



## Council Policy

# Control of Open Burning

Version 3 - 12 December 2022

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## Policy - external Control of Open Burning

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### Introduction

#### Purpose

To manage air pollution issues associated with open burning to protect local and regional air quality, local amenity, and human health.

#### Scope

To provide approval for a “class of persons” to undertake pile burns on specified land to assist residents and land owners with on-going maintenance of their property, and take responsibility to mitigate bush fire risks.

#### Policy statement

The burning of anything in Lake Macquarie City is prohibited, except in accordance with an approval under Schedule 1 Part 2, or Part 3, of the *Protection of the Environment Operations (Clean Air) Regulation 2021*.

Council will provide approval for the open burning of dead and dry vegetative material on land that meet prescribed criteria. This approval is intended for properties not in urban areas that have a large number of mature trees, which are likely to generate larger than average quantities of vegetative debris.

Council cannot provide approval for the burning of non-vegetative waste in the City.

Before granting the approval for open burning of dead and dry vegetative material, Council has taken into consideration the following issues:

- the impact on regional air quality,
- the impact on local air quality,
- the feasibility of re-use, recycling, or other alternative means of disposal,
- the views of the public likely to be affected by application, and
- the views of the Environment Protection Authority on any class of persons.

The general conditions of consent are designed to minimise smoke impacts from burning and ensure the fire is managed safely.

#### Deemed Approval Provisions

A standing *class of person* approval for the burning of dead and dry vegetative material *may* be issued to land owners / managers under Section 13(2)(a) of the *Protection of the Environment Operations (Clean Air) Regulation 2021*.

When the prescribed criteria for the land are met and the land manager agrees to comply with the “General Conditions of Consent”, the application will be deemed to be approved.

#### General conditions of consent

1. Parcels of land must be:
  - greater than 4000m<sup>2</sup> in area; and

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- zoned C2-4-Environmental, RE2-Private Recreation, RU2-Rural Landscape, RU4-Primary Production Small Lots, or RU6-Transition; under the Lake Macquarie Local Environmental Plan 2014.
2. An open fire must be at least 20 metres from any dwelling.
  3. Adequate water supplies must be immediately on hand to extinguish the fire if required.
  4. Adjacent property occupiers (or, if there are no occupiers, the owners) must be given 24 hours' notice (verbal or written) of an intention to burn, unless specified otherwise in a Fire Permit.
  5. An open fire must be supervised by a responsible adult at all times.
  6. All combustible material within 4.5 metres of the fire must be removed.
  7. Burning should only take place when weather conditions are suitable with winds under 15km/h and predicted to remain so.
  8. Burning should not cause nuisance to neighbours or a smoke hazard to traffic.
  9. The lighting of open fires is not permitted before sunrise or after sunset.
  10. Activities must be undertaken in accordance with the NSW Rural Fire Service/ Fire and Rescue NSW document "Standards for Pile Burning" ([Standards for Pile Burning \(nsw.gov.au\)](https://www.nsw.gov.au)).
  11. Land managers/ owners must notify their local RFS or the nearest NSW Fire Brigade station at least 24 hours before the fire is lit, unless specified otherwise in a Fire Permit.

### Other provisions

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.

An "approval to burn" does not mean approval to burn for any other purpose, such as:

- hazard reduction burning of the land,
- land clearing, and/ or
- disposal of vegetation cleared in accordance with a development consent.

Council cannot approve the burning of non-vegetative waste.

Council cannot approve the burning of prohibited articles.

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.

A Fire Permit must be obtained from the Fire and Rescue NSW for open burning in a Fire District all year round.

This approval does not remove the necessity, or exempt the person from the requirement, to obtain relevant permits or licences under other legislation including the *Rural Fires Act 1997*, *Local Land Services Act 2013* or *Biodiversity Conservation Act 2016*.

No open burning can be undertaken on declared "No Burn Days" (related to air pollution) or "Total Fire Bans" (related to bush fire safety) that may be declared. This approval is suspended on such days.

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It is the responsibility of the approval holder to identify whether one of these days is occurring prior to lighting their fire.

An open burn fire must not be lit, or must be extinguished, if the air quality at the closest air quality monitoring station has an air quality category of fair, poor, very poor or extremely poor.

### **Review and Evaluation**

The Policy for Control of Open Burning should be reviewed at least every four years.

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### Controlled Document Information

#### Authorisation Details

<b>Folder No:</b>	F2010/02401/07	<b>TRIM Record No:</b>	D10759210
<b>Audience:</b>	External		
<b>Department:</b>	Environmental Systems	<b>Officer:</b>	Environmental Strategy Coordinator - Daniel Woods
<b>Key focus area(s):</b>	Unique Landscape		
<b>Review Timeframe:</b> Max < 4 years	4 years from date of authorisation	<b>Next Scheduled Review Date:</b>	12 December 2026
<b>Authorisation:</b>	Adopted by Council - 12 December 2022		
<b>Authorisation - Council Adoption Date:</b>	12 December 2022		

#### Related Document Information, Standards & References

<b>Related Legislation:</b>	(Legislation Name)	(Relationship/Context)
	<i>Protection of the Environment Operations Act 1997</i>	Legislative instrument for open burning and other matters
	<i>Protection of the Environment Operations (Clean Air) Regulation 2021</i>	Legislative instrument for open burning and other matters
<b>Related Policies:</b>	(Policy Name)	(Relationship/Context)
	<i>Lake Macquarie Local Environmental Plan 2014</i>	Citywide land use plan
<b>Related Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements:</b>	(Document Name)	(Relationship/Context)
<b>Standards, COP's &amp; Other References</b>	(Standard, COP or Other References)	(Relationship/Context)
	<i>Standards for Pile Burning (NSW Rural Fire Service and NSW Fire Brigade, February 2014)</i>	<i>Methodology for undertaking a pile burn in accordance with this Policy</i>

#### Definitions

<b>Term / Abbreviation</b>	<b>Definition</b>
<b>Approval</b>	An approval to burn vegetation in Lake Macquarie City.
<b>Class of person</b>	Any group of persons granted authority to burn excess vegetation in Lake Macquarie City Council area: <ul style="list-style-type: none"> <li>that cannot be reasonably disposed of by Council's green waste service (where available), or mulching onsite;</li> <li>in accordance with "Standards for Pile Burning"; and</li> </ul> under conditions specified in this policy.
<b>Dwelling</b>	means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.



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<b>Excess vegetation</b>	That above what is practical to utilize on site for rehabilitation of temporarily cleared areas or as mulch.
<b>Open burning</b>	(sometimes referred to as backyard burning, bon-fires or pile burning) - the act of burning anything in the open air.
<b>Prohibited Article</b>	Any of the following: <ul style="list-style-type: none"> <li>• tyres;</li> <li>• coated wire;</li> <li>• paint containers and residues;</li> <li>• solvent containers and residues;</li> <li>• timber treated with copper chromium arsenate (CCA), or pentachlorophenol (PCP).</li> </ul>
<b>RFS</b>	NSW Rural Fire Service
<b>Schedule</b>	Schedule 1 (Local Government Areas in which burning is prohibited) in the <i>Protection of the Environment Operations (Clean Air) Regulation 2021</i> under the <i>Protection of the Environment Operations Act 1997</i> .

### Consultation (update for each version created)

<b>Key Departments, Teams, Positions, Meetings:</b>	Environmental Systems, Senior City Resilience Officer (Environmental Health), Manager Environmental Systems, Environmental Strategy Coordinator
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### Version History

Version No	Date Changed	Modified By	Details and Comments
1	April 2015	Cameron Jennings	New Policy
2	September 2020	Daniel Woods	Report to Council 20BNA009 24 August 2020 (D09486857) Updates to legislation Delete duplication Updates in relation to notification in line with advice from NSW Rural Fire Service
3	July 2022	Daniel Woods	Update to new template Updates to legislation and air quality category Improve readability