

Policy 4.14 Burning Off in Open Areas

Directorate	Community Environment and Planning
Responsible Officer	Director Community, Environment and Planning

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1.1 Introduction

1.1.1 Scope

This policy applies to burning off (pile burning) of dead and dry vegetation on private land.

1.1.2 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.

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

This policy sets out the processes to ensure compliance with the Regulation in Bega Valley Shire.

1.2 Definitions

Word or Terminology	Description
FRNSW	Fire and Rescue New South Wales
NSW RFS	New South Wales Rural Fire Service
NSW EPA	New South Wales Environment Protection Authority

1.3 Legislation

Open burning is regulated across New South Wales by:

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

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

[*Rural Fires Act 1997*](#)

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.

1.4 Implementation

1.4.1 Policy statement

This policy 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 burning off
- ensure compliance with the Regulation
- increase public awareness of their obligations under the Regulation
- make Council's requirements for burning off readily accessible and understandable to the public.

1.4.2 Deemed approval provisions

Bega Valley Shire Council may grant approval for the burning of dead and dry vegetative material by land owners, occupants or managers under Section 13 (2) (a) of the Regulation.

When the prescribed criteria for the parcel of land are fulfilled and the land owner, occupier or manager agrees to comply with the deemed conditions of approval, the proposed open burning activity will be deemed to have been approved by Council without the need for a formal application. Approvals from the Rural Fire Service or Fire and Rescue may still be required – see 1.11 Summary of burning activity requirements for more information.

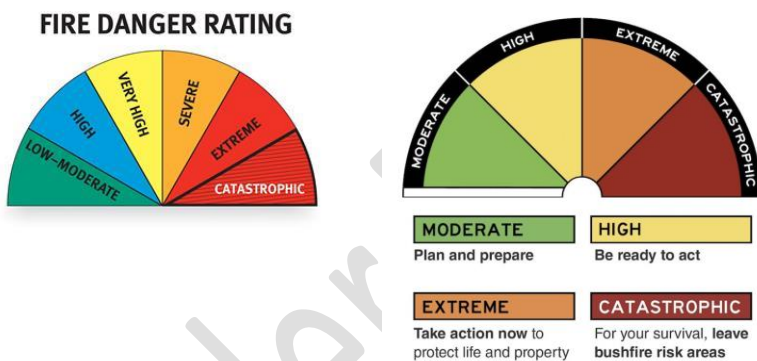
1.4.3 Prescribed criteria and deemed conditions of approval

1. Parcels of land must be (see flow chart in Appendix 1):-
 - greater than 3000m² in area, and
 - zoned RU1, RU2, RU3, RU4 and RU5 Rural, R5 Large Lot Residential, E2, E3 and E4- Environmental Protection or RE2 Private Recreation under the *Bega Valley Local Environmental Plan 2013*.
2. An open fire must be at least 20 metres from any habitable building or the boundary of any parcel of neighbouring land.
3. Adequate water supplies must be immediately on hand to extinguish the fire if required.
4. Adjacent property owners, occupiers or managers must be given a minimum of 24 hours' notice (verbal or written) of an intention to burn.
5. Only dead and dry vegetation that has grown on the premises can be burnt.
6. Feasible alternative options to burning, such as mulching, composting, milling or use as fuel should be considered.
7. An open fire must always be supervised by a responsible adult.
8. All combustible material within 4.5 metres of the fire must be removed.
9. Burning should only take place when weather conditions are suitable, with winds under 10km/h and predicted to remain so.
10. Burning should not cause nuisance to neighbours or a smoke hazard to traffic. Burning should only be undertaken where prevailing winds have no impact on adjoining residential premises or have no impact on a public road network where smoke is likely to be a hazard to traffic.
11. Activities must be undertaken in accordance with the NSW Rural Fire Service (RFS) / Fire and Rescue NSW [Standards for Pile Burning](#).
12. Land owners, occupiers or managers must notify their local RFS or the nearest NSW Fire Brigade station at least 24 hours before the fire is lit. Notification to the RFS can be made online. The link to the online notification is www.rfs.nsw.gov.au/fire-information/BFDP/burn-notifications Attachment 2 provides maps outline the jurisdictions of NSW Rural Fire Service and NSW Fire and Rescue across the shire.

Notes:

- I. Approval from Fire and Rescue NSW or NSW Rural Fire Service may also be required for any open burning activity. The appropriate fire service should be contacted prior to commencing any burns.
- II. Lighting of any fires is prohibited during a Total Fire Ban. A Fire –Permit that has been issued by the NSW Rural Fire Service or Fire and Rescue NSW will be suspended or cancelled on days when the bushfire danger rating is ~~very High~~ high or above or when NSW EPA issues a 'No Burn Notice' to protect air quality. To find out whether a Total Fire Ban is place check the Fires Near Me application or go to www.rfs.nsw.gov.au/fire-information/BFDP/burn-notifications To find out if a No Burn Notice has been issued phone the Environment Line on 131 555, email info@epa.nsw.gov.au or go to www.dpie.nsw.gov.au/air-quality/air-quality-alerts

III. AUSTRALIAN FIRE DANGER RATING SYSTEM



- IV. A deemed approval from Council does not automatically mean that the relevant Fire Service will issue a permit as they need to assess your request in light of the requirements of the *NSW Rural Fires Act 1997*.
- V. Burning of waste or vegetation as the result of an activity related to land subdivision or building construction is prohibited.
- VI. An approval flow chart is available at Attachment A.

1.4.4 Exemptions

Approval from Council is not required for any of the following activities.

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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 *Biosecurity Act 2015* or an exotic disease as defined in the NSW *Animals Act 1977*.
4. The burning and destruction by burning of priority weeds identified under the South East Regional Strategic Weed Management Plan.
5. The burning of vegetation as part of a Property Vegetation Plan agreement between a landholder and the Local Land Services under the NSW *Local Land Services Act 2013* and the NSW *Biodiversity Conservation Act 2016*.
6. Bush Fire Hazard Reduction work or regeneration burning authorised under an Integrated Forestry Operations Approval issued under the *NSW Forestry Act 2012*.

1.4.5 Approval for open burning on land not covered by deemed approval

Council may grant approval for open burning on land where the proposed activity is:

1. not exempt activity, as described in the exemptions noted above, or
2. not covered by the deemed approval provisions of this policy, and
3. more than 20 metres from a habitable building or neighbouring land.

Application for such an approval must be made to Council in writing and demonstrate the written support of adjoining neighbours with dwellings within 75 metres of the proposed activity, depending upon the specific location of the proposed burn. Council may charge a fee to assess the application. Once the Council permit has been issued, the applicant must seek the approval of the relevant local fire authority.

1.4.6 Complaints and enforcement

It is an offence under the NSW *Protection of the Environment Operations Act 1997* to fail to comply with this policy.

A resident may make a complaint to Council by emailing council@begavalley.nsw.gov.au or calling 02 6499 2222, if the activity is not being undertaken in accordance with the deemed approval provisions of this policy (e.g. they have not been notified of the activity or it is creating a nuisance).

Council compliance staff are authorised under the NSW *Protection of the Environment Operations Act 1997* and its Regulations to undertake enforcement action in relation to this policy. This may take the form of a smoke abatement notice under Section 135B or a direction under Section 134.

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*.

1.4.7 Audits

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

1.4.8 Contacts regarding this policy

More information about this policy, or to report a possible breach of this policy, should be made by contacting Council on 02 6499 2222 or council@begavalley.nsw.gov.au NSW Rural Fire Service or Fire and Rescue NSW do not have a role in administering this policy.

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

1.4.9 Summary of burning activity requirements

The following table summarises the requirements in the Bega Valley Shire for different burning activities and where to obtain a permit (if required). Further information is available on Council's website www.begavalley.nsw.gov.au

Type of burning	Types of approval required	Where to obtain approval
Burning of vegetation and waste within 20 metres of a habitable building or neighbouring land.	Prohibited	N/A
Burning of vegetation more than 20 metres from a habitable building or neighbouring land.	Council deemed approval and Fire Permit from NSW RFS during declared bushfire danger period or Fire Permit from Fire and Rescue NSW at any time of year	Local NSW RFS in a rural fire district and local Fire and Rescue NSW in a fire district (see Appendix 2 for areas covered by each agency in Bega Valley Shire).
Hazard reduction burn	Hazard Reduction Certificate	NSW Rural Fire Service Bega Fire Control Centre. Contact 02 6494 7400.
Beach fires	Prohibited under Council's procedure 1.07.1 Management of Public Reserves (pending Council decision, this policy may be revoked and this item included in a procedure under Policy 1.08 Leisure and Recreation)	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 of dry vegetation in a Solid Fuel Heater within a building	No approval required	N/A
Burning of domestic waste	Generally prohibited	NSW EPA and Council
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

Type of burning	Types of approval required	Where to obtain approval
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, chimineas, etc	*No approval required (*see note regarding Total Fire Ban, No Burn days)	N/A
Burning to clear native vegetation	Approval under the NSW <i>Local Land Services Act 2013</i> may be required	NSW Local Land Services

1.5 Supporting documents

1.5.1 BVSC Procedures that relate to this Policy

Procedure No.:	Procedure Name	External or Internal Procedure
	There are no procedures sitting under this policy (pending Council decision on revoking Policy 1.07 Public Reserve Management, there may be a new procedure under Policy 1.08 Leisure and Recreation that will need to be included here)	

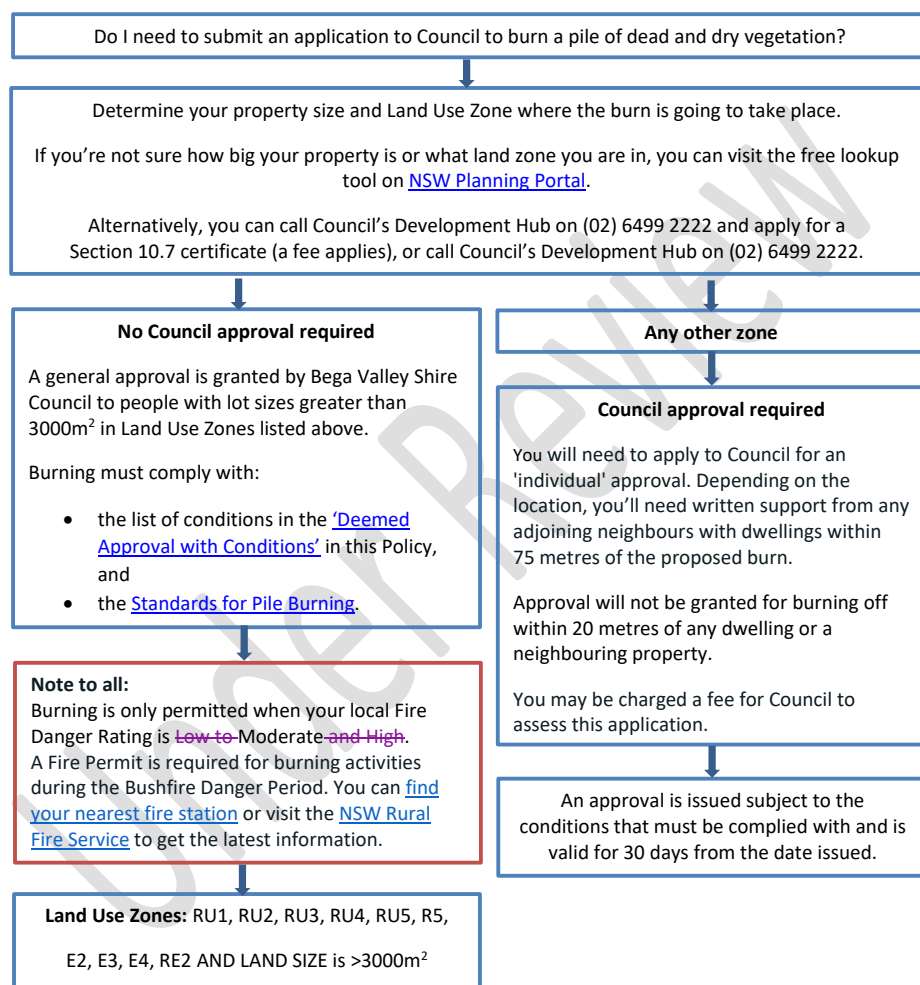
1.5.2 BVSC Policies that Relate to this Policy

Policy No.:	Policy Name
3.08	Asbestos Management
3.04	Biosecurity and Weed Management
6.10	Communications
1.01	Community Wellbeing
4.05	Enforcement and Compliance
3.02	Environment Management
4.12	Environmental and Public Health
6.13	Organisational Service Standards
1.07	Public Reserve Management (pending Council decision on revoking this policy)
3.03	Soil and Water Management

Note: Policy details may change from time to time. To ensure you are viewing the most recent version please view Council's adopted Policies and Procedures on Council website: www.begavalley.nsw.gov.au

1.5.3 Attachment 1 – Approval Flow Chart

Determining when an application for control of burning approval is required to be submitted to Council



1.5.4 Attachment 2 – Jurisdictions of NSW Rural Fire Service and NSW Fire and Rescue

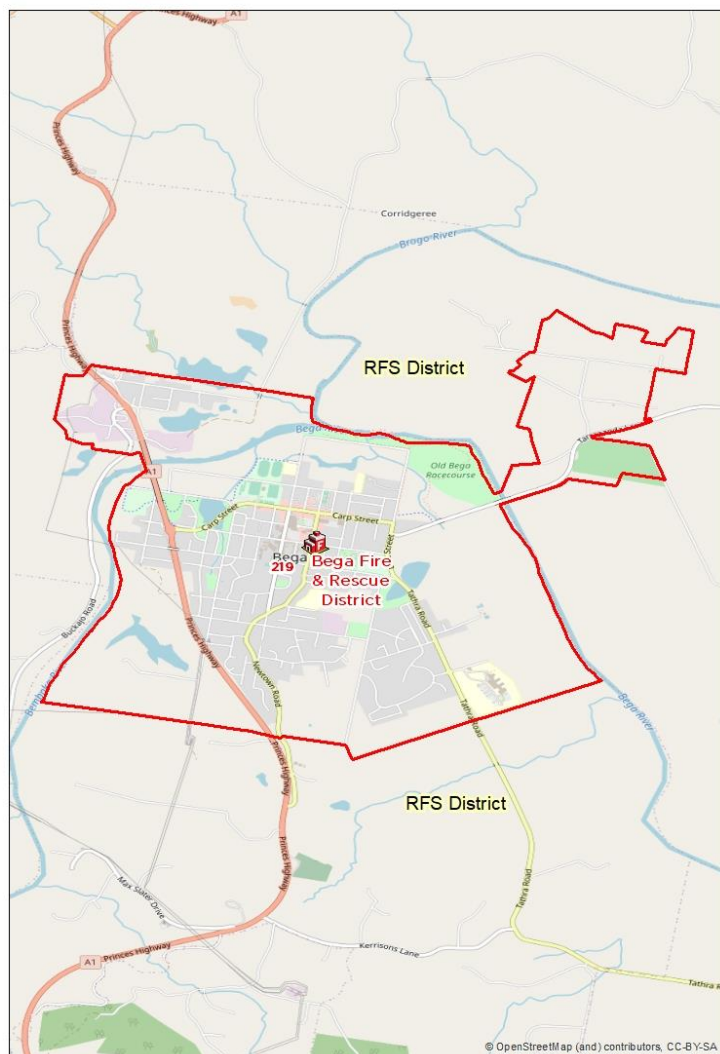


Figure A1 – Bega Area



Figure A2 – Eden Area



Figure A3 – Merimbula Area