for bushfire hazard reduction;
- Approval to clear or harm vegetation;
- Approval to burn vegetation resulting from the clearing of land related to development consent under the *Environmental Planning and Assessment Act 1979*;
- Approval to burn non-vegetative waste in the MidCoast region;
- Approval to burn any prohibited article;
- Any exemption from the requirement to obtain relevant permits or licences under other legislation including (but not limited to) the *Rural Fires Act 1997*, *Protection of the Environment Operations Act 1997* or *Biodiversity Conservation Act 2016*.

4. Burning of other waste

Council will not issue an approval to burn domestic waste or any other waste material other than dead and dry vegetation in line with the requirements described in this policy.

Definitions

adjoining neighbour means any person occupying a property with a common boundary and includes those separated by a road, lane or waterway.

approval means an approval in force under Division 3 of the *Protection of the Environment Operations (Clean Air) Regulation 2021*.

domestic waste means waste, other than vegetation, that is of a kind and quantity ordinarily generated on a domestic premises.

open burning (sometimes referred to as backyard burning or pile burning) is defined as the act of burning anything in the open air.

prohibited article means any of the following—

- a) Tyres

- b) Coated wire
- c) Paint containers and residues
- d) Solvent containers and residues
- e) Timber treated with copper chromium arsenate or pentachlorophenol

Responsible officer (position)

Manager Building and Environmental Health

Attachments

Nil