



## **5. COMPLIANCE**

Policy 5.6

CONTROL OF OPEN BURNING POLICY

Version 3

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### **5.6 CONTROL OF OPEN BURNING POLICY**

#### **OBJECTIVE:**

To establish guidelines for the safe burning on land with minimal health and environmental impact.

#### **POLICY:**

##### **1. BACKGROUND**

The *Protection of the Environment Operations (Clean Air) Regulation 2021* (POEO (Clean Air) Regulation 2021) allows Councils to approve open air burning of material in certain instances and in certain areas. The POEO (Clean Air) Regulation 2021 clause 12 states that:

- (1) A person must not, in a local government area specified in Part 1 of Schedule 1, burn anything in the open or in an incinerator, except in accordance with an approval.

Maximum penalty – 100 penalty units, in the case of a corporation, or 50 penalty units, in the case of an individual.

- (2) A person must not, in a local government area specified in Part 2 of Schedule 1, burn any vegetation in the open or in an incinerator, except in accordance with an approval.

Maximum penalty - 100 penalty units, in the case of a corporation, or 50 penalty units, in the case of an individual.

- (3) A person must not, in a local government area specified in Part 3 of Schedule 1, burn anything, other than vegetation, in the open or in an incinerator, except in accordance with an approval.

Maximum penalty - 100 penalty units, in the case of a corporation, or 50 penalty units, in the case of an individual.

Lithgow City Council is listed in Schedule 1 of the Protection of the Environment Operations (Clean Air) Regulation 2021 Part 2: Areas in which burning of vegetation is prohibited except with approval; and, Part 3: Areas in which all burning (other than vegetation) is prohibited except with approval or in relation to certain domestic waste.

## **2. AIM**

The aim of this policy is to ensure the protection of the public health and the environment.

Further, this policy aims to reduce actions that may impact upon the quality of air and/or increase the risk of wildfire.

NOTE: This document outlines the procedure to gain approval to conduct a burn outside the declared Bush Fire Danger Period (usually 1 Oct. to 31 March). During the Declared Bush Fire Danger Period a permit to burn is required from the NSW Rural Fire Service. To determine if the activity you are proposing is exempt from the Council approval process, see Section 6. Burning activity where approval is not required.

## **3. LAND TO WHICH THIS POLICY APPLIES**

This policy applies to all land within the Lithgow Local Government Area.

## **4. BURNING ACTIVITIES FOR WHICH APPROVAL IS REQUIRED**

The following information outlines the type of burning for which this policy applies. Other burning activities may require a separate approval from the Rural Fire Service.

a) General burning for which Council approval is required:

The open burning of dry and dead vegetation that is not easily disposed of at Council Waste Management Facilities. This applies to any vegetation matter. A Permit to Burn must be obtained from the Rural Fire Service during the Bush Fire Danger Period (usually 1 Oct. to 31 March)

b) Notification to the Rural Fire Service is required:

Before burning for any purpose (except for a fire for cooking or recreational purposes), notice must be provided to all adjoining landowners/occupiers as well as the Rural Fire Service 24 hours prior to burning.

c) Burning which is classed as prohibited.

The burning of domestic, business, building, industrial and hazardous waste is classed as a prohibited activity and may have adverse impact upon the community and the environment. This type of material is not to be burnt unless through a licensed incinerator and must be disposed of through the appropriate waste facility.

## **5. BURNING ACTIVITY WHERE AN APPROVAL FROM LITHGOW CITY COUNCIL IS NOT REQUIRED**

Burning is allowed without the need for approval on property greater than 4,000m<sup>2</sup> (1 acre) for dead and dry vegetation in the course of carrying out agricultural operations on which the vegetation has grown; within the following areas identified under the *Lithgow Local Environmental Plan 2014*:

- RU1 – Primary Production
- RU2 – Rural Landscape
- RU5 – Village
- R5 – Rural Residential

Notice must be provided to Rural Fire Service (RFS), all adjoining landholders/occupiers and must be in accordance with the RFS Standards for Pile Burning. Open burning is permitted only during the Approved Open Burning Period (generally April-September) and only under the following circumstances:

1. A fire is conducted as part of a routine agricultural management activity (eg: burning stubble, orchard pruning's, diseased crops, weeds or pest animal habitats, pasture for regenerative purposes or any other legitimate agricultural activity). See Glossary for a full definition of this activity,
2. The disposal of certain types of dry and dead vegetation,
3. An easily controlled fire for cooking or barbequing, with the fire area covering 1m x 1m or less,
4. To conduct an easily controlled fire for recreational purposes (eg: camping, scouting, and picnicking), excluding bonfires, with the fire area covering 1m x 1m or less,
5. To conduct training in methods of fire fighting by an authorised person,
6. In a licensed incinerator meeting the requirements of the Environment Protection Authority;
7. To carry out bush fire hazard reduction work under and in accordance with the *Rural Fires Act 1997*, however it should be noted that the hazard reduction certificate is not providing permission to burn; it may only state that burning can be conducted as part of this activity,

Note: You may need an environmental approval, if:

- You are modifying native vegetation,
  - The activity could threaten endangered species and or result in air or water pollution and or soil erosion,
8. To destroy, by burning, of any prohibited plant or drug under the *Drug Misuse and Trafficking Act 1985*,
  9. To burn an animal that has died or is suspected to have died of a disease proclaimed under the *Stock Diseases Act 1923* or the *Exotic Diseases of Animals Act 1991*.

Note: A permit may be available for other zones subject to approval from the Rural Fire Service and Lithgow City Council. During the Fire Danger Period on days of Total Fire Ban and/or Extreme Fire Danger all burning activities are suspended.

Note: Before burning for any purpose (except for a fire for cooking or recreational purposes), notice must be provided to all adjoining landowners/occupiers as well as the Rural Fire Service 24 hours prior to burning.

## **6. RESTRICTED MATERIALS**

The following materials must not be burnt at any time within the Lithgow City Council area and must be disposed of or recycled in the appropriate manner at a licensed waste facility:

- General or domestic waste
- Tyres
- Coated wires
- Paint containers and residues
- Solvent containers and residues
- Timber treated with copper chromium arsenate (CCA) or pentachlorophenol (PCP)
- Any material that may cause an explosion.

## **7. OPEN BURNING REQUIRING APPROVAL**

Those wishing to conduct an open burn other than those indicated in Section 6, must apply to Council for approval to open burn. If approved, the landowner will receive the Approval to Burn designating a period of up to twenty-one days (21 days) during which the burn may occur. The following conditions will be imposed on any approval:

All non-agricultural burning may be approved subject to the following conditions:

1. The burning activity must not be dangerous or present a risk to any building or land;
2. The burning must be prepared and conducted in line with the published NSW RFS document “Standards for Pile Burning”.
3. Only dry and dead vegetation which grew on the premises may be burnt on the premises.
4. The material to be burnt is greater than five (5) metres from a designated watercourse or water body. Where this is not possible, appropriate erosion control and revegetation measures should be implemented as part of the activity.
5. Only vegetation which cannot be easily disposed of through Council’s Waste Management Facilities may be burnt.
6. The fire must be attended by a competent person for the duration of the activity and have sufficient fire-fighting resources on-hand to safely maintain the fire.
7. For tree waste, all combustible material must be removed at least two (2) metres radius of the material to be burnt.

8. Burning should only take place when weather conditions are calm and predicted to remain so.
9. The NSW RFS may determine that the nominated date for burning is not suitable for burning due to weather conditions/fire activity.
10. The burning does not cause nuisance conditions or a smoke hazard outside the property of the burn.
11. Land owners/managers must notify the Rural Fire Service, Lithgow City Council and adjoining neighbours at least 24 hours prior to lighting.
12. Land owners/managers must obtain written approval from Lithgow City Council at least two (2) weeks prior to burning.
13. The provisions of the *Protection of the Environment Operations (Clean Air) Regulation 2021* must be fully complied with.
14. The provisions of the *Rural Fires Act 1997* must be fully complied with.
  - a) For burning outside the nominated Open Burning Period, written approval must be gained from the Rural Fire Service.
  - b) Even with written approval, fires must not be lit on declared days of Total Fire Ban.

Note: Before burning for any purpose (except for a fire for cooking or recreational purposes), notice must be provided to all adjoining landowners/occupiers as well as the Rural Fire Service 24 hours prior to burning.

## **8. GLOSSARY**

Approval to Burn: An approval granted by Council as per the *Protection of the Environmental Operations (Clean Air) Regulation 2021*, generally granted outside the designated Fire Danger Period.

Approved Open Burning Period: generally, from April through to September but may be restricted or extended depending upon current environmental conditions. To confirm this period, contact the Rural Fire Service on 1800 679 737.

Asset Protection Zone (APZ): The APZ is listed in the Rural Fire Service Planning for Bushfire Protection 2006 guide (Dictionary, p72). It is described as the “area surrounding a development managed to reduce the bush fire hazard to an acceptable level” . The APZ is only relevant to new Council Development Applications. For Hazard Reduction Burning, a permit to burn is required through the Rural Fire Service.

Designated watercourse/water body: includes any river, creek, stream, drain, drainage reserve, stormwater drain, brook, rivulet, dam, lake, pond, channel, gutter, billabong, oxbow lake or any other area, wet or dry, that contains or is likely to contain or receive or pass rainwater, floodwater or any other water.

Dry and dead vegetation: is defined as vegetation that does not have any living tissue or foliage present, i.e. does not contain any green leafy or woody material.

Easily disposed vegetation: includes material that by their size and nature can be transported to Council's Waste Management Facility. This includes grass clippings, small loads of tree waste and chipped tree waste.

Extreme Fire Danger: is caused by a combination of dry vegetation and hot, dry, windy weather and is monitored and declared by the NSW Rural Fire Service.

General or domestic waste: includes any waste produced through normal activities. This includes but is not limited to plastics, metals, paper and paper products, food and food wrappings (including plastic, paper and metal), chemicals and chemical containers, aerosol cans, electrical items, household appliances, computers and computer accessories, and any other waste item associated with domestic, business and industry activities.

Material that may cause an explosion: includes any material that by its contents or construction may result in an explosion when heat or flame is applied. For example, ammunition, aerosol cans, petroleum, paint, solvent and chemical containers and sealed food items.

Open burning: the act of burning material in open air, outside of a purposefully built area such as an internal domestic fireplace or stove.

Permit to Burn: A permit granting permission to burn by the Rural Fire Service as per the Rural Fires Act (1997) and applicable to the Fire Danger Period.

Routine Agriculture Management Activity: includes

- i. The burning of vegetation for the purposes of clearing\* (other than for construction), or
- ii. The burning of stubble, orchard pruning's, diseased crops, weeds or pest animal habitats on farms, or
- iii. The burning of pasture for regenerative purposes, or

\*Other permits may be required through the appropriate authority in respect to the burning for clearing.

Total Fire Ban Day: a day/s when fires are likely to escape and be difficult to contain. These days are declared by the Rural Fire Service. More information can be gained by calling the RFS on 1800 679 737 or going to [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

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|---------------------------|---|--------------------|----------------------|------------------|--------------------------------------|
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| Attachments:              |   |                    |                      |                  |                                      |

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ABN: 59 986 092 492



**Application to Open Burn**  
**Protection of the Environment Operations (Clean Air) Regulation 2021**  
**Lithgow City Council Policy 5.6 – Control of Open Burning**

Please complete all sections and submit this form to Council at least two (2) weeks prior to proposed burn.

**NOTE:**

1. Properties zoned: RU1 – Primary production; RU2 – Rural Landscape; RU5 - Village; R5 - Rural Residential, and are greater than 4,000m<sup>2</sup> are exempt from requiring Council approval if the burn is to remove dead/dry vegetation and/or for agricultural purposes.
2. Notice must be provided to the NSW Rural Fire Service on all occasions.
3. There is no applicable fee that will apply for this application.

**Applicant Details:**

Applicant Name: \_\_\_\_\_  
Applicant Address: \_\_\_\_\_  
Applicant Phone Number: \_\_\_\_\_  
Applicant Email: \_\_\_\_\_

**Open Burn Details:**

Property Owner Name: \_\_\_\_\_  
Property Owner Phone Number: \_\_\_\_\_  
Property Owner Email: \_\_\_\_\_

Date and Time of Proposed Burn: \_\_\_\_\_  
Address of Open Burn: \_\_\_\_\_  
Mapping Zone: \_\_\_\_\_  
Approximate Size of Burn (m<sup>2</sup>): \_\_\_\_\_  
Type of Vegetation/Material to be Burnt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Source of Vegetation/Material: \_\_\_\_\_

Distance and Direction to Nearest Dwelling: \_\_\_\_\_

Distance and Direction to Nearest Public Road: \_\_\_\_\_

Notification Given to all Adjoining Landholders/Occupiers? (Please Circle):      Yes      No

Notification Given to NSW Rural Fire Service 24hrs Prior to Burn? (Please Circle):      Yes      No

Permit to Burn Received from NSW Rural Fire Service? (Please Circle):      Yes      No      Exempt

**Access for Inspection Agreement:**

Access to this property may be required by Council officers in order to assess this application and determine compliance with the relevant Regulations. By the submission of this application or by authorising its submission by another person, it is understood you are giving approval for Council officers to enter the property. No internal access to the premises is required.

Name of Contact Person for Access: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

**Declaration:**

In submitting this notification, I acknowledge that:

- I/We declare that the information provided in this form is true and correct to the best of my knowledge.

Name:

\_\_\_\_\_

Signature:

\_\_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**PRIVACY & PERSONAL INFORMATION PROTECTION NOTICE**

By completion of this form, you may be providing Council with personal information. Council will collect the information only for a lawful purpose directly related to the function of Council. Information provided to Council may be used in conjunction with any of Council's business operations. We will take reasonable care not to disclose personal information. Exempt documents may come under the Government Information (Public Access) Act 2009.

**OFFICE USE ONLY**

DATE RECEIVED: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

APPLICATION NO.: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

RECEIPTED BY: \_\_\_\_\_

NOTES: \_\_\_\_\_

|                     |      |                 |                 |
|---------------------|------|-----------------|-----------------|
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