

Policy title	Clean Air Policy
Responsible manager(s)	Divisional Manager, Environmental Services
Contact officer(s)	Public Environmental Health and Compliance Coordinator
Directorate	Planning and Sustainability Services
Approval date	26 April 2022
Outcome area	1. Our sustainable shire celebrates our natural environment and outdoor lifestyles
Strategy	1.2 Value, protect, and enhance our natural environment
Delivery Program link	1.2.3 Work in partnership to provide natural resource management to develop community awareness of environmental opportunities, issues and impacts
Operational Plan link	1.2.3.3 Monitor, inspect and respond to public and environmental health matters

Purpose

Burning wood and rubbish in open fires and incinerators can cause smoke, which is a major cause of air pollution. It can harm the environment and human health.

Open burning is regulated in NSW by the *Protection of the Environment Operations (Clean Air) Regulation 2021* ('the Regulation'). The intention of the Regulation is to manage the air pollution issues associated with burning to protect local and regional air quality, local amenity, and public health.

Eurobodalla Shire Council is a local government area (LGA) listed in Part 2 and Part 3, Schedule 1 of the Regulation in which burning of vegetation and other waste is prohibited, except with approval. The Regulation dictates the LGAs in which the control of burning provisions apply.

Eurobodalla Shire Council's policy was developed to provide clear direction, where approval to burn dead and dry vegetation can be automatically given following a self-assessment which meets certain conditions. Where not all conditions can be met, or the NSW Rural Fire Service (RFS) requires that the landholder obtains approval from Council, formal approval can be applied for.

Policy aims

- Protect the environment, health and amenity of residents and visitors in the Eurobodalla Shire Council area.
- Make Council's policy and requirements for burning readily accessible and understandable to the public.
- Assist decision-makers to exercise discretionary powers in relation to the burning of vegetation and waste.
- Ensure transparency, consistency, and fairness in the way Council deals with the burning of vegetation and waste.
- Ensure compliance with legislative requirements under the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Clean Air) Regulation 2021*.

- Promote awareness of the requirements of the Act with respect to the burning of vegetation and waste.

Policy details

1	<p>Application</p> <p>This policy applies to all burning of vegetation or other waste in the Eurobodalla LGA where Eurobodalla Shire Council is the Appropriate Regulatory Authority (ARA).</p>
2	<p>Legislation</p> <p>This policy ensures Eurobodalla Shire Council's compliance with the <i>Protection of the Environment Operations (Clean Air) Regulation 2021</i>.</p> <p>This policy does not apply to hazard reduction burning activities carried out in accordance with the <i>Rural Fires Act 1997</i>.</p>
3	<p>Procedure</p>
3.1	<p>Restrictions</p> <p>a) Any person residing within the Eurobodalla LGA to which a domestic waste management service is available, is prohibited from burning domestic waste on those premises.</p> <p>b) During the bushfire fire danger period (generally 1 September – 31 March of each year or until the commencement of a declared early bushfire season), fires are not allowed unless a permit has been obtained from the NSW RFS.</p>
3.2	<p>Approvals</p> <p>a) Following completion of a self-assessment (Appendix 1), and having met all the requirements, an applicant can proceed to burn dead and dry vegetation subject to the conditions listed in 3.2.1</p> <p>b) Where all the requirements cannot be met, an applicant can lodge a formal application with Council for a merit-based assessment. Application fees apply and are listed in Council's fees and charges.</p>
3.2.1	<p>Conditions</p> <p>a) Every attempt shall be made to recycle or reuse vegetation prior to burning. Recycling techniques include but are not limited to: mulching; composting; milling, and use as fuel for heating purposes. Only the residue from recycling and reuse shall be burnt.</p> <p>b) Permits shall be obtained from the appropriate fire service during the bushfire danger period each year. Conditions attached to any such permit shall be complied with.</p> <p>c) Burning shall be in accordance with the NSW RFS document 'Standards for Pile Burning'.</p> <p>d) Permission from the owner of the property shall be obtained prior to burning.</p> <p>e) Vegetation shall only be burnt on the premises on which it grew.</p>

3.2.2	<p>f) Burning shall only take place during dry weather conditions, considering the potential for smoke impacting on any person due to wind direction and other climatic conditions.</p> <p>g) Adjoining neighbours and people likely to be affected by smoke are to be notified at least 24 hours before the fire is lit.</p> <p>h) The Moruya RFS is to be notified at least 24 hours prior to the burn on 02 4474 2855.</p> <p>i) Burning must not take place less than 75 metres from a habitable building on neighbouring land.</p> <p>j) Maximum burn pile size is to be 2m wide by 2m long by 1.5m high.</p> <p>k) Burning shall not take place as the result of an activity requiring development consent unless prior consent has been obtained.</p> <p>l) Burning must always be carried out by such practicable means as is necessary to prevent or minimise air pollution.</p> <p>m) A responsible supervising adult over the age of eighteen years must be always on site with enough water to extinguish the fire, if required, for the time the fire is active.</p> <p>Prohibited articles not to be burnt:</p> <ul style="list-style-type: none"> • plastics, rubber, chemicals, and pesticide containers • tyres, plastic-coated wire, paint/solvent containers, and residues • timber treated with copper chromium arsenate (CCA) or pentachlorophenol (PCP) or painted timber • grass clippings and leaves are not considered suitable due to the excessive smoke, and alternative methods of disposal should be sought.
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Implementation

Requirements	Responsibility
<p>1 Applications Applications to burn will be processed by the Public Environmental Health and Compliance Unit</p>	Environmental Health Officers
<p>2 Enforcement Rangers will enforce the policy and determine follow-up actions.</p>	Rangers
<p>3 Staff Under supervision, relevant Council staff will be responsible for ensuring that this policy is implemented appropriately within their work area, after they have received appropriate training to do so.</p>	Council officers
<p>4 Concerns Public concerns communicated to Council in relation to this policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints Policy. These records will</p>	Council officers

	be used to determine any follow-up actions and analyse the history of reported public concerns.	
5	<p>Consultation</p> <p>Any consultation deemed necessary will occur as required with key stakeholders. These may include (but are not limited to): the community; other agencies, statutory and industry bodies.</p> <p>Consultation has been carried out with the RFS, and submissions have been received. Submissions have also been invited and received from members of the public who previously provided feedback on the policy.</p> <p>Public submissions regarding this policy are invited for consideration during the exhibition period.</p>	<p>NSW Rural Fire Service</p> <p>As relevant</p>

Review

This policy will be reviewed every four years. It may also be reviewed and updated, as necessary if:

- legislation requires it
or
- when Council's related policies, functions, structure, or activities change
or
- when technological advances or new systems change the way that Council manages the burning of vegetation and other waste.

The policy may be revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election unless Council updates or revokes it sooner.

Note: *The next general local government election is expected to be held in 2024*

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Applications to burn received/approvals given	Council records
Delivery program/operational plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Customer feedback, survey responses	Surveys
Internal or external review	Audit

Definitions

Word/acronym/phrase	Definition
ARA	Appropriate Regulatory Authority
LGA	Local Government Area
RFS	New South Wales Rural Fire Service

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Local Government Act 1993	https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030
Protection of the Environment Operations (Clean Air) Regulation 2021	https://legislation.nsw.gov.au/view/html/inforce/current/sl-2021-0485

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
NSW Rural Fire Service	www.rfs.nsw.gov.au/

Supporting documents

Name	Link
NSW RFS 'Standards for Pile Burning'	www.rfs.nsw.gov.au/_data/assets/pdf_file/0012/13323/Standards-for-Pile-Burning.pdf

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	22 Feb 2011	Council	11/39	E91.2508	Policy commenced
2	23 Jul 2013	Council	13/173	E13.7095 E06.0381	Reviewed and updated (start of new Council term)
3	28 Mar 2017	Council	17/64	E16.0297 E06.0381	Reviewed and updated (start of new Council term)
4	26 April 2022	Council	22/91	E16.0297 E06.0381	Reviewed & updated at new Council term. Report GMR22/046.

Internal use

Responsible officer		Divisional Manager, Environmental Services		Approved by	Council
Minute	22/91	Report	GMR22/046.	Effective date	26 April 2022
File	E16.0297 E06.0381	Review date	Feb 2022	Pages	8

Appendix 1: Self-assessment checklist

	Item	Yes	No
1	Fire is located where it is not a threat to any buildings or property, and at least 75 metres away from a habitable building on any adjacent properties.		
2	Permission from the owner of the property has been obtained.		
3	The RFS and adjacent property neighbours have been given at least 24 hours' notice.		
4	During the bushfire danger period, a fire permit has been obtained from the NSW RFS.		
5	All attempts must be made to prevent or minimise air pollution when burning, so burning will not impact on another person's health or amenity.		
6	Burning is to be carried out during dry weather conditions, considering the potential for smoke impacting on any person due to wind direction and other climatic conditions.		
7	Only dead and dry vegetation that has been grown on the premises is to be burned.		
8	Fire will not cause a smoke hazard for traffic.		
9	Material to be burnt is not subject to a condition of a development consent that prohibits burning.		
10	Fire must be under direct supervision at all times, and a method of extinguishment is immediately available.		
11	Activities are being carried out in accordance with the NSW RFS document ' <i>Standards for Pile Burning</i> '.		
<p>Please note: If you have marked the 'no' column for any of these items, you do not have automatic approval to burn. Please contact Council on 02 4474 1310 for further information about applying for approval.</p>			

Appendix 2: Approvals for burning activities

Type of burning	Types of approval required	Where to obtain approval
Burning of vegetation and waste within 75 metres of a habitable building on neighbouring land	<ul style="list-style-type: none"> formal Council written approval (as per s3.2.b) and fire permit from NSW RFS or Fire and Rescue NSW during the declared bushfire danger period 	<ul style="list-style-type: none"> Council NSW RFS in a rural fire district Fire and Rescue NSW in a fire district
Burning of vegetation more than 75 metres from a habitable building on neighbouring land	<ul style="list-style-type: none"> completed self-assessment (Appendix 1) meeting all requirements fire permit from NSW RFS or Fire and Rescue NSW during the declared bushfire danger period 	<ul style="list-style-type: none"> NSW RFS in a rural fire district Fire and Rescue NSW in a fire district
Hazard reduction burn	Hazard reduction certificate	NSW RFS Moruya
Beach fires	Prohibited	Not applicable
Agricultural burning of material such as stubble, orchard pruning or diseased crops	Fire permit (only during declared bushfire danger period)	NSW RFS Moruya
Burning in an incinerator	Prohibited except where: <ul style="list-style-type: none"> licensed by NSW EPA no domestic waste collection service available dead and dry vegetation burnt in an incinerator is >75m from a habitable building on adjoining property 	NSW EPA for licensed premises
Burning of dry vegetation in a solid fuel heater within a building	No approval required	Not applicable
Burning of domestic waste	Prohibited except where domestic waste collection services are not available	Not applicable
Burning to demolish a building or other building materials	Prohibited	Not applicable
Burning of vegetation cleared as part of a subdivision or construction site	Prohibited except where a condition of development consent allows it	Council, for development consent conditions
Burning of: tyres, coated wire, paint containers and residue, solvent containers and residue, treated timber with copper chromium	Prohibited (as per s3.2.2)	Not applicable

Type of burning	Types of approval required	Where to obtain approval
arsenate (CCA) or pentachlorophenol (PCP)		
LPG BBQ or campfire for cooking on private land, including wood-fired BBQs/pizza ovens/braziers etc,	No approval required (★ see note regarding total fire bans and no burn days)	Not applicable
Burning to clear native vegetation	Approval under the <i>Biodiversity Conservation Act 2016</i> and/or <i>Local Land Services Act 2013</i> , if required	NSW EPA/NSW Local Land Services
<p>★ During a total fire ban you cannot light, maintain, or use a fire in the open, or carry out any activity in the open that causes, or is likely to cause, a fire.</p> <p>★ Outside of the bushfire season the NSW EPA may prohibit the burning of fires in the open or in incinerators by issuing a 'no-burn notice', if it is the opinion that, due to forecast weather conditions, burning is likely to contribute to the build-up of air pollution.</p>		