



New South Wales

# Rural Fires Amendment (Fire Trails) Bill 2016

## Explanatory note

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

## Overview of Bill

The object of this Bill is to provide a system for the establishment, maintenance and protection of fire trails for the purpose of preventing, fighting, managing or containing bush fires.

The Bill does this by providing for:

- (a) fire access and fire trail plans, and
- (b) Fire Trail Standards, and
- (c) directions for the establishment of fire trails on public land, and
- (d) agreements for the establishment of fire trails on private land, and
- (e) certification of fire trails as to compliance with the Fire Trail Standards, and
- (f) registration of certified fire trails, and
- (g) inspection of fire trails, and
- (h) issue of notices of rectification work for fire trails.

The term “fire trail” is in common use and is used without definition in both the *Rural Fires Act 1997* and the Bill. In common parlance it refers to an access way for fighting, managing and containing bush fires (whether or not the bush fires are or may be situated on the land on which the access way is situated). Designated and registered fire trails, which are introduced by the Bill, are a category of fire trails.

## 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 a day or days to be appointed by proclamation.

### **Schedule 1      Amendment of Rural Fires Act 1997 No 65**

**Schedule 1 [1]** amends section 51 to require the Bush Fire Management Committees to report to the Bush Fire Co-ordinating Committee on the implementation of their fire access and fire trail plans.

**Schedule 1 [2]** amends section 52 to require each Bush Fire Management Committee to prepare a draft fire access and fire trail plan for the Committee's area.

**Schedule 1 [3]** inserts proposed section 54A regarding the content of a draft fire access and fire trail plan, which is to set out matters in conformity with the Fire Trail Standards made by the Commissioner of the NSW Rural Fire Service under proposed section 62K.

**Schedule 1 [4]** inserts proposed section 59A, which provides for the adoption by the Bush Fire Co-ordinating Committee of a draft fire access and fire trail plan prepared by a Bush Fire Management Committee (with or without further variation).

**Schedule 1 [5]** inserts proposed Part 3B, which contains the following proposed Divisions dealing with fire trails:

- (a) **Division 1** (proposed sections 62I and 62J). The Division sets out the purpose of the proposed new Part 3B, which is to provide for the establishment, maintenance, protection, certification and registration of fire trails. Proposed section 62J defines *private land* and *public land*.
- (b) **Division 2** (proposed section 62K). The Division provides for Fire Trail Standards to be made by the Commissioner.
- (c) **Division 3** (proposed sections 62L and 62M). The Division provides machinery for the establishment of fire trails. This is to be effected by direction of the Commissioner in the case of public land and by agreement with the Commissioner in the case of private land.
- (d) **Division 4** (proposed sections 62N and 62O). The Division contains provisions for the certification and registration of fire trails. Certification vouches for the compliance of a fire trail with the Fire Trail Standards. Registration is effected by entry in a register of certified fire trails to be kept by the Commissioner.
- (e) **Division 5** (proposed sections 62P–62U). The Division provides for the making of a complaint that a registered fire trail does not comply with the Fire Trail Standards in any material respect. A complaint may be made by an owner or occupier of adjacent land or land in the vicinity. The Commissioner may take action under the *Rural Fires Act 1997* to rectify non-compliance and must notify the complainant of action taken.
- (f) **Division 6** (proposed sections 62V–62ZF). The Division places a duty on owners and occupiers of land to construct and maintain a designated or registered fire trail (duties have similarly been imposed under section 63). The Division also provides a scheme dealing with rectification work for designated or registered fire trails, whether or not a complaint was made under proposed Division 5.

The Commissioner may carry out rectification work on unoccupied Crown land or managed land. A fire trail management officer may require rectification work to be carried out on private land or public land, and provision is made for objections and appeals.

- (g) **Division 7** (proposed sections 62ZG–62ZN). The Division deals with the closure of designated or registered fire trails. *Closure* is given an extended meaning to include removal, damage, obstruction, sign placement, or otherwise making a fire trail not available for proper use as a fire trail. It will be an offence to close a designated or registered fire trail

without reasonable excuse. The Commissioner may agree to closure of a registered fire trail by terminating registration. Provision is made for objections and appeals in the case of applications that are declined. (Proposed Division 3 provides for revocation of a direction, or withdrawal from an agreement, for a fire trail at any time before the trail is registered.)

- (h) **Division 8** (proposed sections 62ZO–62ZQ). The Division provides for the appointment of fire trail management officers, confers power on the Commissioner or an officer of the NSW Rural Fire Service to enter and inspect land in connection with specified matters arising under the new Part 3B, and provides that the designation or registration of a fire trail runs with the land concerned regardless of a change of ownership or occupation.

**Schedule 1 [6]** amends Schedule 3 to insert new savings provisions, to make it clear that agreements for fire trails on private land are not affected by the amendments made by the proposed Act if the agreements were entered into before the commencement of the proposed Act, unless the owner consents. Also, the initial fire access and fire trail plans are to be prepared within 3 years after the commencement of the proposed Act.

**Schedule 1 [7] and [8]** substitute a definition and insert new definitions of terms to be used in the *Rural Fires Act 1997*.