



## *Our Vision*

Nambucca Valley ~ Living at its best

## *Our Mission Statement*

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

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### **1.0 Policy objective**

To clearly set out the obligations of landowners and residents in respect to burning off in the Nambucca Valley Local Government Area, and an adjunct to Council's ongoing commitment to a comprehensive and long-term plan for air quality management across the Valley.

### **2.0 Related legislation**

*Protection of the Environment Operations Act 1997*  
*Protection of the Environment Operations (Clean Air) Regulation 2010*  
*Rural Fires Act 1997*

### **3.0 Definitions**

**approval** means an approval in force under Division 3 Control of Burning in local government areas

**domestic waste** means waste (other than vegetation) that is of a kind and quantity ordinarily generated on domestic premises.

**domestic waste management services**, as defined in the Local Government Act 1993, means services comprising the periodic collection of domestic waste from individual parcels of rateable land and services that are associated with those services.

### **4.0 History**

The Department of Environment, Climate Change and Water (DECCW) repealed the *Protection of the Environment Operations (Control Of Burning) Regulation 2000* and incorporated its provisions as Part 2A of the *Protection of the Environment (Clean Air) Regulation 2002*. In 2010 the Regulation was reviewed and amended and the control of burning provisions are now under Part 3, referred to from here on as; the Regulation.

The Regulation is designed to prevent air pollution from air borne particulates and chemicals to eliminate localised nuisance caused by smoke and odour generated by inefficient backyard burning off.

There has been an increase in the number of enquiries relating to burning by residents within the Nambucca Valley. The majority of enquiries have related to smoke production, odour and human health effects.

### **5.0 Policy statement**

#### **5.1 Introduction**

Fires inappropriately lit or managed, can endanger and impact on lives, property and the environment.

The purpose of this Policy is to clearly define the responsibilities of organisations regarding the issuing of fire permits and approvals in all areas of the Valley. This Policy sets out ways individuals can avoid damaging impacts by following basic procedures and knowing how to obtain the correct approvals, prior to burning.

## 5.2 General Obligations

The following obligations under the *Protection of the Environment Operations (Clean Air) Regulation 2010* apply in all areas of NSW:

- 1 Prohibition of burning certain items including tyres, coated wire, solvent containers & residues, paint containers & residues and treated timber – copper chromium arsenate (CCA) & pentachlorophenol (PCP); except where exempted in accordance with Clause 9 and 11(2-5) of the Regulations.
- 2 A general obligation for any person to prevent or minimise pollution when burning, can include:
  - a Taking into account the potential for smoke impacting on any person due to wind direction and weather conditions
  - b Taking reasonable measures to ensure that the material being burnt is not wet;
  - c Burning only material that is suitable for disposal by burning, having regard to possible effects on human health and the environment.

## 5.3 Local Obligations

Nambucca Valley Council is committed to sound management and control of backyard burning especially in closely settled areas.

### 5.3.1 Burning of Domestic Waste

Council is listed under schedule 8 Part 3 of the Regulation that deals with all burning

- a Burning of domestic waste is prohibited throughout the Valley however the *Regulation* allows for the burning of domestic waste where there is no domestic waste collection service available (Clause 12(5)).
- b Council discourages the burning of domestic waste in all circumstances.

### 5.3.2 Burning of Vegetation

Council is listed under Schedule 8 Part 2 of the Regulation that deals with burning of vegetation.

Council has applied the controls on burning vegetation only to the area within towns, villages and known urban and rural residential zonings. Any persons wishing to burn vegetation in an area identified in **bold yellow** on the maps, that form part of this policy, must submit a written application to Council. This policy constitutes an approval to burn under Clause 13(2-4) of the Regulation.

Council has delegated, to the Rural Fire Service (RFS), authority to issue approvals to burn domestic waste and vegetation. Burning of vegetation (subject to the general obligations) is permitted other than within the urban and rural residential areas (**Bold yellow** on maps).

**NOTE:** Council, under legislation, may consider individual cases involving burning of dry vegetation within the controlled area. Council officers are required under the Regulation to assess each application presented and may issue a written approval if satisfied with it. Council must keep a copy of each approval and maintain a public register (see Section 5.8 of this Policy).

### 5.3.4 General Exceptions

The Regulation exempts:

- a Bush Fire Hazard Reduction work under the *Rural Fires Act 1997* (Section 5.7 of this Policy);

- b Destruction by burning of prohibited plants or drugs under the *Drugs Misuse & Trafficking Act 1985*;
- c Destruction by means of burning of an animal that has died or suspected of having died of a disease proclaimed under the *Stock Diseases Act 1923* or an exotic disease within the meaning of the exotic diseases of *Animals Act 1991*.

### 5.3.5 Specific Exemptions

It is not an offence under Clause 12(4) of the Regulation:

- a To cook or barbeque in the open, or to light, maintain or use a fire for recreational purposes such as camping, picnicking, scouting or similar outdoor activities, so long as only dry seasoned wood, liquid petroleum gas (LPG), natural gas or proprietary barbeque fuel (including a small quantity of fire starter) is used, or;
- b To burn vegetation, in the course of carrying on agricultural operations, on premises on which the vegetation grew, including:
  - i The burning of vegetation for the purpose of clearing (other than for construction), or;
  - ii The burning of stubble, orchard prunings, diseased crops, weeds or pest animal habitats on farms, or;
  - iii The burning of pasture for regenerative purposes, or
- c To burn anything for the purposes of the giving of instruction in methods of fire fighting by any of the following persons when acting in his or her official capacity:
  - i An officer or member of a fire fighting authority, or;
  - ii A fire control officer within the meaning of the *Rural Fires Act 1997*, or;
  - iii An industrial fire control officer, or
- d To burn anything under the authority of, and in accordance with, a bush fire hazard reduction certificate issued under the *Rural Fires Act 1997*, or
- e to burn anything in an incinerator that is authorised or controlled by a licence under the Act, or
- f to burn anything in an incinerator that:
  - i is equipped with a primary and secondary furnace, and
  - ii is designed, maintained and operated in a manner that ensures the maintenance of appropriate temperatures for the complete combustion of anything that the incinerator is designed to burn and prevents the escape of sparks or other burning material, and
  - iii is equipped with suitable equipment that is designed, maintained and operated for the purposes of controlling air impurities in the exhaust gas once the incineration process has been completed, and
  - iv is not installed in a residential building comprising home units, flats or apartments, or
- g to burn air impurities by the process known as flaring if the flare is designed, maintained and operated so as to prevent or minimise air pollution.

The Regulation also provides exemptions for:

- a Licensed incinerators and incinerators which meet specific technical requirements, and
- b Flaring of waste gasses.

For details please contact Council.

#### **5.4 Health and Other Issues**

- a There are provisions in the *Protection of the Environment Operations Act 1997* that enables Council's authorised officers to require extinguishment of any fire, which the officer can confirm is causing a serious risk to the health of any person. A similar provision applies where it can be confirmed that a fire is not conducted in such a manner as to minimise air pollution.

Inquires may be made to Council regarding any aspect of this point.

- b Valley residents are reminded that this policy does not relate to the safety aspects of burning off. Obligations under the *Rural Fires Act 1997* require the seeking of permits during the bushfire danger period (Section 5.6 of this Policy).

There are notifications required both to Council and to adjoining neighbours for the conducting of fires at **any time of the year** (Section 5.9 of this Policy).

#### **5.5 Penalties**

Council authorised officers and certain officers of other authorities, are empowered to serve Penalty Notices where it can be established there has been a breach of the Regulation. Penalties are set by the *Protection of the Environment Operations Act 1997*.

#### **5.6 Bushfire Danger Period**

A permit is **required** if a fire is to be lit in the open during the Bushfire Danger Period. The Bushfire Danger Period is usually from **1 September to 31 March** annually, however this may vary due to local conditions. Permits are required at all times when a fire is likely to endanger a building.

Permits are issued during the Bushfire Danger Period by the Commissioner of the Rural Fire Service or his/her delegate in rural fire districts or officers of the NSW Fire Brigades in fire districts. Fire Permits are valid for up to 21 days.

Even if a permit has been issued, the lighting of a fire during a **Total Fire Ban** is **Prohibited**. Additionally, the permit will be suspended or cancelled on days of '**High Fire Danger**' to '**Extreme Fire Danger**' or when DECCW declares a '**No Burn Day**'.

Determining whether a Total Fire Ban is in force can be done by phoning the Rural Fire Service (information line) 1800 654 443 or on the web at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au). To find out if a No Burn Notice is in effect call the Pollution Hotline on 131 555 or visit [www.environment.nsw.gov.au/airqual/aqupd.asp](http://www.environment.nsw.gov.au/airqual/aqupd.asp).

The onus is on the holder of the permit to ensure that the conditions on the day are conducive to lighting a fire.

#### **5.7 Bushfire Hazard Reduction (BHR)**

Bushfire Hazard Reduction is an essential (required by law) part of managing any property likely to be affected by dangerous bushfires. It can be carried out by hand clearing, mowing, slashing or by using fire.

If a person wishes to burn off for genuine hazard reduction purposes and fuel material is in its natural state on the site, that person is exempt from environmental obligations under the *Protection of the Environment Operations Act 1997*. However, requirements of the NSW Fire Brigades or the Rural Fire Service for hazard reduction works must be complied with.

A Bushfire Hazard Reduction Certificate (BHR Certificate) is required if the reductions work:

- is to be undertaken in native vegetation,
- will threaten endangered species,
- results in soil erosion,
- results in air or water pollution.

A Bushfire Hazard Reduction Certificate is the **Environmental Approval** for hazard reduction work only.

The NSW Rural Fire Service can issue a BHR Certificate or provide advice on where to obtain other environmental approvals. A BHR Certificate is effective for 12 months from the date of issue. If the proposed hazard reduction requires an environmental approval, a BHR Certificate must be obtained prior to application being made for a fire permit.

## 5.8 Approvals For Burning Activities

The following table summarises the types of approvals required in Nambucca Valley Council area for different burning activities and where to obtain that permit.

Type of Burning Activity	Type of Approval Required	Where to Obtain Approval
Hazard reduction burn	Hazard Reduction Certificate or other environmental approval as advised	Rural Fire Control Centre
Pile burn	Control of Burning approval	NSC, DECCW & RFS (outside NSC marked area)
Bonfire	Control of Burning approval	NSC, DECCW & RFS (outside NSC marked area)
Burning of windrows	DA, Control of Burning approval	NSC, DECCW
Agricultural burning of material such as stubble, sugar cane, orchard pruning or diseased crops	Not required	-
Burning in an incinerator	Control of Burning approval if material to be burnt includes vegetation	NSC, DECCW
Burning charcoal	Not required	-
Burning domestic waste (other than vegetation)	Not required provided that it is burnt on the residential premises on which the waste was generated and domestic waste management services are not available	-
Burning to demolish a building or other building materials	Not required	-
Burning to destroy sawmill waste material	DA, Control of Burning approval	NSC, DECCW
Lighting fires to produce charcoal	Control of Burning approval	NSC, DECCW
Burning an animal that has died, or is suspected to have died, due to disease	Not required	-
Camp fire for cooking or heating	Not required	-
Burning of: <ul style="list-style-type: none"> <li>▪ Tyres (except for the purpose of giving fire fighting instruction)</li> <li>▪ Coated wire</li> <li>▪ Paint containers and residues</li> <li>▪ Solvent containers and residues</li> <li>▪ Treated timber</li> </ul>	Prohibited	-
Burning to clear native vegetation	Approval under the <i>Native Vegetation Act 2003</i>	DECCW
Burning (excluding cooking or heating) during the Bush Fire Danger Period or burning that is likely to endanger a building	Fire Permit in addition to any approval specified above. A Hazard Reduction Certificate or Control of Burning approval to be obtained prior to submitting an application of a Fire Permit.	NSW Rural Fire Service/NSW Fire Brigades
<b><u>IMPORTANT</u></b>		
<b>Lighting of fires is prohibited during a Total Fire Ban. A Fire Permit that has been issued by the NSW Rural Fire Service or NSW Fire Brigade will be suspended or cancelled on days of 'High Fire Danger' or 'Extreme Fire Danger' or when DECCW declares a 'No Burn Day'.</b>		

## 5.9 Process For Burning In Nambucca Valley (As At June 2009)

Submission of an application to burn off, is to be directed to Council after careful consideration of the above table in Section 5.8 of this Policy.

**NOTE 1:** There are fees involved for both the application and the inspection by Council officers. These are set out in Council's Fees and Charges that can be viewed at Council's administration centre or online at [www.nambucca.nsw.gov.au](http://www.nambucca.nsw.gov.au)

**NOTE 2:** In **Residential Areas including Rural Residential Areas and areas shaded solid bold yellow on the maps, in section 4 of this Policy**, an approval from Council is required all year prior to burning. In addition, a permit from the Rural Fire Service (RFS) or NSW Fire Brigade (NSWFB) is required during the Bushfire Danger Period prior to burning. The RFS and NSWFB will not issue a permit until Council has granted an approval.

**NOTE 3:** In **Non-residential Areas and all areas that are not delineated by a solid bold yellow marking on the maps in Section 4 of this policy**, an approval from Council is not required prior to burning. However a permit from the RFS/NSWFB is required during the Bushfire Danger Period prior to burning.

Approvals to burn in residential areas are generally not granted as Council is required to consider a number of issues under the Regulation when assessing an application. Such as:

- a Why the vegetation cannot be disposed of in an alternative manner eg. Chipped/mulched, composted, placed in Green Bin, taken to the tip or taken away by a contractor
- b Proximity of neighbour's house
- c Other amenities in the immediate area, eg schools, playgrounds, nursing homes, hospitals and commercial areas.

A Burning in Nambucca Valley application form must be filled out and paid for at the time of lodgement.

Once the application is received by Council it will be assessed and if deemed possible, a Public Notice will be displayed in the local print media calling for submissions in relation to the proposed burn within 7 days (refer to example below). The cost of the public notice is included in the application fees.

### SAMPLE PUBLIC NOTICE

Council is in receipt of two applications to burn under the *Protection of the Environment Operations (Clean Air) Regulation 2010*. The applications relate to stockpiles of dry vegetative material on Lot 2 in DP 2002808 Tilly Willy Street, Macksville (applicant, Australian Rail Track Corporation Ltd) and Lot 62 in DP 2068432 Florence Wilmont Drive, Nambucca Heads (applicant, Mr John Citizen). Should you wish to make submissions regarding these applications you should do so in writing, addressed to:

General Manager  
Nambucca Valley Council  
PO Box 177  
MACKSVILLE NSW 2447.

Submissions will close at 4:00 pm on Thursday, 30 June 2010.

**Contact Details:**

Postal Address: PO Box 177, Macksville NSW 2447  
Telephone: (02) 6568 0240  
Facsimile: (02) 6568 2201

**Website:**

[www.nambucca.nsw.gov.au](http://www.nambucca.nsw.gov.au)

**Email:**

[council@nambucca.nsw.gov.au](mailto:council@nambucca.nsw.gov.au)

**Office Location:**

44 Princess Street, Macksville NSW 2447

**Updated:** 21 October 2010

## Burning in Nambucca Valley Application Form

**Applicant:** \_\_\_\_\_**Postal Address:** \_\_\_\_\_**Phone Number:** \_\_\_\_\_**Email Address:** \_\_\_\_\_**Property Details:** Lot/Portion & DP No: \_\_\_\_\_

Road/Street: \_\_\_\_\_

Property Owner: \_\_\_\_\_

**Proximity of Neighbours' House/Fence:** \_\_\_\_\_**Details of Conversations with Neighbours (and/or attach copies of letters) about your intention to burn:****List the reasons you are unable to dispose of the matter in any other way other than burning:****Applicant's Signature:** .....

### Office Use Only

**Fee :** On Application  
**Account number:** \_\_\_\_\_**Date Paid:** \_\_\_\_/\_\_\_\_/\_\_\_\_**Receipt No:** \_\_\_\_\_

## 5.0 History

<b>Department:</b>	Development and Environment	<b>Last Reviewed</b>	<b>Resolution Number</b>
<b>Policy Category</b>	Council	21 Oct 2010	
<b>Endorsed By:</b>	General Manager		
<b>Approval Authority</b>	Council		
<b>Policy Owner</b>	MD&E		
<b>Contact Officer</b>	MD&E		
<b>Document No.</b>	20694/2010		
<b>First Adopted</b>	15 Oct 2009		
<b>Resolution No:</b>			
<b>Review Date:</b>	Feb 2019		