



New South Wales

# Electricity Supply Amendment (Bush Fire Hazard Reduction) Bill 2014

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are:

- (a) to give electricity network operators additional powers to direct the owners of premises on bush fire prone land that is private land to do bush fire risk mitigation work involving removing vegetation or rectifying defective private electricity assets on their land, and
- (b) to authorise network operators to enter private land (without further notice) to carry out that bush fire risk mitigation work if the owner fails to complete the work within the required period (unless the owner requests disconnection of premises from the distribution system), and
- (c) to provide that, generally, the landowner is responsible for the cost of bush fire risk mitigation work done under such a direction, including work done by a network operator (with provision for a hardship policy that takes account of the landowner's financial situation).

The new powers will operate in addition to existing powers that electricity network operators have to require the trimming or removal of trees that may interfere with electricity infrastructure or pose a bush fire risk. Those existing powers will continue to apply to all land.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1 Amendment of Electricity Supply Act 1995 No 94

Schedule 1 [1] inserts a new Division in Part 5 (Powers and duties of network operators and retailers) of the Act that creates special powers for bush fire prevention on bush fire prone land. The Division comprises the following provisions:

- (a) **Proposed section 53A** defines terms used in the new Division, including *bush fire prone land*, which is defined to mean land that is bush fire prone land under the *Environmental Planning and Assessment Act 1979* in any area of the State (that is, land recorded for the time being as bush fire prone land on a bush fire prone land map for the area certified by the Commissioner of the NSW Rural Fire Service).
- (b) **Proposed section 53B** provides that the proposed Division applies only to bush fire prone land, but that the proposed Division does not prevent the taking of action under section 48 of the Act (Interference with electricity works by trees) in relation to premises on bush fire prone land.
- (c) **Proposed section 53C** provides for a network operator to give a written notice to the owner or occupier of any premises on bush fire prone land that is private land directing the owner to do bush fire risk mitigation work on vegetation or aerial consumers mains on the premises (which may involve the trimming or removal of vegetation or the repair of a fault or defect in aerial consumers mains) if the network operator has determined that:
  - (i) the vegetation could make the network operator's electricity works become a potential cause of bush fire, or
  - (ii) the vegetation fails to satisfy the requirements of any standard as to required clearances between vegetation and electricity works or aerial consumers mains, or
  - (iii) the vegetation could make aerial consumers mains on the premises become a potential cause of bush fire, or
  - (iv) a fault or defect in the aerial consumers mains could make them become a potential cause of bush fire.
- (d) **Proposed section 53D** specifies who has the responsibility for the cost of bush fire risk mitigation work under direction. Generally, the owner of premises is responsible unless the work was done because the vegetation could make the network operator's electricity works become a potential cause of bush fire, or because the vegetation fails to satisfy the requirements of any standard as to required clearances between vegetation and electricity works, in which case the network operator is responsible.
- (e) **Proposed section 53E** provides for what directions to do bush fire risk mitigation work must specify (including what work is required, the time limit, who is responsible for the cost and what may happen if the work is not done on time).
- (f) **Proposed section 53F** provides that, to comply with a direction, the owner of the premises must, within 30 days, notify the network operator that the work will be done, or request the network operator to disconnect the supply of electricity to the premises. If the work is to be done, the owner has 60 days to do the work. The proposed section also provides that, if the owner does not comply with the direction, the network operator may do the required work and recover the reasonable cost of doing the work from the owner.
- (g) **Proposed section 53G** provides that no compensation is payable by a network operator for or in connection with the exercise in good faith and without negligence of a function under the proposed Division.
- (h) **Proposed section 53H** provides that an environmental planning instrument cannot prohibit, require development consent for or otherwise restrict the doing on any land of work required under the proposed Division, that the environmental assessment provisions of the *Environmental Planning and Assessment Act 1979* do not apply to such work and that such work can be done despite any requirement for an approval, consent or other authorisation made by any other law, including those about native vegetation, threatened species conservation and national parks.

- (i) **Proposed section 53I** requires a network operator to have and implement a hardship policy (approved by the Australian Energy Regulator) for assisting persons who are experiencing difficulties due to hardship in connection with payment of the cost of works done by the network operator when the person fails to comply with a direction under the proposed Division.

**Schedule 1 [2]** makes it clear that existing powers of entry that support the exercise of certain functions of network operators extend to functions under existing section 48 (which empowers a network operator to require the trimming or removal of trees) and functions under proposed Division 2A of Part 5 to be inserted by the Bill.

**Schedule 1 [3]** provides that a network operator exercising a power of entry is not required to give notice of entry if entry is for the purpose of doing work in the exercise of a function under proposed Division 2A of Part 5 to be inserted by the Bill.

**Schedule 1 [4]** provides that a network operator is not liable to pay compensation to the owner or occupier of land for loss or damage arising from the exercise of a power of entry in connection with the exercise of a function under proposed Division 2A of Part 5 to be inserted by the Bill.

**Schedule 1 [5]** makes a minor change to regulation-making powers.

## **Schedule 2      Amendment of Electricity Supply (General) Regulation 2014**

**Schedule 2** makes a minor amendment to a provision of the Regulation dealing with the manner in which notices and other documents under the Regulation are to be given to extend the provision to notices and other documents given under the Act.