

Agreement in Principle

Mr STEVE WHAN (Monaro—Minister for Emergency Services, Minister for Small Business, and Minister for Rural Affairs) [10.25 a.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Rural Fires Amendment Bill 2009. The purpose of the bill is to further empower the Commissioner and officers of the New South Wales Rural Fire Service to play an enhanced role in preventing bushfires and to respond effectively to fires and other emergencies. The bill empowers the commissioner and officers to enter and inspect land to investigate the cause or origin of a fire, and to apply for a search warrant for the purposes of such investigations. It enables brigade officers to remove persons and obstacles from a fire or other emergency, and shifts responsibility for bush fire hazard management in rural fire districts from local authorities such as local councils to the New South Wales Rural Fire Service.

The significant loss of life and destruction of property in Victoria on 7 February and its disruption and dislocation of whole communities provided a sobering reminder of the need to continuously improve the ability of the New South Wales Rural Fire Service to protect New South Wales communities. The New South Wales Rural Fire Service has, since 2002, taken on the vast majority of responsibility for private land hazard management on behalf of local councils under a conference arrangement. The vast majority of local councils covered by rural fire districts avail themselves of this service. On behalf of the councils, the New South Wales Rural Fire Service responds to complaints about bush fire hazards, issues hazard reduction notices, pursues the actions available when notices are not complied with and issues bush fire hazard reduction certificates. This arrangement allows the New South Wales Rural Fire Service to provide the community of New South Wales with a one-stop shop for bush fire hazard management across New South Wales.

However, conferring the responsibility for hazard management is not without its difficulties. It has the potential to cause considerable confusion to members of the public regarding the bodies that are responsible for private land hazard management in New South Wales. The Local Government and Shires Associations of New South Wales has acknowledged these difficulties, and resolved some two years ago that provisions covered under the conference arrangement should progressively be transferred by legislation to the New South Wales Rural Fire Service. Schedule 1 [9] transfers the responsibility for removal of hazards on private lands from local authorities such as local councils to the Commissioner of the New South Wales Rural Fire Service. This will allow the commissioner to exercise hazard management functions directly and not through existing overly complex arrangements. The substance of the provisions themselves will not change under the proposed amendments. The amendments will, however, simplify and streamline the hazard management service in New South Wales and reduce confusion amongst members of the public regarding the management of fire hazards and other emergencies.

Items [14] to [16] of schedule 1 further streamline the system by giving the commissioner sole responsibility for investigating and taking action in respect of bush fire hazard complaints. Schedule 1 [13] provides that a local authority is to refer bush fire hazard complaints to the commissioner. Schedule 1 [17] provides that the commissioner, in addition to a local authority, may issue a bushfire hazard reduction certificate relating to work carried out by persons on private land. The Rural Fire Service has issued these certificates in this way since 2003. Allowing the commissioner to exercise this function directly will simplify and streamline the system, and minimise confusion regarding responsibility for hazard management.

I now turn to the detail of other parts of the bill. Schedule 1 [2] empowers an officer of a rural fire brigade to remove any person, vehicle, vessel or thing that may interfere with the work of any rural fire brigade or the exercise of any of the officer's functions. A similar power is granted to New South Wales Fire Brigades in section 19 of the Fire Brigades Act 1989. Any person has the right to defend his or her property against fire or other emergency. However, the presence of members of the public at the scene of a fire or emergency may hinder the performance of trained fire brigade officers. By clearing persons and obstacles from the site of a fire or other emergency, officers of rural fire brigades can focus on defending threatened property and suppressing the hazard, without the additional concern of ensuring the safety of untrained members of the public who choose to stay on the site.

Schedule 1 [3] provides the Rural Fire Service Commissioner with the power to enter land, other than that used only for residential purposes, to investigate the cause or origin of a fire on that land or any adjacent land. This power of entry will be exercisable up to 24 hours after the fire has been put out, where the owner or occupier of the land does not consent to the entry for the purposes of an investigation into the fire's cause or origin. For part of land used only for residential purposes, or if more than 24 hours have elapsed since the fire was extinguished, a search warrant will be required. The warrant procedure requires the commissioner to demonstrate reasonable grounds for the need to investigate the cause or origin of the fire, and establishes the legal criteria and time frame for its completion.

The commissioner can apply to an authorised officer for a search warrant if the commissioner reasonably believes entry onto the land is necessary in order to investigate the cause or origin of a fire. Where the cause of the fire is known, these warrants will not be available. Information about the cause and origin of fires furnished by investigations is provided to the Rural Fire Service, New South Wales Fire Brigades, the New South Wales Police Force, the National Parks and Wildlife Service, Forests New South Wales, insurance companies, and the Office of Fair Trading. This information is used to create a profile of a community's fire problems, develop prevention programs, assist in prosecutions, determine standards for fire coverage, assist in determining hazard reduction works, target community education, and provide evidence to support the removal of fire-hazardous products from sale, or recommend the use of fire-preventative products.

Investigations into cause and origin also allow the commissioner to determine whether a fire has been deliberately lit. If arson is suspected, the Rural Fire Service Commissioner will hand the investigation over to police, who will be assisted by the authorised fire investigator. There are established protocols between the New South Wales Police Force and the New South Wales Rural Fire Service to facilitate this. Schedule 1 [5] sets out the composition of the Bush Fire Coordinating Committee. This proposed amendment is intended to reflect recent changes to government departments, and will not change the composition of the committee. Schedule 2.2 [7] clarifies that a person who provides a notice of intention to burn off or burn a firebreak must provide his or her name and other details as part of that notice to enable fire services. This information will be used to establish the bona fides of any person giving notice and to check for compliance with the appropriate approvals.

Items [8] and [9] of schedule 2.2 increase the amount of a penalty notice that may be issued for the commission of certain fire-related offences to \$1,100. This doubles the penalties for failing to comply with hazard reduction notices, lighting a fire during a total fire ban, and leaving fires unattended. These offences can have especially significant and adverse effects on lives and property, and a significant penalty is important to punish and deter such behaviour. The bill represents this Government's commitment to protecting the community of New South Wales from bush fire hazards and other emergencies. In accordance with recommendations made by the Review of Arson Laws and Penalties, it empowers the commissioner and officers of the New South Wales Rural Fire Service to more effectively protect communities and homes in New South Wales. I commend the bill to the House