

POLICY NO

C 5:10

POLICY TITLE CONTROL OF OPEN BURNING

VERSION 2: Adopted 30 October 2018

Last Reviewed: 15 July 2008

INTRODUCTION

Councils in NSW can restrict or control burning within their Local Government Areas by choosing to list on Schedule 8 of the Protection of the Environment Operations (Clean Air) Regulation 2010.

Dungog Shire Council elected by resolution in April 2008 to be listed on Parts 2 and 3 of Schedule 8 which had the effect of prohibiting the burning of waste (where waste services are available) and prohibiting the burning of dead and dry vegetation unless in accordance with a Policy of the Council.

The adoption of a Policy does not alter the broader principles of the legislation which:

- Imposes a general obligation to prevent or minimise air pollution when burning in the open or in an incinerator;
- Prohibits the burning of certain articles such as tyres, coated wire, paint containers and residues, solvent containers and residues, timber treated with copper chromium arsenate (CCA) or pentachlorophenol (PCP).
- Specifically exempts certain activities from the regulation requirements such as- bush fire hazard reduction work (within the meaning of the Rural Fires Act 1997), the destruction of any prohibited plant or prohibited drug under the Drug Misuse and Trafficking Act 1985 the destruction of an animal that has died as the result of a disease (within the meaning of the Biosecurity Act 2015) by authorised officers.
- Acknowledges other legislative controls that exist in relation to the lighting of fires such as the Rural Fires Act 1997 and the Biodiversity Conservation Act 2016.
- Allows for open burning in Schedule 8 listed areas for the purpose of cooking, campfires, agricultural operations and fire fighting instruction.

PROTECTION OF THE ENVIRONMENT OPERATIONS (CLEAN AIR) REGULATION 2010

There are three levels within Schedule 8 of the POEO (Clean Air) Regulation that relate to the prohibition of open burning and Dungog Shire is listed in Parts 2 and 3. These listings are considered appropriate for the Local Government area.

The requirements of these Parts are as follows –

Part 2. – (Vegetation)

A person must not burn any vegetation:

- a) in the open, or
- b) in an incinerator

Except in accordance with an approval.

Part 3. – (all other waste)

A person must not burn anything (other than vegetation):

- a) in the open, or
- b) in an incinerator

Except in accordance with an approval.

APPROVALS

Under Regulation 13 of the POEO (Clean Air) Regulation 2010, Approvals may be granted so as to permit open burning in circumstances where it would otherwise be prohibited.

Council may grant an Approval for the purposes of Part 2 Schedule 8 in respect of the burning of dead and dry vegetation:

- to any class of persons--by means of a notice published in the Gazette and in such other manner as the Council is satisfied is likely to bring the notice to the attention of persons of that class, or
- to any particular person--by means of a written notice given to the person.

Council must take the following matters into consideration before issuing any such approval-

- the impact on regional air quality and amenity,
- the impact on local air quality and amenity,
- the feasibility of re-use, recycling or other alternative means of disposal,
- any opinions of the sector of the public likely to be affected by the proposed approval,

In relation to the issuing of Approvals, it is considered that Council's adopted Policy for the Control of Open Burning will establish the "class of persons" to which Approvals can be assumed (General Approval) and those particular persons or circumstances that would require a merits based Approval(ie where the General Approval doesn't apply)

POLICY STATEMENT

OBJECTIVES

The objective of this policy is to exempt rural landholders and property owners outside urban areas from the effect of listing on Schedule 8 Part 2 of the Protection of the Environment Operations (Clean Air) Regulation 2010, by providing a general approval for the burning of vegetation subject to conditions.

It is also an objective of this policy to recognise that within towns and villages, there may be circumstances where the open burning of vegetation may be appropriate with approval from Council.

AIMS

Specifically this policy aims to:

- define the class of persons that have General Approval to burn dead and dry vegetative materials under the Protection of the Environment Operations (Clean Air) Regulation 2010- Schedule 8 part 2.
- define the circumstances where a permit may be issued when a General Approval does not exist to burn dead and dry vegetative materials under the Protection of the Environment Operations (Clean Air) Regulation 2010- Schedule 8 part 2.
- outline under what conditions an approval to burn dead and dry vegetative materials in the open is granted.

1. GENERAL APPROVAL (no permit required)

Open burning and burning in an incinerator in Dungog Shire Council Local Government area is prohibited except in accordance with an approval under Clause 13 of the Protection of the Environment Operations (Clean Air) Regulation 2010 or the Rural Fire Act 1997 and Rural Fires Regulation 2013.

This policy provides a General Approval for the open burning of dead and dry vegetative material on parcels of land that meet the following prescribed criteria.

a) Land must be zoned

RU1 (primary production)

R5 (large lot residential)

E3 (environmental management)

E4 (environmental Living)

E1 (national parks and nature reserves)

RU1 (primary production)

RU3 (forestry)

b) Conditions

- Vegetation must have accumulated on the subject land during the normal use of that land. It is not brought to the land from another land parcel.
- An open fire must not be less than 25 metres from any dwelling.

- Adjacent property owners must be given 24 hours notice (verbal or written) of an intention to burn.
- An open fire must be supervised at all times.
- All combustible material within a 4.5 metre radius of the fire must be removed.
- Burning should only take place when weather conditions are calm and predicted to remain so.
- Burning should not cause a smoke hazard.
- The lighting of open fires is not permitted before 8.00am or after 4.00pm.
- Approval to burn does not apply during proclaimed 'No Burn Days' and a 'Total Fire Ban'.
- Land managers/owners must contact the Rural Fire Service or Fire and Rescue NSW (FRNSW), depending on the fire district location of the property, prior to lighting.
- Approval to burn in the open from Fire and Rescue NSW (where the property is located within the FRNSW fire district) is required all year round.
- Approval to burn in the open from New South Wales Rural Fire Service is required during the Statutory Bush Fire Danger Period.
- Approval to burn under this Policy is only for the purpose of waste disposal of dead and dry vegetative material. An 'approval to burn' does not mean approval to burn for bushfire hazard reduction or clearing of vegetation other than clearing for agricultural purposes as prescribed in the Protection of the Environment Operations (Clean Air) Regulation 2010.

2. NO GENERAL APPROVAL (permit required)

Open burning and burning in an incinerator in Dungog Shire Council Local Government area is prohibited except in accordance with an approval under Clause 13 of the Protection of the Environment Operations (Clean Air) Regulation 2010 or the Rural Fire Act 1997 and Rural Fires Regulation 2013.

This policy generally prohibits open burning of waste and dry vegetative material in areas zoned

- **R1 (general residential)**
- **RU5 (village)**
- **B2 (local centre)**
- **B4 (mixed use)**
- **IN1 (general industrial)**
- **SP2 (infrastructure)**
- **RE1 (public recreation)**
- **RE2 (private recreation)**

as it is considered that burning in these zones, on smaller parcels of land, is more likely to have detrimental effects on human health and the environment.

Council may however consider issuing a permit to landholders in these zones for the open burning of dead and dry vegetation after a merits based assessment has been carried out.

a) Considerations

In considering whether to issue a permit for the open burning of vegetation (when a general approval does not exist), Council will have regard to the following matters-

- The land parcel shall be **greater than 4000sqm in size.**
- Whether burning in the open or in an incinerator is the most practicable means as are necessary to prevent or minimise air pollution.
- The potential for smoke impacting on any person having regard to wind direction, weather conditions, and the length of time that the material being burnt is likely to burn,
- Whether reasonable measures have been taken to ensure that the material being burnt is not wet,
- That the material is suitable for disposal by burning, having regard to possible effects on human health and the environment.

b) Conditions

Any approval to burn vegetation in the open is subject to the following conditions;

- An approval remains in force for a period of 12 months (or such other period as is specified in, or implied by, the approval) from the date it is granted unless sooner revoked by Council
- Vegetation must have accumulated on the subject land during the normal use of that land. It is not brought to the land from another land parcel.
- An open fire must not be less than 25 metres from any dwelling.
- Adjacent property owners must be given 24 hours notice (verbal or written) of an intention to burn.
- An open fire must be supervised at all times.
- All combustible material within a 4.5 metre radius of the fire must be removed.
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REVIEW DATE

September 2020.

RELATED POLICIES

Dungog Shire Council Local Environment Plan 2014

Date Policy Adopted	Minute No	Authority
Version 1 -15 July 2008	34125	Council Resolution
Version 2 – 30 October 2018	37854	Council Resolution