

## Procedure 3.16.1 Clean Air

<b>Department</b>	Planning and Environment Group (PEG)
<b>Responsible Officer</b>	Manager   Health, Building & Compliance

### Purpose

Open burning is regulated across New South Wales by the Protection of the Environment Operations (Clean Air) Regulation 2010 ('the Regulation'). The intention of the Regulation is to manage the air pollution issues associated with burning, with a view to protecting local and regional air quality, local amenity and public health.

The Bega Valley Shire (BVSC) is a Local Government Area ('LGA') listed in Part 2 and Part 3, Schedule 8 of the Regulation in which burning of vegetation and other waste is prohibited except with approval.

This procedure sets out the processes to ensure compliance with the listings under the Regulation.

### Aims

This procedure aims to:

- Protect the environment, the health and the amenity of people in the Bega Valley Shire.
- Ensure consistency and fairness in the way Council deals with open burning applications.
- Ensure compliance with the Regulation.
- Increase public awareness of their obligations under the Regulation.
- Make Council's procedure and requirements for burning readily accessible and understandable to the public.

### Procedure

#### Application

This procedure applies to ALL burning of vegetation or other waste in the Bega Valley LGA except as exempted below.

#### Exemptions from this procedure

No approval from Council is required for any of the following activities:

1. Bush Fire Hazard Reduction work under the NSW [Rural Fires Act 1997](#).
2. Burning of prohibited plants or drugs by the NSW Police in accordance with the NSW *Drugs Misuse & Trafficking Act 1985*.
3. The burning and destruction of an animal that is confirmed or suspected to have died of a disease listed in the *Stock Diseases Act 1923*, or an exotic disease as defined in the NSW *Animals Act 1991*.
4. The burning and destruction of burning of class 3 or 4 noxious weeds as defined by the NSW Noxious weeds Act 1993, whilst under the direction of an authorised officer.
5. The burning of vegetation as part of a Property Vegetation Plan (PVP) agreement between a landholder and the Local Land Services under the NSW *Native Vegetation Act 2003* and/or the NSW *Threatened Species Conservation Act 1995*.
6. "Bush Fire Hazard Reduction work or regeneration burning authorised under an Integrated Forestry Operations Approval issued under the NSW *Forestry Act 2012*.

**Notes:**

- i. Burning of waste or vegetation as the result of an activity related to land subdivision or building construction is prohibited.
- ii. Approval from Fire & Rescue NSW or NSW Rural Fire Service may also be required for any open burning activity. The appropriate Fire Service should be contacted prior commencing any burns.

## Laws and Regulations

The Act and Regulation referred to in this procedure.

[Protection of the Environment \(Operations\) Act 1997](#)

[Protection of the Environment \(Clean Air\) Regulation 2010](#)

[Rural Fires Act 1997](#)

**Notes:**

- iii. Part 2 of Schedule 8 of the Regulation states that a person must not burn any vegetation in the open or in an incinerator without Council approval. Part 3 of Schedule 8 of the Regulation 2010 states that a person must not burn anything (other than vegetation) in the open or in an incinerator without Council approval.

## Burning of vegetation more than 75 metres from a habitable building on neighbouring land

No specific approval from Council is required.

Any person residing more than 75 metres from a habitable building on neighbouring land may burn dead and dry vegetation on premises, subject to the general conditions contained in Appendix 1 of this Procedure.

## Burning of vegetation within 75 metres of a habitable building on neighbouring land

In order to protect public health and amenity the burning of ALL waste, including vegetation, within 75 metres of a habitable building on neighbouring land requires a specific approval issued by Bega Valley Shire Council. Please note the term of such approval is set out in Appendix 2 of this procedure.

**Notes:**

- iv. Any person residing within the Bega Valley Shire LGA to which a domestic waste management service is available is prohibited from burning domestic waste on those premises.
- v. Council may consider a joint application from adjoining neighbours where the proposed burn site is within 75 metres of each other's habitable building.
- vi. Fire permits are also required to be obtained from:
  - o NSW Rural Fire Service within Rural Fire Districts during the bushfire danger period each year.
  - o Fire & Rescue NSW within Fire Districts during the bushfire danger period each year.
  - o NB: Fire permits are required at any time when the lighting of a fire would be likely to be dangerous to any building.

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## Enforcement

It is an offence under the *Protection of the Environment (Operations) Act 1997* to fail to comply with this procedure.

Appendix 3 summarises the approvals required for open burning and details prohibited activities.

Council Rangers and other Environmental Health staff are authorised under the *Protection of the Environment (Operations) Act 1997* and its regulations to undertake enforcement action in relation to this procedure.

Council may commence legal action if a breach is made. Penalty notices exceed \$500 for offences under the *Protection of the Environment Operations Act 1997*.

## Audits

BVSC will undertake selective audits as required to ensure compliance with this procedure. Property owners or land managers found to be in breach of the Regulation may leave themselves exposed to further legal action.

## Contacts regarding this procedure

If you would like more information about this procedure, or to report a possible breach of this procedure, please contact Council on 6499 2222, or by email at [council@begavalley.nsw.gov.au](mailto:council@begavalley.nsw.gov.au). Please do not call NSW RFS, Fire & Rescue NSW or contact 000 in this regard.

**(Calls to Triple Zero (000) should only be made where a person has concerns that life or property maybe directly impacted by a fire).**

## Associated documents

The following associated documents should be read in conjunction with this Procedure:

- a. Application for Open Burning of Vegetation Form (see Council's [website](#))
- b. NSW RFS "[Standards for Pile Burning](#)"

## IMPORTANT NOTE:

Lighting of fires is prohibited during a Total Fire Ban. A Fire Permit that has been issued by the NSW Rural Fire Service or Fire & Rescue NSW will be suspended or cancelled on days of 'High Fire Danger' or 'Extreme Fire Danger' or when NSW EPA declares a 'No Burn Day'.

## Appendix 1

### General conditions for burning in areas more than 75 metres from a habitable building on neighbouring land

- Adjacent property owners or occupiers must be given 24 hours' notice (verbal or written) of an intention to burn.
- Only dried vegetation that has grown on the premises can be burnt. Every attempt must 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.
- All attempts must be made to prevent or minimise air pollution when burning.
- Burning can only take place when the Fire Danger Index (FDI) is low to moderate or high and predicted to remain so for the duration of the burn. The FDI for the Bega Valley Shire can be identified by visiting [www.rfs.nsw.gov.au/fire-information/fdr-and-tobans](http://www.rfs.nsw.gov.au/fire-information/fdr-and-tobans) or by contacting the NSW RFS locally on 02 6494 7400 during normal business hours. Note Burning when the FDI is very high or greater is prohibited.
- Burning must only take place during dry weather conditions, taking into account the potential for smoke impacting on any person due to wind direction and other climatic conditions.
- Burning must not take place where another person's health and amenity are likely to be unduly impacted.
- Burning as the result of an activity related to land subdivision or building construction is prohibited.
- Burning should not cause nuisance to neighbours or a smoke hazard to traffic. If there is a risk of smoke from a fire creating a traffic hazard, specific advice from NSW RMS must be sought before the fire is lit.
- An open fire must be supervised by a responsible and competent adult at all times.
- All combustible material within 4.5 metres of the fire must be removed.
- An open fire must be located where it is not likely to be a threat to a building, including dwellings or outbuildings, whether such buildings are on the subject land or not.
- Adequate water supplies must be immediately at hand to extinguish the fire if required.
- Activities must be undertaken in accordance with the NSW Rural Fire Service / Fire and Rescue NSW document "[Standards for Pile Burning](#)".
- During the bushfire danger period, generally from the beginning of September until the end of March, if you are intending to burn, you must also obtain a fire permit from your local Fire Service permit issuing officer. Owners/managers then must comply with the conditions stipulated on the Fire Permit.
- At all times land managers/owners intending to conduct an open burn must provide a minimum of 24 hours' notice to the appropriate Fire Service. Please note the NSW RFS Bega can only be contacted for such notification during normal business hours on 02 6494 7400, Fire & Rescue NSW can be contacted on 02 6492 1775 (Bega), 02 6496 1506 (Eden) or 02 6495 3062 (Merimbula)
- Note approval from Bega Valley Shire Council does not automatically mean that the relevant Fire Service will issue you a permit as they need to assess your request in light of the requirements of the Rural Fires Act.

## Appendix 2

### Specific conditions regarding burning in areas within 75 metres of a habitable building on neighbouring land

- Adjacent property owners or occupiers must be given 24 hours' notice (verbal or written) of an intention to burn.
- Only dried vegetation that has grown on the premises can be burnt.
- Every attempt must 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.
- All attempts must be made to prevent or minimise air pollution when burning.
- Burning can only take place when the Fire Danger Index (FDI) is low to moderate or high and predicted to remain so for the duration of the burn. The FDI for the Bega Valley Shire can be identified by visiting [www.rfs.nsw.gov.au/fire-information/fdr-and-tobans](http://www.rfs.nsw.gov.au/fire-information/fdr-and-tobans) or by contacting the NSW RFS locally on 02 6494 7400 during normal business hours. Note Burning when the FDI is very high or greater is prohibited.
- Burning must only take place during dry weather conditions, taking into account the potential for smoke impacting on any person due to wind direction and other climatic conditions.
- Burning must not take place where another person's health and amenity are likely to be unduly impacted.
- Burning as the result of an activity related to land subdivision or building construction is prohibited.
- Burning should not cause nuisance to neighbours or a smoke hazard to traffic. If there is a risk of smoke from a fire creating a traffic hazard, specific advice from NSW RMS must be sought before the fire is lit.
- An open fire must be supervised by a responsible and competent adult at all times.
- All combustible material within 4.5 metres of the fire must be removed.
- An open fire must be located where it is not likely to be a threat to a building, including dwellings or outbuildings, whether such buildings are on the subject land or not.
- Adequate water supplies must be immediately at hand to extinguish the fire if required.
- Activities must be undertaken in accordance with the NSW Rural Fire Service / Fire and Rescue NSW document "[Standards for Pile Burning](#)".
- During the bushfire danger period, generally from the beginning of September until the end of March, if you are intending to burn you must also obtain a fire permit from your local Fire Service permit issuing officer. Owners/land managers then must comply with the conditions stipulated on the Fire Permit.
- At all times, land managers/owners intending to conduct an open burn must provide a minimum of 24 hours' notice to the appropriate Fire Service. Please note the NSW RFS Bega can only be contacted for such notification during normal business hours on 02 6494 7400, Fire & Rescue NSW can be contacted on 02 6492 1775 (Bega), 02 6496 1506 (Eden) or 02 6495 3062 (Merimbula)
- Bega Valley Shire Council open burn approvals are valid for 30 days only from the date of issue.
- Note approval from Bega Valley Shire Council does not automatically mean that the relevant Fire Service will issue you a permit as they need to assess your request in light of the requirements of the Rural Fires Act.

## Appendix 3

### Approvals for burning activities

The following table summarises the types of approvals required in Bega Valley Shire LGA for different burning activities and where to obtain a permit (if required).

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	BVSC Specific approval (see appendix 1) & Fire Permit from NSW RFS during declared bushfire danger period and Fire & Rescue NSW at all times	BVSC & Local NSW RFS in a rural fire district and Fire and local Fire and Rescue NSW in a fire district
Burning of vegetation more than 75 metres from a habitable building on neighbouring land	BVSC General approval (see appendix 2) & Fire Permit from NSW RFS during declared bushfire danger period and Fire & Rescue NSW	Local NSW RFS in a rural fire district and Fire and local Fire and Rescue NSW in a fire district
Hazard reduction burn	Hazard Reduction Certificate	NSW Rural Fire Service Bega Fire Control Centre
Beach Fires	Prohibited	N/A
Agricultural burning of material such as stubble, orchard pruning or diseased crops	Fire Permit (only during declared Bushfire Danger Period)	Local NSW RFS or FRNSW
Burning in an incinerator	Prohibited within all of BVSC area except where 1. licenced by NSW EPA 2. no domestic waste services provided. 3. vegetation burnt in incinerator > 75 metres from habitable building	NSW EPA for licenced premises
Burning of dry vegetation in a Solid Fuel Heater within a building	No approval required	N/A
Burning of domestic waste	Prohibited except where domestic waste management services are not available	N/A
Burning to demolish a building or other building materials	Prohibited	N/A
Burning of vegetation cleared as part of a sub division or construction site	Prohibited	N/A
Burning of: Tyres, Coated Wire, Paint containers and residue, Solvent containers and residue, Treated timber with copper chromium arsenate (CCA) or pentachlorophenol (PCP)	Prohibited	N/A
LPG BBQ or campfire for cooking on private land including wood fired BBQs/pizza ovens, chimneas etc	*No approval required (* see note regarding Total Fire Ban, No Burn days)	N/A
Burning to clear native vegetation	Approval under Native Vegetation Act required	NSW EPA /NSW Local Land Services