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RURAL FIRES AMENDMENT BILL 2013

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [11.37 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Rural Fires Amendment Bill 2013, which will support emergency management arrangements in New South Wales by, among other things, strengthening current penalties and enhancing the legislative framework for the carrying out of hazard reduction in New South Wales. I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

Leave granted.

Members need no reminding of the danger bush fire presents to the people of New South Wales.

Unfortunately, the Bush Fire Season has hit us early and hit us hard this year. And through this bill it is the Government's intention to ensure the NSW Rural Fire Service has the necessary tools at its disposal to prevent and respond to bush fires across the State this summer.

We want to make sure for example that where hazard reduction is required it can occur when the weather permits and with a minimum of red tape.

And where a fire is found to be the result of reckless conduct that strong and effective offences and penalties are in place to address this behaviour and send a message that this type of behaviour will not be tolerated.

The primary focus of this bill is to amend the Rural Fires Act 1997 to implement eight of the recommendations from the Independent Hazard Reduction Audit Panel's Final Report.

As members may be aware, as an election commitment the Government established the Independent Hazard Reduction Audit Panel to conduct a review of the hazard reduction program in New South Wales and to provide recommendations on potential enhancements.

Overall, the panel found that the hazard reduction program is strategic and well administered.

The recommendations in the panel's final report identify a number of areas where the hazard reduction program could be enhanced.

The panel made 18 recommendations eight of which require legislative amendments. All of these are included in the Rural Fires Amendment Bill 2013.

Other recommendations related to enhancements to cross-portfolio collaboration, Commonwealth relations, community engagement and funding.

The NSW Government accepted all 18 recommendations arising from the panel's review and these are in the process of being implemented.

A key outcome of this bill is that it will provide for more flexibility in the issuing of hazard reduction certificates.

By enabling hazard reduction to be carried out at opportune times in this way we are ensuring burns can take place when the weather conditions are right—which is especially important when the season starts so early.

Fire experts constantly remind us that hazard reduction will not stop bushfires. However, it is important that every effort be made to minimise their impact.

The early start to the fire season in New South Wales clearly demonstrates the importance of mitigation strategies such as hazard reduction.

Following the recent bushfires the Government again sought advice from the Rural Fire Service if further legislative changes were identified and should be included in this bill.

I will now turn to the provisions of the bill in greater detail.

The Independent Hazard Reduction Audit Panel found that the provisions facilitating hazard reduction could be refined in a number of ways to enhance the hazard reduction program.

The first two recommendations of the panel seek to extend the New South Wales Rural Fire Service's role to protect infrastructure, environmental, economic, cultural, agricultural and social assets, in addition to property.

The bill seeks to address this by amending section 3 (c) of the Rural Fires Act to extend the objects of the Act to include protecting infrastructure, environmental, economic, cultural, agricultural and social assets from damage.

Similarly, section 9 (4) (b) of the Rural Fires Act 1997, which sets out the functions of the New South Wales Rural Fire Service, will be amended to include protecting infrastructure, environmental, economic, cultural, agricultural and social assets from damage.

The third recommendation of the panel seeks to give the Commissioner of the NSW Rural Fire Service the power to quality assure bush fire risk management plans by allowing the commissioner to direct a bush fire management committee to amend its plan, if it is inadequate.

The fourth recommendation proposes that the Commissioner of the NSW Rural Fire Service be able to carry out hazard reduction on land without the consent of the owner after reasonable attempts to contact the owner have failed.

The bill establishes a new notice under section 73 for this purpose.

If the owner or occupier does not come forward within seven days of the notice being served, the Rural Fire Service may carry out the bushfire hazard reduction work.

The fifth recommendation proposes to include "fire trails" in the definition of "hazard reduction" ... to ensure that hazard reduction is carried out on fire trails and hence poorly maintained fire trails do not inhibit access to remote areas by firefighters during bushfires.

Recommendations 6 and 7 propose amendments to the way public authorities report on hazard reduction works to the Commissioner of the New South Wales Rural Service to facilitate greater transparency and accountability.

Public authorities will be required to report to the commissioner within one month of the end of the financial year on activities undertaken to reduce bush fire hazards on managed land during the preceding year.

Additionally, public authorities will be required to give the commissioner a monthly update including the reasons why any planned activities did not take place. This regular update will allow the commissioner to better manage the hazard reduction program, and identify and rectify underperformance at an early stage.

Recommendation 8 proposes that hazard reduction certificates for annual low impact works may be issued for a period of three years rather than one. The bill proposes an amendment to section 100I of the Rural Fires Act, to facilitate this change.

The bill also contains three other amendments which seek to align provisions of the Rural Fires Act with similar provisions in the Fire Brigades Act 1989.

For instance, the bill provides for the NSW Rural Fire Service to draw or use water from any source by arrangement for training purposes. At present section 26 only allows this to occur for the purpose of controlling and suppressing a fire.

Section 39 of the Fire Brigades Act provides Fire and Rescue New South Wales with a similar entitlement.

It is also proposed to amend section 25 to make it clear that the NSW Rural Fire Service can pull down, destroy or shore up **part of** a structure considered to be dangerous to life and property. At present the provision refers to whole structures.

The NSW Rural Fire Service will also be able to recover costs for this action. Given the safety of a structure is the owner's responsibility it is not unreasonable to allow the NSW Rural Fire Service to seek such reimbursement.

Section 17 of the Fire Brigades Act contains a similar provision.

Additionally, the bill proposes to make consequential changes to the National Parks and Wildlife Act to clarify that hazard reduction work carried out under section 100C will not constitute an offence of harming or picking threatened species, endangered populations or endangered ecological communities (section 118A) or damaging habitat of threatened species, endangered populations or endangered ecological communities (section 118D).

The bill also proposes a number of legislative amendments which do not derive from the Final Report of the Independent Hazard Reduction Audit Panel but which are aimed at strengthening current emergency management legislation.

For instance, through the bill an offence will be inserted into the Rural Fires Act to effectively cover instances of littering where an individual deposits lit cigarettes matches or other incandescent material on land thereby creating an increased risk of fire.

Provision has also been made for an aggravated version of this offence to cover instances where such activity takes place during a period of total fire ban. The maximum penalty sought for the aggravated version of the offence is 100 penalty units. A similar offence will be removed from the Rural Fires Regulation.

The recent fire at Homebush Bay which destroyed dozens of vehicles highlights how devastating the consequences arising from such conduct can be.

It is hoped that these new offences and penalties will help to deter people from such risky behaviour this summer.

Following the passage of this bill regulatory provision will be made for enforcement officers, including police, RFS staff and local council officers, to have the discretion to issue penalty notices for these offences, where it is deemed appropriate. The penalty notices will be \$330 for the standard offence and \$660 for an aggravated offence where the behaviour occurs during a total fire ban.

Through the bill it is also proposed to ensure that Rural Fire Service volunteers are covered by an existing provision in the Rural Fires Act under which it is an offence to obstruct or hinder firefighters in the exercise of their legislative functions or incite or encourage anyone else to do the same.

The bill also amends the State Emergency and Rescue Management Act 1989 to create an aggravated offence of impersonating an emergency services officer and purporting to exercise a power or function or intending to commit a criminal offence.

This builds on an existing offence in section 63B of this Act to better provide for instances where an individual may not merely seek to impersonate an emergency services officer for the purpose of general deception but where someone may go further and use the credibility provided by a uniform to create greater harm or risk to those around them.

Law enforcement officers may also for example seek to lay charges under the Crimes Act or other legislation in such instances.

And through the bill section 66 (3) of the Rural Fires Act will be amended to provide for a more flexible approval process for the issuing of hazard reduction certificates in cases where for example there may already be an existing environmental approval in place or an environmental approval is not required.

Section 100E will also be amended to allow a single bush fire hazard reduction certificate to be issued for a cross-tenure hazard reduction.

The bill also updates references to a number of agencies that have had name changes in sections 47 and 100K.

I commend the bill to the House.