



Central Coast Council

Gosford Office: 49 Mann Street,
PO Box 21 Gosford, NSW 2250
P 4325 8222

Wyong Office: 2 Hely Street
PO Box 20 Wyong, NSW 2259
P 43505 5555
centralcoast.nsw.gov.au

POLICY NO: CCC043

CENTRAL COAST COUNCIL

OPB 2019

OPEN PILE BURNING POLICY

Issue Date: **MAY 2019**



AUTHORITY	NAME & TITLE
AUTHOR	Dr Anumitra Mirti, Section Manager, Environmental Strategies Section
MANAGER	Matthew Prendergast, Executive Manager, Innovation and Futures
GROUP LEADER	Scott Cox, Director, Environment and Planning
CHIEF EXECUTIVE OFFICER	Gary Murphy, Chief Executive Officer

History of Revisions:

Version	Date	TRIM Doc. #
1	20 September 2017	D12848304
2	23 October 2017	D12829337
3	9 July 2018	D13237485
4	November 2018	D13509826
5	March 2019	D13460813
6	27 May 2019	D13548866
7	5 June 2019	D13570494

Schedule of Amendments

Effective Date	Amendment	Reason
2018	N/A	Initial Adoption by Council for the purposes of public exhibition
2018	9 July 2018	Reported to Council - Amendments post public exhibition
2018	9 July 2018	Adopted by Council with amendments Minute No. 641/18
2018	November 2018	Amended post rescission motion for public exhibition, 13 August 2018
2019	March 2019	Reported to Council - Amendments post public exhibition
2019	March 2019	Adopted by Council Minute No. 422/19, 27 May 2019
2019	5 June 2019	Finalised Policy in the Council policy register

A. POLICY SUMMARY

- A1 Council is authorised to grant approval for the purposes of open pile burning of vegetation under Schedule 8, Parts 2 of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- A2 The Policy specifies conditions of consent to pile burn dead and dry vegetation material in rural zoned lands.
- A3 The Policy provides details of other legislative provisions relevant to burning vegetation.

B. POLICY BACKGROUND

- B1 The Central Coast Council and the NSW Rural Fire Service (RFS) receive numerous requests from rural landowners to burn dead vegetation in order to carry out routine maintenance of their land.
- B2 Open pile burning is regulated across NSW by the *Protection of the Environment Operations (Clean Air) Regulation 2010 (POEO (Clean Air) Regulation)* under the *Protection of the Environment Operations Act 1997 (POEO Act 1997)*. Under this regulation, local councils voluntarily choose the level of control over burning that is best suited to their Local Government Area (LGA).
- B3 For pile burning of vegetation to be permissible within a LGA, it must be listed under Parts 2 of *POEO (Clean Air) Regulation, 2010*. Most regional local councils permit open pile burning, for example Hornsby, Hawkesbury City, Blue Mountains City, Maitland City, Port Stephens and Lake Macquarie.
- B4 Open pile burning is also permitted within the former Wyong LGA. The former Wyong Shire Council Policy for Control of Open Burning and 'Notice of Approval to Burn Dead and Dry Vegetation (Pile Burning)' permits certain rural residential landowners/managers to carry out pile burning of dry and dead vegetation in the open on their property subject to a number of conditions.
- B5 The former Gosford City Council publicly exhibited a Draft Open Pile Burning Policy in September 2015, but it was never adopted.
- B6 On 12 May 2016, the former Gosford City and Wyong Shire Councils amalgamated forming the Central Coast Council.
- B7 On the 23 October 2017, the Council adopted the draft Open Pile Burning Policy for the purposes of public exhibition.

C. THE POLICY

- C1 The burning of anything in the Central Coast local government area is prohibited except in accordance with an approval under Schedule 8 Part 2, of the *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- C2 Council will provide deemed approval for the open burning of dead and dry vegetative material on parcels of land that meet the conditions of consent. Such 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.
- C4 Council cannot provide approval for the burning of non-vegetative waste.
- C5 Burning must minimise smoke impacts by avoiding green, damp and compacted piles.
- C6 Burning must be undertaken in a safe manner by complying with the consent conditions.
- C7 In the making of this Policy Council has taken into consideration the following issues, the:
- o impact on regional air quality;
 - o impact on local air quality;
 - o feasibility of re-use, recycling, or other alternative means of disposal;
 - o views of the sector of the public likely to be affected by the proposed approval;
 - o views of the Environment Protection Authority in relation to the self-approval process; and
 - o Views of the NSW Rural Fire Service in support of this Policy.

D. CONDITIONS OF CONSENT

Open pile burning may be carried out as a self-approval process for rural zones whereby deemed approval is granted from Council for the burning of dead and dry vegetative material in piles in the open, subject to the following conditions:

- D1 Parcels of land must be:
- a. Greater than 4,000m² in area; and
 - b. E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living, RE2 Private Recreation, R5 Large Lot Residential, RU1 Primary Production, RU2 Rural Landscape, RU5 Village or RU6 Transition under the Local Environment Plan.
 - c. Zoned 7(a) Conservation or 7(c2) Scenic Protection under Gosford interim Development Order No. 122
- D2 Only one pile of vegetation may be burnt at any one time.
- D3 Pile size may be up to 2 metres in diameter and a maximum height of 1.5 metres. Vegetation may be added as the pile burns down.
- D4 Deemed approval is only granted for the burning of dry and dead vegetation that was generated on the premises on which the vegetation grew.
- D5 Vegetation must be of a diameter of 150mm or less.
- D6 An open pile burn fire must be at least 20 metres from any dwelling structure, building, or unmanaged vegetation (native or non-native).
- D7 All combustible material within 4.5 metres of the fire must be removed.

- D8 Adequate water supplies and/or fire fighting equipment must be immediately on hand to extinguish the fire if required.
- D9 Adjacent property occupiers (or, if there are no occupiers, the owners) must be given 24 hours notice, unless specified otherwise in a Fire Permit, either in writing or verbally. Adjacent properties include land separated by a lane, road or waterway from the land on which the fire is to be lit. Details to be provided include name of the person/s proposing to light the fire, location, purpose, period and time of the fire.
- D10 For land in a Rural Fire District, the NSW Rural Fire Service (Central Coast Fire Control Centre) must be provided 24 hours notice, unless specified otherwise in a Fire Permit, either in writing or verbally. Details to be provided include name of the person/s proposing to light the fire, location, purpose, period and time of the fire. For land in a Fire District, this notice must be provided to Fire & Rescue NSW. For further details seek advice from the NSW Rural Fire Service (Central Coast Fire Control Centre).
- D11 An open fire must be supervised by a responsible adult at all times.
- D12 Burning should only take place when weather conditions are suitable with winds under 15km/h.
- D13 Burning should not cause nuisance to neighbours or a smoke hazard to traffic. Where nuisance or smoke hazard occurs, the fire is to be immediately extinguished.

E. OTHER LEGISLATIVE PROVISIONS

Approval to burn under this policy is only for the purpose of disposal of dead and dry vegetative material through pile burning in the open on large rural zoned land [Clause D1]. The provisions below set out additional requirements under NSW State Legislation.

- E1 The burning of non-vegetative waste is not permitted.
- E2 This policy does NOT provide approval to:
- a. burn the land for bush fire hazard reduction;
 - b. clear vegetation;
 - c. burn vegetation resulting from the clearing of land related to development consent under the *Environmental Planning and Assessment Act 1979*;
 - d. undertake an ecological burn; or
 - e. undertake an Aboriginal cultural burn.
- E3 This policy does NOT provide approval to the burning of dry and dead vegetation that was generated on the premises on which the vegetation grew may also include burning for the course of carrying out agricultural operations including:
- a. Vegetation for the purposes of lawful clearing (other than for construction);
 - b. Stubble, orchard pruning's, diseased crops, weeds or pest animal habitats on farms; or
 - c. The burning of pasture for regenerative purposes.
- E4 This policy does NOT provide approval for the burning of dry and dead vegetation that was generated on the premises on which the vegetation grew may also include burning 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, so long as only dry seasoned wood, liquid petroleum gas (LPG), natural gas or proprietary barbecue fuel (including a small quantity of fire starter) is used.

- E5 A Fire Permit must be obtained from the NSW Rural Fire Service for open pile burning in a Rural Fire District during the Bushfire Danger Period (usually 1 October to 31 March, however, this period may vary due to local conditions). A Fire Permit must be obtained from the Fire and Rescue NSW for open pile burning in a Fire District all year round. For further details seek advice from the NSW Rural Fire Service (Central Coast Fire District Office).
- E6 This deemed approval does not remove the obligation to comply with other legislation including the *Rural Fires Act 1997*, *Protection of the Environment Operations Act 1997*, *Biodiversity Conservation Act 2016* or the *Local Land Services Act 2013*.
- E7 No open burning can be undertaken on declared 'No Burn Days' (related to air pollution) or 'Total Fire Bans' (related to bush fire safety) on any such days.
- E8 It is the responsibility of the person lighting the fire to identify whether a 'No Burn Day' or a 'Total Fire Ban' is occurring prior to lighting their fire. Further information can be found on the NSW Environment Protection Authority [website](#) or the [NSW Rural Fire Service website](#).
- E9 An open burn fire must not be lit, or must be extinguished, if the closest air monitor exceeds an Air Quality Index (AQI) of 66 (fair – yellow) or worse for particulate matter PM10 or PM2.5. Further information can be found on the NSW Office of Environment & Heritage [website](#).
- E10 Burning should minimise smoke impacts and air pollution associated with open burning in order to protect local and regional air quality, local amenity, and human health.
- E11 Approval for bushfire hazard reduction burns can be sought from the NSW Rural Fire Service.
- E12 Approval for ecological burns or Aboriginal cultural heritage burns can be sought from the NSW Office of Environment and Heritage.
- E13 Council will investigate reported breaches of this policy, and undertake enforcement action under the provisions of the *Protection of the Environment Operations Act 1997*, with reference to Council's Compliance and Enforcement Policy.

F. POLICY IMPLEMENTATION

- F1 This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the Chief Executive Officer.
- F2 This policy should be read in conjunction with the Central Coast Council Code of Conduct.
- F3 It is the personal responsibility of all Council employees and agents thereof to have knowledge of, and to ensure compliance with this policy.
- F4 The Policy outlines a self-approval provided compliance with the conditions of consent outlined in Section D are met.

G. CONTACT DETAILS

To notify the intention to undertake an open pile burn contact:

- G1 The NSW Rural Fire Service Central Coast District Office on 1300 661 401.
- G2 The Fire and Rescue NSW Central Coast Office on 4353 2351 or your local fire station.