

# BUSH FIRES (FURTHER AMENDMENT) ACT 1994 No. 34

NEW SOUTH WALES



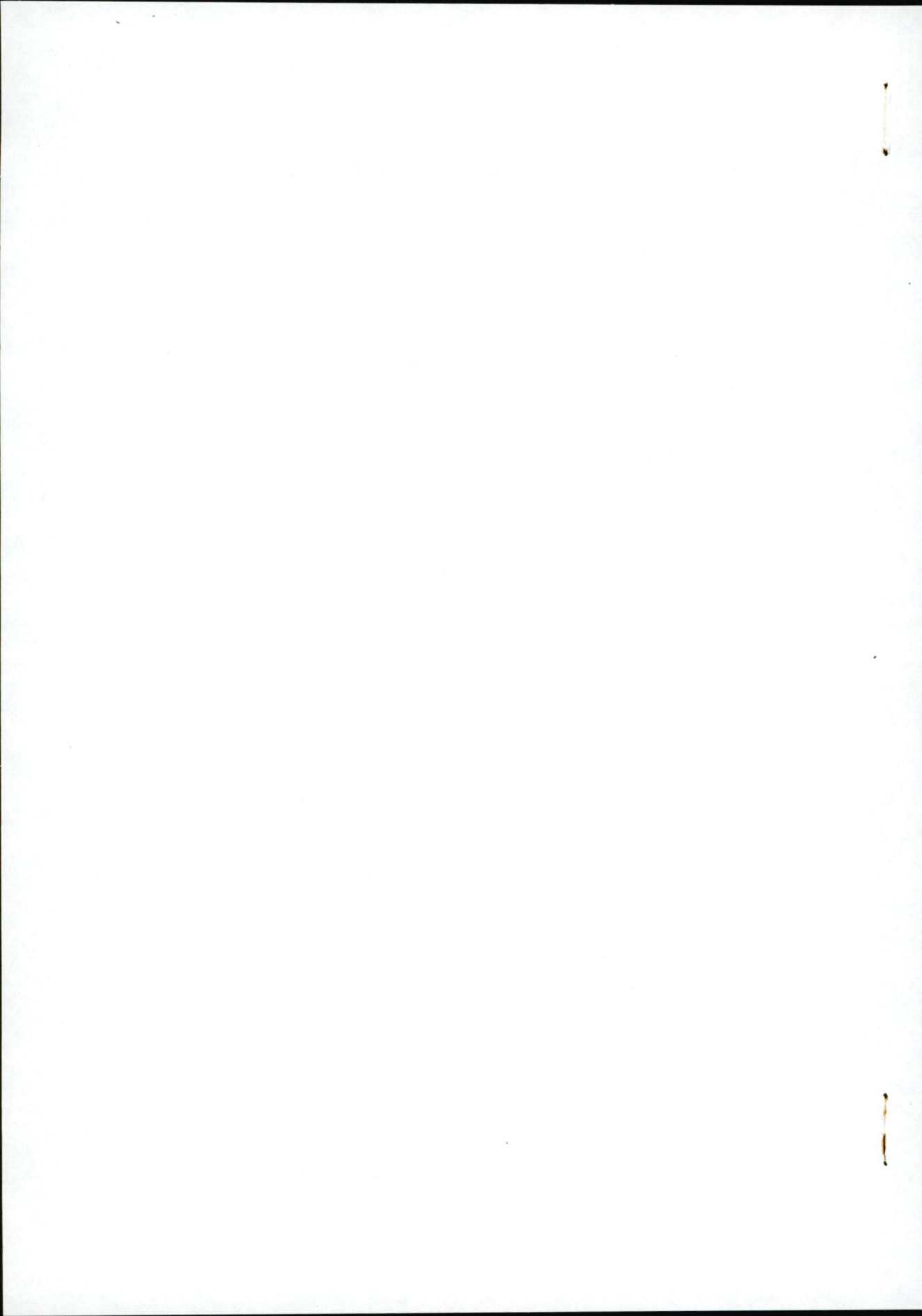
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**BUSH FIRES (FURTHER AMENDMENT) ACT 1994 No. 34**

NEW SOUTH WALES



**Act No. 34, 1994**

An Act to amend the Bush Fires Act 1949 to make further provision relating to the prevention and control of bush fires and for other purposes; and to amend the Fire Brigades Act 1989 and the Local Government Act 1993 consequentially. [Assented to 2 June 1994]

*Bush Fires (Further Amendment) Act 1994 No. 34*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Bush Fires (Further Amendment) Act 1994.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Bush Fires Act 1949 No. 31**

3. The Bush Fires Act 1949 is amended as set out in Schedule 1.

**Amendment of other Acts**

4. The Acts specified in Schedule 2 are amended as set out in that Schedule.

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**SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949**

(Sec. 3)

(1) Section 6 (**Definitions**):

- (a) In alphabetical order, insert:

**“Bush Fire Management Committee”** means a Bush Fire Management Committee constituted under section 41AA.

**“Bush fire management plan”** means a bush fire management plan approved under section 41A or, if it has been varied under that section, the plan as so varied for the time being.

- (b) Omit the definition of “District Fire Committee”.

(2) Section 10 (**Requirements to be complied with by persons lighting certain classes of fires**):

- (a) In section 10 (1), after “fire break”, insert “, or in circumstances in which doing so would be likely to be dangerous to a building.”.
- (b) Omit section 10 (2) (b).



SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

(c) Omit section 10 (3), insert instead:

(3) A person must not light, maintain or use a fire, or cause a fire to be lit, maintained or used, at any place in a fire district constituted under the Fire Brigades Act 1989 (being a place within a local government area) in circumstances in which doing so would be likely to be dangerous to a building, unless:

- (a) the person has given the notices required to be given under subsection (1); and
- (b) the person is authorised to do so by a permit granted by the council of the local government area or by the officer in charge of the nearest fire station; and
- (c) the fire is lit, maintained or used in accordance with the conditions, if any, attached to the permit.

Maximum penalty: 50 penalty units or imprisonment for 12 months.

(3A) It is a duty of a council to give notice of the grant of a permit under subsection (3) to the Director-General of New South Wales Fire Brigades when the council grants the permit.

- (d) From section 10 (4), omit "Any such permit", insert instead "A permit must be in writing and".
- (e) After section 10 (7), insert:

(8) A person authorised to grant a permit is not, for the purposes of granting the permit, a determining authority within the meaning of Part 5 of the Environmental Planning and Assessment Act 1979. In addition, a person is not a determining authority within the meaning of that Part merely because the person can authorise another person to grant a permit.

(9) This section does not require a permit to be granted for a fire lit, maintained or used by or under the direction of a public authority.

(3) Section 11 (**Duration, revocation, suspension and variation of permits**):

- (a) From section 11 (1) and (2), omit "referred to in section 10 (2)" wherever occurring.

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SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (b) After section 11 (3), insert:
- (4) A permit remains in force for 21 days after the day on which it was granted unless, before that period expires, it is revoked under this section or ceases to have effect because of a direction under section 16 to prohibit the lighting, maintenance or use of the fire to which it relates.
- (4) Section 13 (**Fire hazard reduction work required by councils**):
- (a) After section 13 (1), insert:
- (1AA) The council must serve a notice under this section if required to do so by a bush fire management plan that is in force.
- (b) In section 13 (1A) (b), after “land”, insert “or whether or not such a notice has been complied with”.
- (c) After section 13 (6), insert:
- (7) It is a duty of a council to keep a record of whether or not bush fire hazard reduction work has been carried out on land within the area of the council in accordance with notices under this section if the work is required by a bush fire management plan.
- (5) Section 14 (**Fire hazard reduction work in default of compliance with notice**):
- After section 14 (1), insert:
- (1AA) The council must exercise its power under this section if the requirement that has not been complied with is made by a bush fire management plan.
- (6) Section 22 (**Powers of bush fire brigade officers**):
- At the end of section 22 (3) (f), insert:
- (g) in relation to a bush fire which is within or outside a bush fire district where the exercise of such powers is sanctioned by the fire control officer in accordance with a bush fire management plan.
- (7) Section 22A (**Reduction of fire hazards**):
- (a) From paragraph (d) of the definition of “authorised person” in section 22A (1), omit “plan of operations in force under section 41A”, insert instead “bush fire management plan”.

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SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (b) From section 22A (4), omit “plan of operations in force under that section”, insert instead “bush fire management plan”.
- (8) Section 27 (**Powers of fire control officers**):  
After section 27 (2), insert:  
(2A) A fire control officer may call out a bush fire brigade, formed or organised within the bush fire district for which the officer is appointed, to attend a bush fire within or outside that bush fire district. In doing so, the fire control officer must comply with any relevant bush fire management plan.
- (9) Section 40 (**Co-ordinating Committee**):  
(a) From section 40 (3), omit “5”, insert instead “8”.  
(b) At the end of section 40 (3) (e), insert:  
; and  
(f) three members of the Bush Fire Council appointed by the Minister on the recommendation of the Bush Fire Council, none of whom is an ex-officio member of that Council, at least one of whom is an occupier of rural land that is (when the occupier is recommended for appointment) affected by a bush fire management plan and one of whom is the member of the Bush Fire Council appointed by the Minister on the recommendation of the Minister for the Environment.
- (10) Sections 41AA, 41AB:  
After section 41, insert:  
**Bush Fire Management Committees**  
41AA. (1) The Co-ordinating Committee may constitute Bush Fire Management Committees for any part of the State.  
(2) Bush Fire Management Committees must be constituted for all parts of the State that are bush fire districts, but need not be constituted separately for each bush fire district.  
(3) A Bush Fire Management Committee must be constituted in accordance with the regulations.



SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

**Draft bush fire management plans**

41AB. (1) Each Bush Fire Management Committee must, in accordance with this section, prepare and submit to the Co-ordinating Committee a draft of each of the following kinds of bush fire management plans for the part of the State for which it was constituted:

- (a) a plan of operations; and
- (b) a fuel management plan.

(2) Draft bush fire management plans of both kinds must be prepared and submitted to the Co-ordinating Committee by a Bush Fire Management Committee:

- (a) within 3 months after the commencement of this section and within each successive 2 year period following that commencement; or
- (b) within such other periods as may be fixed by the regulations.

(3) A draft plan of operations is to set out proposed procedures to be followed if:

- (a) a bush fire breaks out in the part of the State for which the Bush Fire Management Committee was constituted and assumes or is likely to assume such proportions as to be incapable of suppression by the fire fighting authority or authorities in that part of the State; or
- (b) the prevailing conditions are conducive to the outbreak of a bush fire likely to assume such proportions.

(4) A draft fuel management plan is to set out schemes for the reduction of fire hazards in the part of the State for which the Bush Fire Management Committee was constituted.

(5) A draft bush fire management plan of either kind may:

- (a) include schemes for the exercise in the part of the State to which it applies of functions conferred or imposed by this Act; and
- (b) confer or impose functions on the Director-General of New South Wales Fire Brigades, the Forestry Commission, the Director-General of National Parks and Wildlife or any other person or unincorporated body associated with the prevention, control or suppression of bush fires in that part of the State.

SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

(6) The Commissioner may exercise the functions of a Bush Fire Management Committee under this section if the Committee has failed to submit a draft bush fire management plan in accordance with this section or has submitted a draft plan that, in the opinion of the Co-ordinating Committee, is inadequate. In any such case, the draft plan is taken to have been prepared by the Bush Fire Management Committee and is to be submitted by the Commissioner to the Co-ordinating Committee.

(11) Section 41A (**Co-ordination of planning by bush fire management plans**):

- (a) From section 41A (1), omit the definition of “plan of operations”.
- (b) Omit section 41A (1A)–(3), insert instead:

(2) When a Bush Fire Management Committee or the Commissioner submits a draft bush fire management plan for any part of the State, the Co-ordinating Committee must review the provisions of the draft plan and of any current bush fire management plan of the same kind for that part of the State.

(3) After the review, the Co-ordinating Committee may:

- (a) approve the draft plan (as submitted or after alteration by the Co-ordinating Committee) and revoke any other bush fire management plan to the extent that it makes corresponding provisions for that part of the State; or
- (b) vary another bush fire management plan for some or all of the same part of the State so as to incorporate in the other plan some or all of the provisions of the draft plan (as submitted or after alteration by the Co-ordinating Committee).

(3A) The Co-ordinating Committee is not to approve or vary a bush fire management plan so as to impose a requirement on a prescribed organisation within the administration of a Minister if the organisation objects to the requirement.



*Bush Fires (Further Amendment) Act 1994 No. 34*

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SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

(3B) The Co-ordinating Committee may, with the consent of a prescribed organisation:

- (a) vary or revoke any provision of an approved bush fire management plan imposing a requirement on the organisation; or
- (b) vary an approved bush fire management plan so as to impose a requirement on the organisation.

(3C) Any dispute between the Co-ordinating Committee and a prescribed organisation about whether such a consent should be given is to be decided by the Minister and, if the organisation is within the administration of another Minister, that other Minister. The decision of the Minister or Ministers is binding on the parties to the dispute.

(3D) If agreement cannot be reached between the Ministers, the dispute is to be resolved by the Premier whose decision is binding on the parties to the dispute.

- (c) From section 41A (4) and (5), omit “plan of operations” wherever occurring, insert instead “bush fire management plan”.

(12) Section 41F (**Functions of Chief Co-ordinator**):

From section 41F (5), omit “plan of operations under section 41A”, insert instead “bush fire management plan”.

(13) Section 41I (**Area of operations of Co-ordinating Committee and Chief Co-ordinator**):

Omit section 41I (1), insert instead:

(1) The functions conferred and imposed on the Co-ordinating Committee and the Chief Co-ordinator by or under this Act may be exercised only on land in the areas or parts of areas mentioned in Schedule 3, except as provided by subsections (1A) and (1B).

(1A) The functions conferred and imposed on the Chief Co-ordinator by section 41F may be exercised on land that is not within an area or part of an area mentioned in Schedule 3

*Bush Fires (Further Amendment) Act 1994 No. 34*

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SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

but, in a case in which the bush fire concerned affects only one area or part of one area or land on Lord Howe Island, only if:

- (a) those functions are exercised through a person whose name is included in the list of emergency fire controllers for the land concerned (or for land including that land) and who is nominated by the Chief Co-ordinator; and
- (b) before making that nomination, the Chief Co-ordinator has taken into consideration any representations made to the Chief Co-ordinator by any Bush Fire Management Committee for the land concerned about such a nomination.

While a person is in charge of bush fire fighting operations pursuant to this subsection, section 17 does not apply to the operations.

(1B) Subsections (1) and (1A) do not apply to the exercise of functions conferred or imposed by or under this Act and relating to the reduction of fire hazards or conferred or imposed by section 51.

(14) Section 51 (**Powers affecting land near certain bush fires**):

- (a) From section 51 (5), omit “plan of operations in force under section 41A”, insert instead “bush fire management plan”.
- (b) From the definition of “appropriate distance” in section 51 (7), omit “plan of operations current under section 41A”, insert instead “bush fire management plan”.

(15) Section 54 (**Duty of councils and public authorities to prevent fires**):

From the definition of “practicable steps” in section 54 (3), omit “plan in force under section 41A”, insert instead “bush fire management plan”.

(16) Section 54A:

After section 54, insert:

**Bush fire hazard reduction by the Commissioner**

54A. (1) The Commissioner may carry out bush fire hazard reduction work on any land in the manner required by



SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

a bush fire management plan if any such work has not been carried out on that land when required by the plan or has not been carried out in the manner required by the plan.

(2) The Commissioner may recover in a court of competent jurisdiction as a debt due to the Crown by the owner or occupier of the land concerned the costs incurred by the Commissioner in carrying out any such work.

(3) Any such work may be carried out by the Commissioner whether or not the owner or occupier of the land or a council has a duty to carry out the work.

(4) Any dispute between the Commissioner and a public authority about whether bush fire hazard reduction work has or has not been carried out on any land when or in the manner required by a bush fire management plan may be decided by the Minister and, if the public authority is within the administration of another Minister, the other Minister. The decision of the Minister or Ministers is binding on the parties to the dispute.

(5) If agreement cannot be reached between the Ministers, the dispute is to be resolved by the Premier whose decision is binding on the parties to the dispute.

(17) Section 57 (**Regulations**):

From section 57 (2) (z) and (aa), omit “and District Fire Committees” wherever occurring.

(18) Schedule 1A (**Savings and transitional provisions**):

After Part 2 of Schedule 1A, insert:

**Part 3—Provisions consequent on enactment of Bush Fires (Further Amendment) Act 1994**

**Saving of permits under sec. 35A of Fire Brigades Act 1989**

6. (1) A written permission that was issued under section 35A of the Fire Brigades Act 1989 before the repeal of that section and that was in force immediately before that repeal is taken to be a permit granted under section 10 (3).

(2) Section 11 (4) applies to such a permit as if it had been in force when the permit was granted.

*Bush Fires (Further Amendment) Act 1994 No. 34***SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—**  
*continued***Saving of former District Fire Committees**

7. Each District Fire Committee constituted under section 41A (1A) for an area or locality is, on the repeal of that subsection, taken to be a Bush Fire Management Committee constituted under section 41AA for the area or locality.

**Saving of plans of operations**

8. (1) A plan of operations prepared under section 41A by the Co-ordinating Committee and in force for any part of the State immediately before the commencement of section 41AB is taken to be a bush fire management plan for that part of the State approved by the Co-ordinating Committee under section 41A.

(2) Any such plan may be revoked or varied under section 41A.

**(19) Schedule 4 (Provisions relating to the members and procedure of the Bush Fire Council, the Finance Committee and the Co-ordinating Committee):**

(a) From clause 2 (7), omit “40 (3) (b)–(e)”, insert instead “40 (3) (b)–(f)”.

(b) At the end of clause 5 (h), insert:

; or

(i) in the case of a member of the Co-ordinating Committee appointed on the recommendation of the Bush Fire Council, ceases to be an appointed member of the Bush Fire Council.

(c) From clause 10 (2), omit “or the Co-ordinating Committee”.

(d) After clause 10 (2), insert:

(3) The quorum for a meeting of the Co-ordinating Committee is 5 members.

**SCHEDULE 2—AMENDMENT OF OTHER ACTS**

(Sec. 4)

**Fire Brigades Act 1989 No. 192****Section 35A (Lighting of fires close to buildings):**

Omit the section.

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

**Local Government Act 1993 No. 30**

Section 428 (**Annual reports**):

After section 428 (2) (i), insert:

- (i1) a report on the bush fire hazard reduction activities of the council during that year, including activities carried out under a bush fire management plan approved under the Bush Fires Act 1949;
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[*Minister's second reading speech made in—  
Legislative Assembly on 4 May 1994  
Legislative Council on 13 May 1994*]



**THIS SPEECH MAY BE TABLED**

**SECOND READING SPEECH**

**LEGISLATIVE COUNCIL**

**BUSH FIRES (FURTHER AMENDMENT) BILL 1994**

MR PRESIDENT,

BETWEEN 27TH DECEMBER 1993 AND 16TH JANUARY 1994 THE STATE OF NEW SOUTH WALES EXPERIENCED THE MOST SEVERE BUSH FIRES IN OVER 50 YEARS.

THE EXTREMELY HIGH TEMPERATURES AND STRONG WINDS SAW UP TO 800 WILDFIRES RAGE ACROSS MUCH OF THE EASTERN SEABOARD AND, IN PARTICULAR, THE SUTHERLAND, BLUE MOUNTAINS, ILLAWARRA, HUNTER, NORTHERN RIVERS, TAMWORTH, LISMORE, DUBBO, NORTHERN SUBURBS AND CENTRAL COAST AREAS.

AS A RESULT OF THE FIRES:

- OVER 800,000 HECTARES OF LAND WERE BURNT
- 188 RESIDENTIAL PROPERTIES WERE DESTROYED, MANY OF THEM IN URBAN AREAS PARTICULARLY COMO AND JANNALI
- 4 PEOPLE DIED, 2 OF WHOM WERE VOLUNTEER FIREFIGHTERS

THE NATURE AND EXTENT OF THE BUSH FIRES MADE NEW SOUTH WALES AND, IN PARTICULAR, SYDNEY, THE FOCUS OF ATTENTION, NATIONALLY AND INTERNATIONALLY.

MR PRESIDENT, DESPITE THE EXTENT OF THE BUSH FIRES AND THEIR SEVERITY, LIFE AND PROPERTY LOSSES WERE RELATIVELY MINIMAL.

THE LEVEL OF LOSS UNDER THE CONDITIONS WHICH PREVAILED IS TESTIMONY TO THE SKILL, COURAGE AND COMMITMENT OF ALL THOSE INVOLVED - BOTH FIREFIGHTERS AND SUPPORT PERSONNEL.

WHILE THE GOVERNMENT HAS AND CONTINUES TO RECOGNISE THE EFFORTS OF THE FIREFIGHTERS ACROSS AUSTRALIA, THE FACT IS, MR PRESIDENT, THAT THE COMMUNITY CAN NEVER THANK THEM ENOUGH.

MR PRESIDENT, THE GOVERNMENT REACTED SWIFTLY AND RESPONSIBLY IN ESTABLISHING A CABINET COMMITTEE ON BUSH FIRE MANAGEMENT AND CONTROL CHAIRED BY THE DEPUTY PREMIER TO REVIEW THE TRAGIC EVENTS OVER THE NEW YEAR.





HONOURABLE MEMBERS WOULD ALSO BE AWARE THAT A CORONIAL INQUEST INTO THE JANUARY BUSH FIRES IS BEING CONDUCTED BY THE SENIOR DEPUTY STATE CORONER, MR JOHN HIATT.

THE CORONER IS BEING ASSISTED AND SUPPORTED BY TASK FORCE BOYNE, A 60 STRONG POLICE TASK FORCE WHICH HAS BEEN ESTABLISHED TO INVESTIGATE AND REPORT TO THE CORONER ON THE CIRCUMSTANCES, MANNER AND CAUSE OF THE 4 DEATHS AND THE CAUSE AND ORIGIN OF THE BUSH FIRES.

THE CORONER'S INQUIRY WILL BE COMPREHENSIVE AND HIS FINAL REPORT IS NOT EXPECTED BEFORE THE END OF THE YEAR.

MR PRESIDENT, THE CABINET COMMITTEE RELEASED ITS INTERIM REPORT ON THE 22 MARCH, HIGHLIGHTING THE ISSUES WHICH MUST BE ADDRESSED PRIOR TO THE COMMENCEMENT OF THE 1994/95 BUSH FIRE SEASON.

IN THIS REGARD THE COMMITTEE HAS MADE 30 RECOMMENDATIONS FOR LEGISLATIVE AND POLICY CHANGES TO IMPROVE THE STATE'S CAPACITY TO PREVENT AND CONTROL BUSH FIRES. THESE RECOMMENDATIONS HAVE BEEN ENDORSED BY THE CABINET.

MR PRESIDENT, THE MOST IMPORTANT RECOMMENDATIONS, DEALING BROADLY WITH THE ISSUES OF FUEL HAZARD REDUCTION AND BUSH FIRE MANAGEMENT, HAVE BEEN ADDRESSED IN THIS BILL.

HOWEVER, BEFORE I ELABORATE ON THEM I REMIND MEMBERS THAT LEGISLATION HAS ALREADY PASSED THROUGH THIS HOUSE TO INCREASE THE PENALTY FOR THE UNAUTHORISED LIGHTING OF BUSH FIRES, AND TO PROTECT THE EMPLOYMENT OF CERTIFIED MEMBERS OF VOLUNTEER EMERGENCY ORGANISATIONS WHEN CARRYING OUT DUTIES AS VOLUNTEERS IN A RECOGNISED EMERGENCY.

MR PRESIDENT, ONE OF THE MOST SIGNIFICANT THEMES ARISING FROM THE MANY SUBMISSIONS RECEIVED BY THE CABINET COMMITTEE WAS THE AD HOC AND INCONSISTENT APPROACH TO FUEL HAZARD REDUCTION ACROSS THE STATE.

UNDER CURRENT ARRANGEMENTS, THE BUSH FIRES ACT ENABLES THE BUSH FIRE CO-ORDINATING COMMITTEE TO FORM DISTRICT FIRE COMMITTEES FOR ANY LOCAL GOVERNMENT AREA OR LOCALITY WITHIN THE STATE AND, IN CONSULTATION WITH THAT COMMITTEE, TO PREPARE PLANS FOR THE REDUCTION OF FIRE HAZARDS AS WELL AS OPERATIONAL PLANS SETTING OUT THE PROCEDURES TO BE FOLLOWED FOR THE SUPPRESSION OF BUSH FIRES.





THE MAIN PROBLEM WITH THE PRESENT SYSTEM IS THAT THE ESTABLISHMENT OF DISTRICT FIRE COMMITTEES AND THE CARRYING OUT OF PLANNING ACTIVITIES INCLUDING THE PREPARATION OF PLANS ARE NOT MANDATORY.

ACCORDINGLY, THERE ARE DIFFERENT APPROACHES TO PLANNING AND THE CARRYING OUT OF FUEL HAZARD REDUCTION THROUGHOUT THE STATE.

MR PRESIDENT, THESE AMENDMENTS TO THE BUSH FIRES ACT RECOGNISE THAT FUEL MANAGEMENT IS FUNDAMENTAL TO THE CONTROL OF BUSH FIRES.

THE ONLY MEANS MANAGERS HAVE TO DECREASE THE IMPACT OF WILDFIRES IS TO REDUCE FUEL LOADS BY WELL-BASED FUEL MANAGEMENT PROGRAMS.

WELL DOCUMENTED RESEARCH HAS SHOWN THAT SIMPLY BY HALVING THE FUEL LOAD ON AN AREA WILL REDUCE THE IMPACT OF A WILDFIRE BY UP TO 16 TIMES.

MR PRESIDENT, THE AMENDMENTS WILL EMPOWER THE CO-ORDINATING COMMITTEE TO ESTABLISH COMMITTEES TO BE KNOWN AS BUSH FIRE MANAGEMENT COMMITTEES FOR ANY PART OF THE STATE AND AT LEAST FOR THOSE AREAS NOMINATED AS BUSH FIRE DISTRICTS. EXISTING DISTRICT FIRE COMMITTEES WILL BE RENAMED ACCORDINGLY.

THE BUSH FIRE MANAGEMENT COMMITTEES WILL COMPRISE REPRESENTATIVES OF LOCAL GOVERNMENT, STATE FORESTS, THE NATIONAL PARKS AND WILDLIFE SERVICE, THE 2 FIRE SERVICES AND CONSERVATION GROUPS.

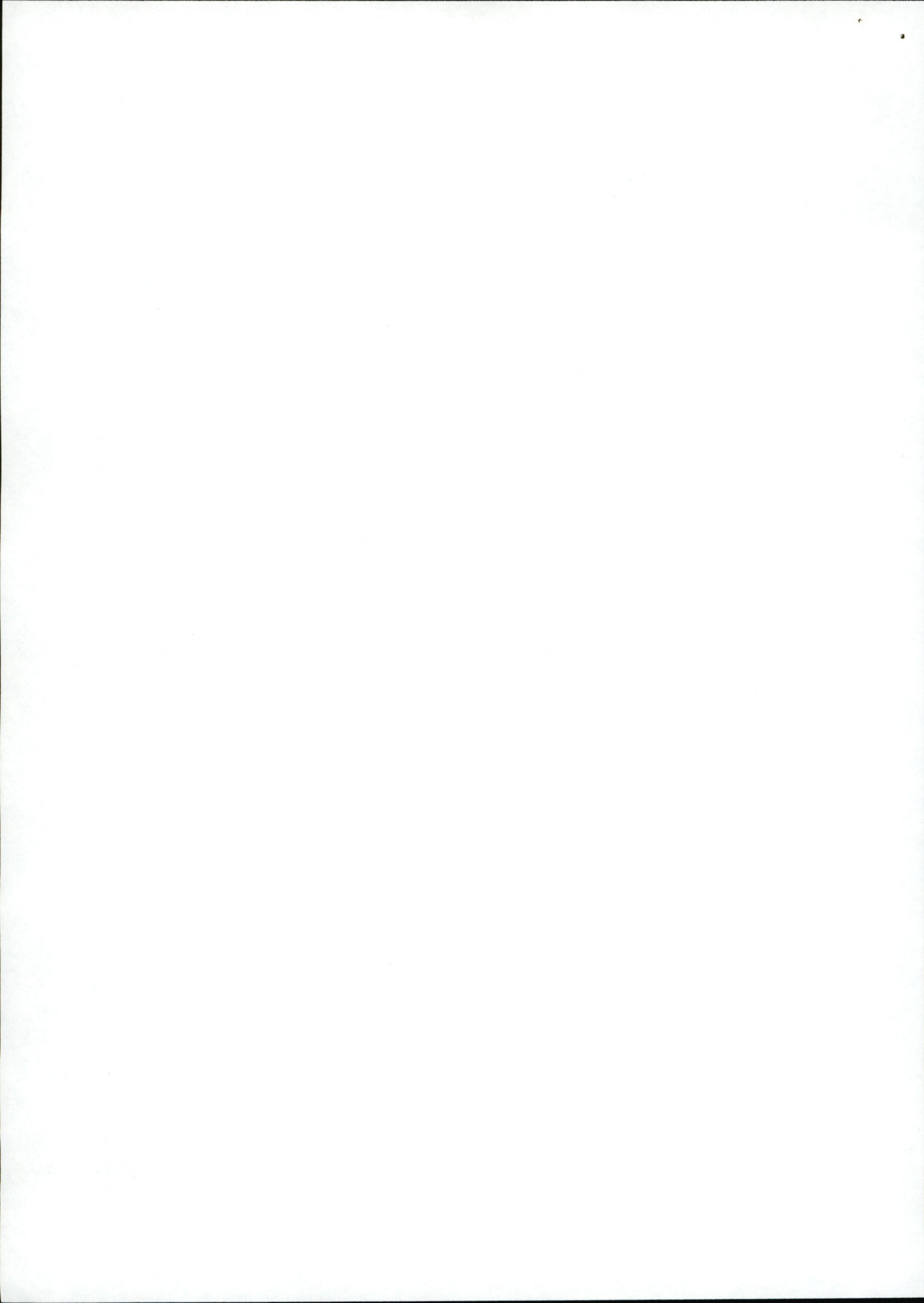
EACH BUSH FIRE MANAGEMENT COMMITTEE WILL BE REQUIRED TO PREPARE DRAFT BUSH FIRE MANAGEMENT PLANS PRIOR TO THE COMMENCEMENT OF THE NEXT BUSH FIRE SEASON SETTING OUT:

FIRSTLY:-

BUSH FIREFIGHTING OPERATIONAL PROCEDURES TO BE FOLLOWED IN THE EVENT OF A BUSH FIRE (OTHERWISE KNOWN AS A PLAN OF OPERATIONS); AND

SECONDLY:-

BUSH FIRE HAZARD REDUCTION MEASURES TO BE TAKEN ON THE LAND FOR WHICH THE COMMITTEE WAS ESTABLISHED (OTHERWISE KNOWN AS FUEL MANAGEMENT PLANS).



WHEN PREPARED, THOSE PLANS MUST BE SUBMITTED TO THE BUSH FIRE CO-ORDINATING COMMITTEE WHICH MAY APPROVE THE PLANS WITH OR WITHOUT CHANGE.

HOWEVER, MR PRESIDENT, THE CO-ORDINATING COMMITTEE WILL NOT BE ABLE TO APPROVE THAT PART OF A PLAN WHICH IMPOSES REQUIREMENTS ON A PUBLIC AUTHORITY WITHIN THE ADMINISTRATION OF A MINISTER IF THAT AUTHORITY OBJECTS TO THOSE REQUIREMENTS.

THE PART OF THE PLAN SUBJECT TO DISPUTE WILL REMAIN UNAPPROVED UNTIL THE RELEVANT MINISTERS HAVE CONSIDERED THE ISSUE AND DECIDED IF THE REQUIREMENTS SHOULD BE IMPOSED, VARIED OR REVOKED.

IF A DRAFT PLAN IS NOT PREPARED ON TIME OR IS INADEQUATE, THE COMMISSIONER OF BUSH FIRE SERVICES MAY PREPARE THE DRAFT PLAN INSTEAD. THE PLAN WILL THEN BE REGARDED AS THE PLAN OF THE BUSH FIRE MANAGEMENT COMMITTEE.

TO ENSURE PLANS ARE CURRENT, THERE IS A REQUIREMENT THAT PLANS BE REVIEWED AND UPDATED EVERY 2 YEARS OR SUCH OTHER PERIOD AS MAY BE PRESCRIBED IN THE REGULATIONS.

MR PRESIDENT, THE MERE PRESENCE OF FUEL MANAGEMENT PLANS ALONE IS NOT SUFFICIENT TO MINIMISE THE IMPACT OF BUSH FIRES.

THESE PLANS MUST BE IMPLEMENTED.

AT PRESENT, LOCAL COUNCILS AND PUBLIC AUTHORITIES SUCH AS THE NATIONAL PARKS AND WILDLIFE SERVICE, AND STATE FORESTS, HAVE A GENERAL DUTY UNDER THE BUSH FIRES ACT TO TAKE ALL PRACTICABLE STEPS TO PREVENT FIRES AND TO MINIMISE THE RISK OF FIRES SPREADING.

IN ADDITION, LOCAL COUNCILS HAVE A DISCRETIONARY POWER TO ISSUE NOTICES TO PRIVATE LAND HOLDERS OR OCCUPIERS REQUIRING THE BURNING OF FIRE BREAKS AND OTHER BUSH FIRE HAZARD REDUCTION MEASURES.

BECAUSE FIRE RISKS EXTEND BEYOND LOCAL GOVERNMENT BOUNDARIES, THE CABINET COMMITTEE RECOMMENDED THAT LOCAL COUNCILS SHOULD NOT HAVE A DISCRETION WHERE IT IS NECESSARY TO IMPLEMENT HAZARD REDUCTION WORKS ON PRIVATE LAND IN ACCORDANCE WITH THE RELEVANT BUSH FIRE MANAGEMENT PLAN.





IN THIS REGARD, MR PRESIDENT, THE AMENDMENTS WILL REQUIRE LOCAL COUNCILS:

- TO ISSUE NOTICES TO THE OWNERS OR OCCUPIERS OF PRIVATE LAND SO THAT BUSH FIRE HAZARD REDUCTION WORK WILL BE CARRIED OUT IN ACCORDANCE WITH THE RELEVANT BUSH FIRE MANAGEMENT PLAN; AND
- TO MONITOR AND REPORT ON THE CARRYING OUT OF THAT WORK. AN AMENDMENT TO THE LOCAL GOVERNMENT ACT HAS BEEN MADE IN THIS REGARD.

THE AMENDMENTS ALSO PLACE THE OBLIGATION OF CARRYING OUT THAT WORK ON THE LOCAL COUNCIL IF THE PERSON REQUIRED TO DO SO BY A NOTICE FAILS TO CARRY IT OUT IN ACCORDANCE WITH THE PLAN.

MR PRESIDENT, THE AMENDMENTS ALSO GRANT IMPORTANT ADDITIONAL POWERS TO THE COMMISSIONER OF BUSH FIRE SERVICES.

UNDER THIS LEGISLATION, THE COMMISSIONER WILL BE EMPOWERED TO CARRY OUT HAZARD REDUCTION WORK IN ACCORDANCE WITH A FUEL MANAGEMENT PLAN WHERE A LOCAL COUNCIL OR PUBLIC AUTHORITY FAILS TO CARRY OUT THAT WORK.

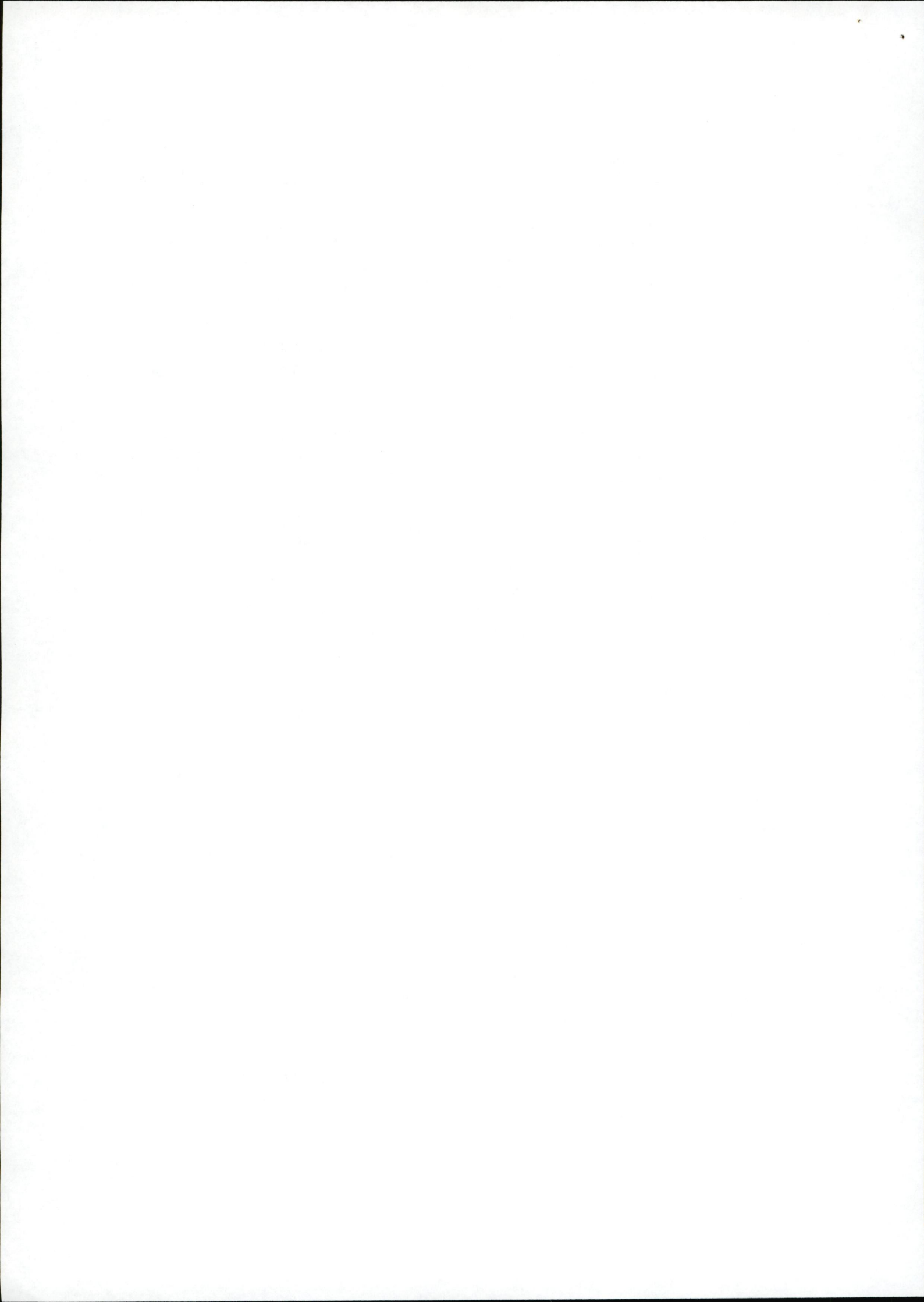
A PROVISION IS INCLUDED IN THE BILL TO ALLOW THE COMMISSIONER TO RECOVER COSTS OF CARRYING OUT THE WORK FROM THE OWNER OR OCCUPIER OF THE LAND CONCERNED.

IN ORDER TO RESOLVE ANY DISPUTE WHICH MIGHT ARISE BETWEEN THE COMMISSIONER AND A PUBLIC AUTHORITY ABOUT WHETHER OR NOT HAZARD REDUCTION WORK HAS BEEN CARRIED OUT IN A MANNER REQUIRED BY THE PLAN, A FURTHER DISPUTE RESOLUTION PROCEDURE HAS BEEN INCLUDED IN THE LEGISLATION.

THE MINISTERS RESPONSIBLE FOR THE AUTHORITIES CONCERNED WILL DECIDE THE ISSUE AND THEIR DECISION WILL BE BINDING ON THE PARTIES TO THE DISPUTE.

MR PRESIDENT, A RELATED ISSUE TO FUEL HAZARD REDUCTION IS THE ISSUING OF PERMITS UNDER SECTION 10 OF THE BUSH FIRES ACT.

THESE PERMITS AUTHORISE THE LIGHTING OF FIRES FOR THE PURPOSE OF CLEARING LAND CONTAINING TIMBER, GRASS OR OTHER VEGETATION REGARDED AS HAZARDOUS. A PERMIT IS ONLY REQUIRED DURING THE BUSH FIRE DANGER PERIOD THAT IS OCTOBER TO MARCH.





THE CABINET COMMITTEE WAS INFORMED THAT SOME PROPERTY OWNERS HAVE EXPERIENCED DIFFICULTY IN OBTAINING A PERMIT BECAUSE SOME LOCAL COUNCILS HAVE REQUIRED APPLICANTS FOR A PERMIT TO MEET THE REQUIREMENTS OF PART 5 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT BEFORE A PERMIT IS ISSUED.

THIS EFFECTIVELY MEANS THAT APPLICANTS WOULD BE REQUIRED TO EXAMINE AND TAKE IN ACCOUNT ALL MATTERS AFFECTING OR LIKELY TO AFFECT THE ENVIRONMENT BY REASON OF THE BURN OFF. THIS SITUATION ONLY APPLIES DURING THE BUSH FIRE DANGER PERIOD WHEN PERMITS ARE REQUIRED. IT DOES NOT APPLY OUTSIDE THIS PERIOD.

MR PRESIDENT, IT IS CLEAR THAT THE PROVISIONS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT WERE NOT MEANT TO APPLY TO BURN OFFS BY PRIVATE PROPERTY OWNERS OR OCCUPIERS OF LAND. THE BILL CLARIFIES THE POSITION IN THIS REGARD.

ANOTHER FEATURE OF THIS BILL IS THAT IT RATIONALISES THE DIFFERENT LEGISLATIVE SCHEMES FOR OBTAINING BURN OFF PERMITS.

APART FROM THE AVAILABILITY OF A PERMIT UNDER SECTION 10 OF THE BUSH FIRES ACT, A PERMIT UNDER SECTION 35A OF THE FIRE BRIGADES ACT IS CURRENTLY REQUIRED FOR A FIRE LIT IN A FIRE DISTRICT IF IT IS LIKELY TO BE DANGEROUS TO A BUILDING. A SECTION 35A PERMIT IS NOT REQUIRED WHERE A PERMIT UNDER SECTION 10 IS IN FORCE.

MR PRESIDENT, SECTION 35A PERMITS ARE RARELY ISSUED THESE DAYS BECAUSE OF THE VARIETY OF LEGISLATIVE PROHIBITIONS ON BURNING OFF PARTICULARLY IN URBAN AREAS.

THE BILL THEREFORE REPEALS SECTION 35A AND PROVIDES FOR ALL PERMITS TO BE ISSUED UNDER SECTION 10 OF THE BUSH FIRES ACT. THE ISSUE OF PERMITS OF THE KIND FORMERLY ISSUED UNDER SECTION 35A CAN BE MADE BY THE LOCAL COUNCIL AND THE OFFICER IN CHARGE OF THE NEAREST FIRE STATION.

WHERE A LOCAL COUNCIL ISSUES A PERMIT OF THIS TYPE IT WILL BE UNDER A DUTY TO NOTIFY THE FIRE BRIGADES.

FINALLY, MR PRESIDENT, THE AMENDMENTS PROVIDE FOR PERMITS TO REMAIN IN FORCE FOR 21 DAYS FROM THE DATE OF ISSUE, UNLESS THEY ARE PREVIOUSLY REVOKED OR A TOTAL FIRE BAN IS IN FORCE.

THIS WILL AFFORD PERMIT HOLDERS GREATER FLEXIBILITY IN ORGANISING A BURN OFF AND WILL AVOID THE INCONVENIENCE OF HAVING TO OBTAIN ANOTHER PERMIT DURING THAT TIME IF A BURN HAS TO BE POSTPONED FOR A SHORT PERIOD.





NOTICE OF WHEN A FIRE IS TO BE LIT WILL STILL BE REQUIRED IN ACCORDANCE WITH THE REGULATIONS.

MR PRESIDENT, I TURN NOW TO THE OTHER MAJOR ISSUE REFLECTED IN THESE AMENDMENTS AND THAT CONCERNS THE CO-ORDINATION OF BUSH FIRE FIGHTING ACTIVITIES.

THE CHIEF CO-ORDINATOR OF BUSH FIRE FIGHTING, WHO IS ALSO THE COMMISSIONER OF BUSH FIRE SERVICES, HAS SINCE 1970 BEEN ABLE TO APPOINT A PERSON UNDER SECTION 41F OF THE ACT TO TAKE CHARGE OF BUSH FIREFIGHTING OPERATIONS FOR ANY OR ALL LOCAL GOVERNMENT AREAS LISTED IN SCHEDULE 3 OF THE BUSH FIRES ACT.

THOSE AREAS ESSENTIALLY REPRESENT THAT PART OF THE STATE EAST OF THE GREAT DIVIDING RANGE.

THE BENEFITS OF ESTABLISHING A CO-ORDINATED SYSTEM OF BUSH FIRE FIGHTING OPERATIONS BECAME APPARENT AFTER THE MAJOR BUSH FIRES EXPERIENCED IN THE BUSH FIRE SEASON OF 1968-69.

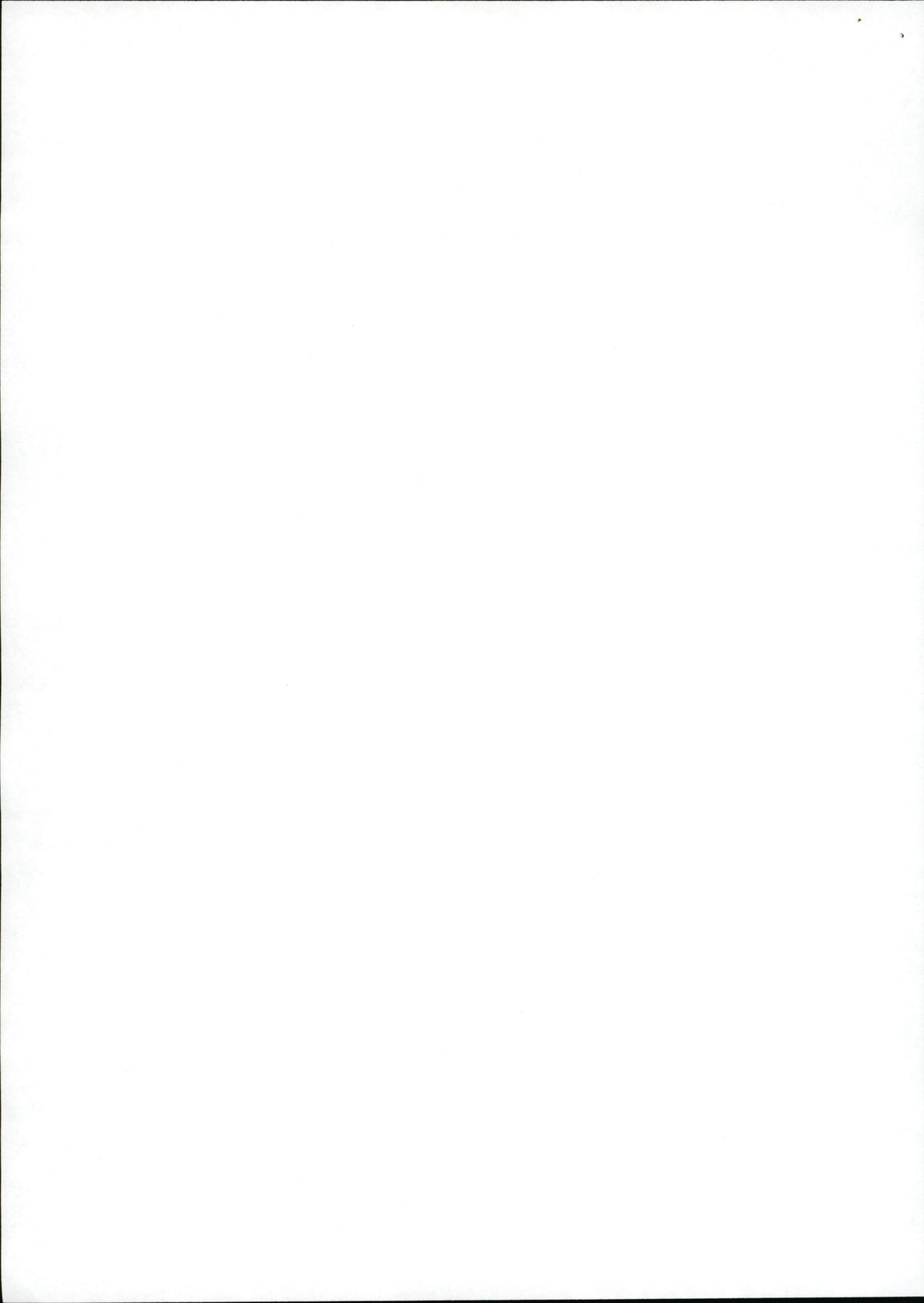
AT THAT TIME, THERE WAS NO SYSTEM IN PLACE TO CENTRALLY CO-ORDINATE THE ACTIVITIES OF VARIOUS INDEPENDENT EMERGENCY FIRE CONTROLLERS APPOINTED FOR EACH LOCAL GOVERNMENT AREA AFFECTED BY THE FIRES, AND TO MANAGE BUSH FIRE FIGHTING RESOURCES BOTH PERSONNEL AND EQUIPMENT.

MR PRESIDENT, A NUMBER OF LOCAL COUNCILS SITUATED WEST OF THE GREAT DIVIDING RANGE HAVE RECOGNISED THE MERIT OF ALLOWING THE CHIEF CO-ORDINATOR TO EXERCISE SECTION 41F POWERS IN THEIR AREAS AND HAVE TRANSFERRED, OR ARE IN THE PROCESS OF TRANSFERRING, TO THE "CO-ORDINATION ZONE."

THESE COUNCILS ARE: BREWARRINA; COOLAH; COWRA; DENILQUIN; GILGANDRA; GUNNEDAH; MERRIWA; MOREE PLAINS; MURRURUNDI; QUIRINDI; NUNDLE; WALGETT; WARREN; URALLA; AND YALLAROI.

WHILE THE GOVERNMENT RECOGNISES THAT SOME LOCAL COUNCILS WEST OF THE DIVIDE ARE STILL DOUBTFUL ABOUT JOINING THE "CO-ORDINATION ZONE", EFFORTS WILL BE MADE TO ENCOURAGE THEM TO JOIN.

IN THE MEANTIME, THE AMENDMENTS PROVIDE THAT THE POWERS OF THE CHIEF CO-ORDINATOR UNDER SECTION 41F OF THE BUSH FIRES ACT CAN BE EXERCISED IN RELATION TO A BUSH FIRE IN A SINGLE LOCAL GOVERNMENT AREA NOT INCLUDED IN SCHEDULE 3, BUT ONLY BY A PERSON NOMINATED BY THE CHIEF CO-ORDINATOR FROM THE LIST OF EMERGENCY FIRE CONTROLLERS ELIGIBLE TO BE APPOINTED FOR THAT AREA.





WHEN MAKING SUCH AN APPOINTMENT THE CHIEF CO-ORDINATOR MUST TAKE INTO ACCOUNT ANY REPRESENTATIONS FROM THE LOCAL BUSH FIRE MANAGEMENT COMMITTEE AS TO WHO SHOULD BE NOMINATED.

IN OTHER CASES, AND IN PARTICULAR WHEN A BUSH FIRE ENCROACHES ON MORE THAN ONE LOCAL GOVERNMENT AREA NOT WITHIN THE CO-ORDINATION ZONE, THE CHIEF CO-ORDINATOR WILL BE ABLE TO TAKE CHARGE OF THE BUSH FIRE FIGHTING OPERATIONS CONSISTENT WITH HIS POWERS UNDER SECTION 41F.

MR PRESIDENT, A FURTHER AMENDMENT OF AN OPERATIONAL NATURE INCLUDED IN THIS BILL IS TO GRANT LOCAL FIRE CONTROL OFFICERS THE RIGHT TO CALL OUT BUSH FIRE BRIGADES TO ALL BUSH FIRES WHEREVER THEY OCCUR IN ACCORDANCE WITH AN APPROVED BUSH FIRE MANAGEMENT PLAN.

THE BASIS FOR THE AMENDMENT WAS THE CABINET COMMITTEE'S CONCERN AT CLAIMS THAT CERTAIN PUBLIC LAND MANAGERS RESISTED ATTEMPTS BY BUSH FIRE BRIGADES TO PROVIDE FIRST RESPONSE TO BUSH FIRES IN SOME AREAS OF THE STATE.

THE CABINET COMMITTEE CONCURRED WITH THE VIEW THAT IT IS VITAL THAT BUSH FIRE BRIGADES BE ABLE TO PROVIDE RAPID FIRST RESPONSE TO BUSH FIRES IF BUSH FIRES ARE TO BE PREVENTED FROM GAINING MOMENTUM.

AT THE SAME TIME THE CABINET COMMITTEE AGREED THAT LAND MANAGEMENT AGENCIES SHOULD CONTINUE TO BE ALLOWED TO DETERMINE THE MOST APPROPRIATE METHOD OF FIREFIGHTING UNDERTAKEN ON THEIR LAND IN ACCORDANCE WITH THEIR LAND MANAGEMENT REQUIREMENTS.

IT IS INTENDED THAT THOSE REQUIREMENTS WILL BE INCLUDED IN THE RELEVANT BUSH FIRE MANAGEMENT PLAN.

MR PRESIDENT, THE FINAL SUBSTANTIVE AMENDMENT IN THE BILL CONCERNS THE EXPANSION OF THE BUSH FIRE CO-ORDINATING COMMITTEE FROM 5 TO 8 MEMBERS.

APART FROM ITS GENERAL PLANNING RESPONSIBILITIES, THE CO-ORDINATING COMMITTEE IS THE BODY PRINCIPALLY RESPONSIBLE FOR ENSURING THAT A SYSTEM IS IN PLACE FOR CO-ORDINATING EMERGENCY FIRE FIGHTING ACTIVITIES IN THE EASTERN PART OF THE STATE.

IT CURRENTLY COMPRISES 5 MEMBERS, INCLUDING THE COMMISSIONER OF BUSH FIRE SERVICES (WHO IS CHAIRMAN), AND REPRESENTATIVES OF STATE FORESTS, THE NATIONAL PARKS AND WILDLIFE SERVICE, THE NSW FIRE BRIGADES, AND THE LOCAL GOVERNMENT AND SHIRES ASSOCIATIONS.





THE 3 ADDITIONAL MEMBERS OF THE CO-ORDINATING COMMITTEE ARE TO BE DRAWN FROM REPRESENTATIVES OF THE BUSH FIRE COUNCIL, WHICH IS AN ADVISORY COUNCIL TO THE MINISTER FOR POLICE AND EMERGENCY SERVICES. HOWEVER, THEY CANNOT BE EX-OFFICIO MEMBERS OF THE COUNCIL AND AT LEAST ONE OF THEM MUST BE AN OCCUPIER OF RURAL LAND AFFECTED BY A BUSH FIRE MANAGEMENT PLAN.

THE RATIONALE BEHIND THIS AMENDMENT IS THAT THE CO-ORDINATING COMMITTEE WOULD BENEFIT DIRECTLY FROM THE EXPERIENCE AND PERCEPTIONS OF THOSE MEMBERS ON THE COUNCIL.

MR PRESIDENT, APART FROM THE ENORMOUS SENSE OF COMMUNITY DEMONSTRATED DURING THE BUSH FIRE EMERGENCY, THE OTHER POSITIVE ELEMENT ARISING FROM THE TRAGIC EVENTS THAT OCCURRED DURING JANUARY IS THE OPPORTUNITY TO LEARN FROM THE EXPERIENCE.

THE 2 MAJOR LESSONS WHICH HAVE BEEN LEARNT AND WHICH ARE REFLECTED IN THIS BILL ARE FIRSTLY, THAT THERE IS A NEED FOR A MORE COMPREHENSIVE AND UNIFORM APPROACH TO BUSH FIRE MANAGEMENT PLANNING ACROSS THE STATE AND TO THE IMPLEMENTATION OF FUEL MANAGEMENT PLANS.

THE EVENTS OF EARLY JANUARY HAVE REINFORCED THE VIEW THAT THE KEY TO MINIMISING THE IMPACT OF BUSH FIRES IS TO MONITOR AND CONTROL FUEL LEVELS.

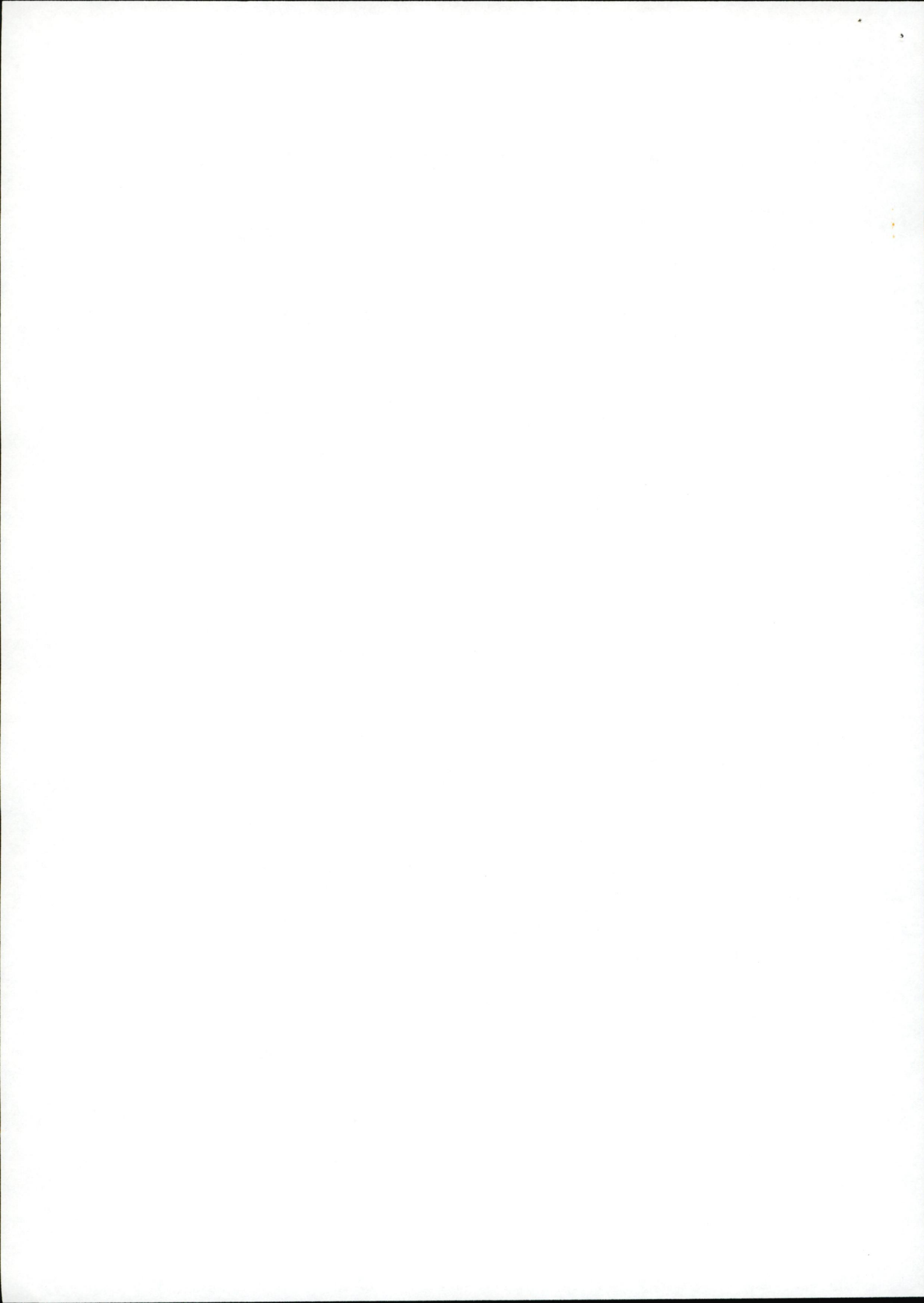
CLEAR EXAMPLES HAVE EMERGED WHICH SHOW THAT THE IMPACT OF THE FIRES WAS FAR LESS ON LAND WHICH HAD REGULARLY BEEN SUBJECT TO HAZARD REDUCTION COMPARED TO LAND WHERE THE MANAGEMENT OF FUEL LEVELS WAS BY AND LARGE IGNORED.

THE AMENDMENTS WILL ADDRESS THIS SHORTCOMING BY FACILITATING THE ESTABLISHMENT OF BUSH FIRE MANAGEMENT COMMITTEES IN AREAS WHERE THEY HAVE NOT ALREADY BEEN FORMED, TO ENGAGE IN PLANNING ACTIVITIES AND THE PREPARATION OF FUEL MANAGEMENT PLANS.

THE SECOND MAJOR LESSON TO BE LEARNT, MR PRESIDENT, IS THAT THE CO-ORDINATION SYSTEM CURRENTLY IN PLACE FOR BUSH FIREFIGHTING CAN BE IMPROVED AND ENHANCED.

THIS WILL BE ACHIEVED BY EXTENDING THE POWERS OF THE CHIEF CO-ORDINATOR OF BUSH FIREFIGHTING IN CERTAIN CIRCUMSTANCES AND THEREBY STREAMLINING COMMAND AND CONTROL RESPONSIBILITIES AND THE ABILITY TO MANAGE AND DEPLOY BUSH FIRE FIGHTING RESOURCES.

MR PRESIDENT, THE CABINET COMMITTEE'S WORK IS BY NO MEANS COMPLETE. THERE IS A RANGE OF OTHER ISSUES ARISING FROM THE BUSH FIRE OPERATIONS WHICH ARE AND WILL BE ADDRESSED.

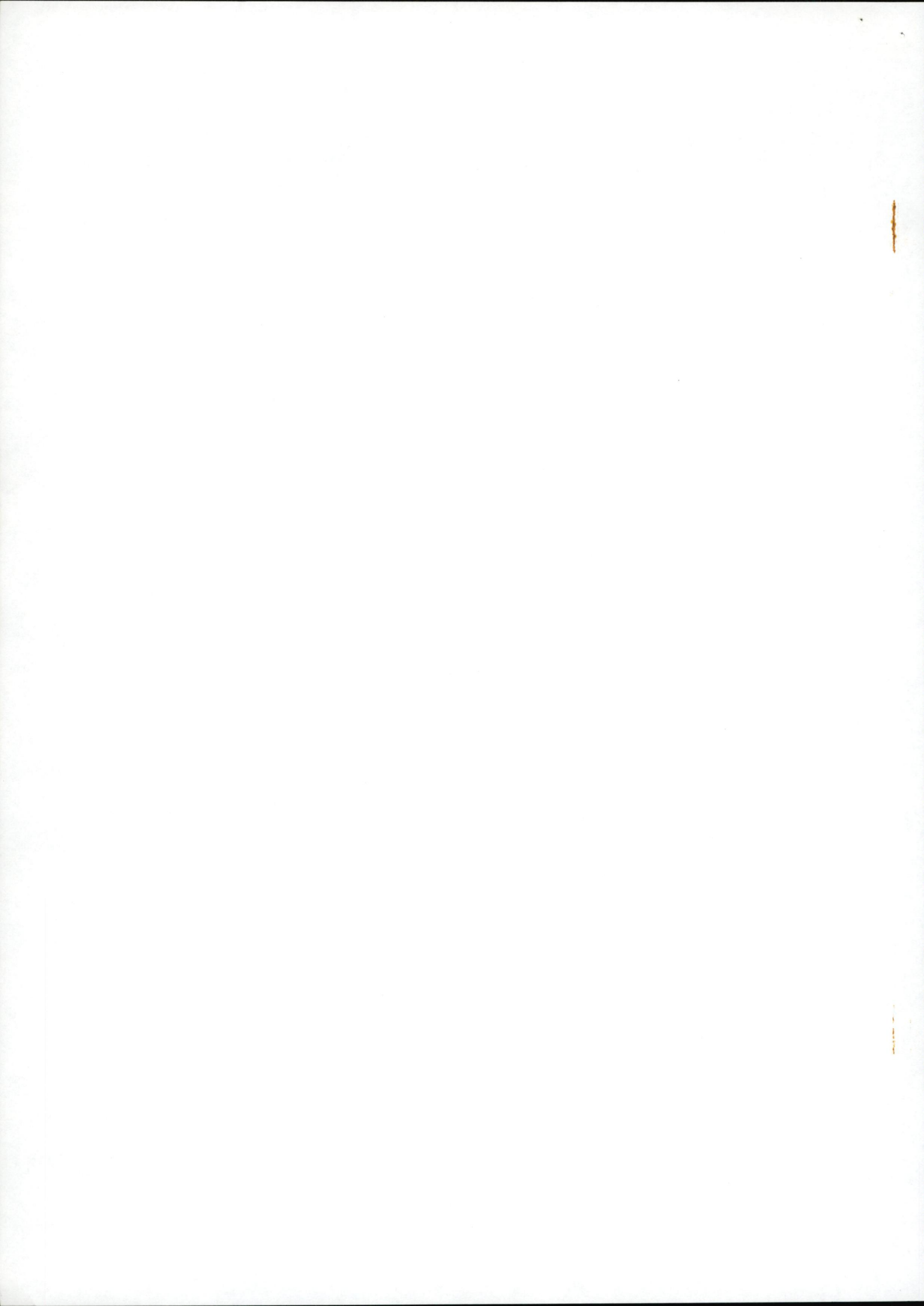




AMONG OTHERS THEY INCLUDE - COMMUNICATIONS, THE USE OF AIRCRAFT AND OTHER EQUIPMENT IN BUSHFIRE OPERATIONS, AND EVACUATIONS AND ROAD CLOSURES.

THESE ISSUES AND OTHERS WILL BE DEALT WITH IN A FURTHER REPORT OF THE CABINET COMMITTEE IN DUE COURSE.

I COMMEND THE BILL.



FIRST PRINT

## BUSH FIRES (FURTHER AMENDMENT) BILL 1994

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are:

- (a) to modify the current legislative schemes for obtaining permits that authorise the lighting of fires for the purpose of clearing land containing timber, grass or other vegetation (such as for fire breaks) or near buildings and to exclude the granting of such a permit from Part 5 of the Environmental Planning and Assessment Act 1979; and
- (b) to require Bush Fire Management Committees to be established for all bush fire districts (and to allow Bush Fire Management Committees to be established for other parts of the State), to require those Committees to prepare draft bush fire management plans setting out:
  - bush fire fighting operational procedures to be followed; and
  - bush fire hazard reduction measures to be taken,on the land for which they were established to be submitted for approval by the Bush Fire Co-ordinating Committee and to require regular updating of those plans; and
- (c) to require local councils to enforce, and to monitor, the carrying out on private land of bush fire hazard reduction work in accordance with approved bush fire management plans, and to provide for the carrying out of such work by the local council or the Commissioner of Bush Fire Services if other persons fail to carry it out in accordance with such a plan and for the recovery of costs incurred in carrying out such work; and
- (d) to authorise the fire control officer appointed for a bush fire district to call out bush fire brigades (in accordance with an approved bush fire management plan) to bush fires occurring outside, as well as within, the district and to authorise members of those brigades to attend those fires; and
- (e) to provide for another 3 members of the Bush Fire Council to be members of the Co-ordinating Committee; and



*Bush Fires (Further Amendment) 1994*

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- (f) to enable certain functions of the Chief Co-ordinator of Bush Fire Fighting (such as taking charge of fire fighting operations) to be exercised outside the parts of the State to which their exercise is presently restricted.

The Bill also makes certain savings and transitional provisions consequential on the above.

For those purposes, the Bill amends the Bush Fires Act 1949 and, in minor respects, the Fire Brigades Act 1989 and the Local Government Act 1993.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be proclaimed.

**Clause 3** gives effect to the amendments to the Bush Fires Act 1949 as set out in Schedule 1.

**Clause 4** gives effect to the amendments to the Acts specified in Schedule 2 as set out in that Schedule.

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**SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949**

**Permits for fires**

At present:

- a permit under section 10 of the Bush Fires Act is required for a fire lit (otherwise than by a public authority) for the purpose of clearing land during a bush fire danger period for the land; and
- a permit under section 35A of the Fire Brigades Act (or under section 10 of the Bush Fires Act) is required for a fire lit in a fire district under that Act if it is likely to be dangerous to a building.

A permit under section 10 is usually granted by a local council but a permit under section 35A is granted by the officer in charge of the nearest fire station.

The amendments will draw together the different legislative schemes for obtaining permits for those purposes. All permits will be granted under section 10 and the offence currently stated in section 35A of lighting a fire without obtaining a permit will be transferred to that section and the penalty increased to be the same as for failing to obtain a permit required by section 10.

A council that grants a permit equivalent to those currently issued under section 35A will be required to give notice of the issue of the permit to the Director-General of New South Wales Fire Brigades. Officers in charge of fire stations will also be able to grant permits of that kind. Notice of when the fire will be lit will be required to be given in accordance with regulations under the Bush Fires Act in all cases and conditions will be able to be imposed on all permits.

The amendments will also provide for all permits to have effect for 21 days, unless they are previously revoked or a direction is given under section 16 imposing a fire ban.

The granting of a permit will be excluded by the amendments from the environmental assessment requirements of Part 5 of the Environmental Planning and Assessment Act. (**Schedule 1 (2) and (3)**)

*Bush Fires (Further Amendment) 1994*

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**Bush Fire Management Committees and fire management plans**

The Bush Fires Act presently enables the Bush Fire Co-ordinating Committee to form District Fire Committees for any local government area or locality within the State and authorises the preparation of plans of operations by the Co-ordinating Committee in consultation with them, but there is no compulsion to form any such Committee.

The amendments will empower the Co-ordinating Committee to establish committees (in accordance with regulations made under the Act) for any part of the State to be known as Bush Fire Management Committees so as to avoid confusion (because they may not necessarily be formed only for bush fire districts declared under the Act). However, the Co-ordinating Committee must establish Bush Fire Management Committees to cover at least all of those bush fire districts.

Each of the Bush Fire Management Committees will be required to prepare draft bush fire management plans of two kinds, respectively setting out:

- procedures to be followed for bush fires of such a size that they would be incapable of being suppressed by fire fighting authorities within the part of the State for which the Bush Fire Management Committee was formed (plans of operations); and
- bush fire hazard reduction measures to be taken in that part of the State (fuel management plans).

Bush fire management plans of both kinds must be prepared and submitted for approval by the Co-ordinating Committee within 3 months of the commencement of the new requirement and are to be updated every 2 years (but regulations under the Act may vary those time limits). If a draft plan is not prepared on time or is inadequate, the Commissioner of Bush Fire Services may prepare the draft plan instead.

A bush fire management plan will be enforceable only after it has been approved (with or without changes) by the Co-ordinating Committee. A plan is not to be approved if it would impose obligations on public authorities within the administration of a Minister (such as a local council, New South Wales Fire Brigades, the Forestry Commission or the National Parks and Wildlife Service) and the authority objects to having those obligations.

A bush fire management plan may be varied by the Co-ordinating Committee after the plan has been approved. The question of whether a public authority should consent to a variation affecting its obligations under the plan (or consent to new obligations being imposed on it by the plan, which may have initially been objected to by the authority) may be determined by the Minister and, if another Minister is responsible for administration of the authority, the other Minister. (Schedule 1 (1), (7), (10), (11), (12), (14), (15) and (17))

**Bush fire hazard reduction in accordance with bush fire management plans**

At present, local councils and public authorities have a general duty to take all practicable steps to prevent fires and to minimise the risk of fires spreading. Local councils also presently have the power to issue notices requiring the burning of fire breaks and other bush fire hazard reduction work.

The amendments will:

- require local councils to issue notices to the owners or occupiers of private land so that bush fire hazard reduction work will be carried out in accordance with approved bush fire management plans; and



### *Bush Fires (Further Amendment) 1994*

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- place a duty on local councils to monitor the carrying out of that work in accordance with those notices; and
- place the obligation of carrying out that work on the local council if the person required to do so by such a notice fails to carry it out in accordance with the plan; and
- empower the Commissioner of Bush Fire Services to carry out that work where a local council or public authority fails to carry out bush fire hazard reduction work in discharge of such an obligation or in accordance with any such approved plan; and
- allow for the recovery of the costs incurred by the Commissioner in carrying out such work. (Local councils may already recover those costs under the Bush Fires Act.)

(Schedule 1 (4), (5) and (16))

#### **Functions of fire control officers and members of bush fire brigades**

The amendments make it clear that the fire control officer appointed for a bush fire district has the authority to call out bush fire brigades (in accordance with an approved bush fire management plan) to bush fires occurring within or outside the district.

The amendments also make it clear that members of a bush fire brigade called out in such a case may exercise their functions under the bush fire management plan within or outside the bush fire district with which the brigade is associated. (Schedule 1 (6) and (8))

#### **Membership of the Co-ordinating Committee**

At present, the Co-ordinating Committee consists of 5 members of the Bush Fire Council.

The amendments will add 3 more members of the Bush Fire Council to the membership of the Co-ordinating Committee. The additional members will be appointed to the Committee on the recommendation of the Council and cannot be ex-officio members of the Council. At least one of them must be an occupier of rural land affected by a bush fire management plan.

The quorum for a meeting of the Committee is consequentially increased to 5 members. (Schedule 1 (9) and (19))

#### **Area of operations of the Chief Co-ordinator**

Certain functions of the Chief Co-ordinator of Bush Fire Fighting (such as taking charge of fire fighting operations) may presently be exercised only on land within local government areas (or parts of such areas) specified in Schedule 3 to the Act.

The amendments will enable those functions to be exercised on other land. If those functions are to be exercised in the case of a fire that affects land in only one local government area or on Lord Howe Island, the powers may be exercised only through a person whose name is on the list of emergency fire controllers for the land concerned published under section 17 of the Act. (Schedule 1 (13))



*Bush Fires (Further Amendment) 1994*

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**Savings and transitional provisions**

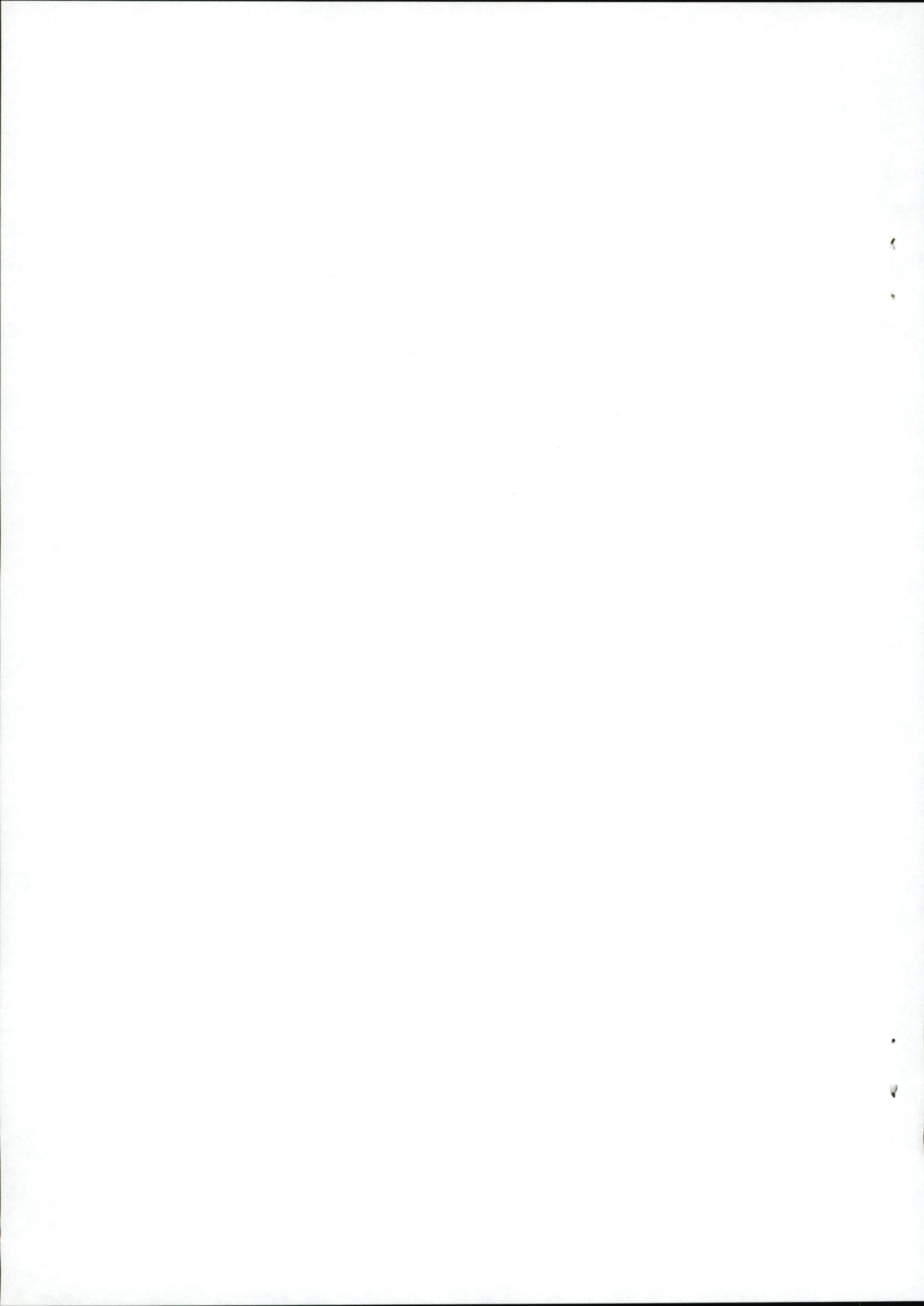
The amendments will save current permits that have been issued under section 35A of the Fire Brigades Act, save the formerly constituted District Fire Committees as if they had been constituted as Bush Fire Management Committees under the amendments and save plans of operations under section 41A of the Bush Fires Act as if they had been approved as bush fire management plans under the proposed new scheme. (Schedule 1 (18))

**SCHEDULE 2—AMENDMENT OF OTHER ACTS**

The **Fire Brigades Act** is amended by repealing section 35A.

The **Local Government Act** is amended to impose a requirement on councils to include in their annual report details of bush fire hazard reduction activities undertaken by them during the year to which the report relates.

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**BUSH FIRES (FURTHER AMENDMENT) BILL 1994**

NEW SOUTH WALES



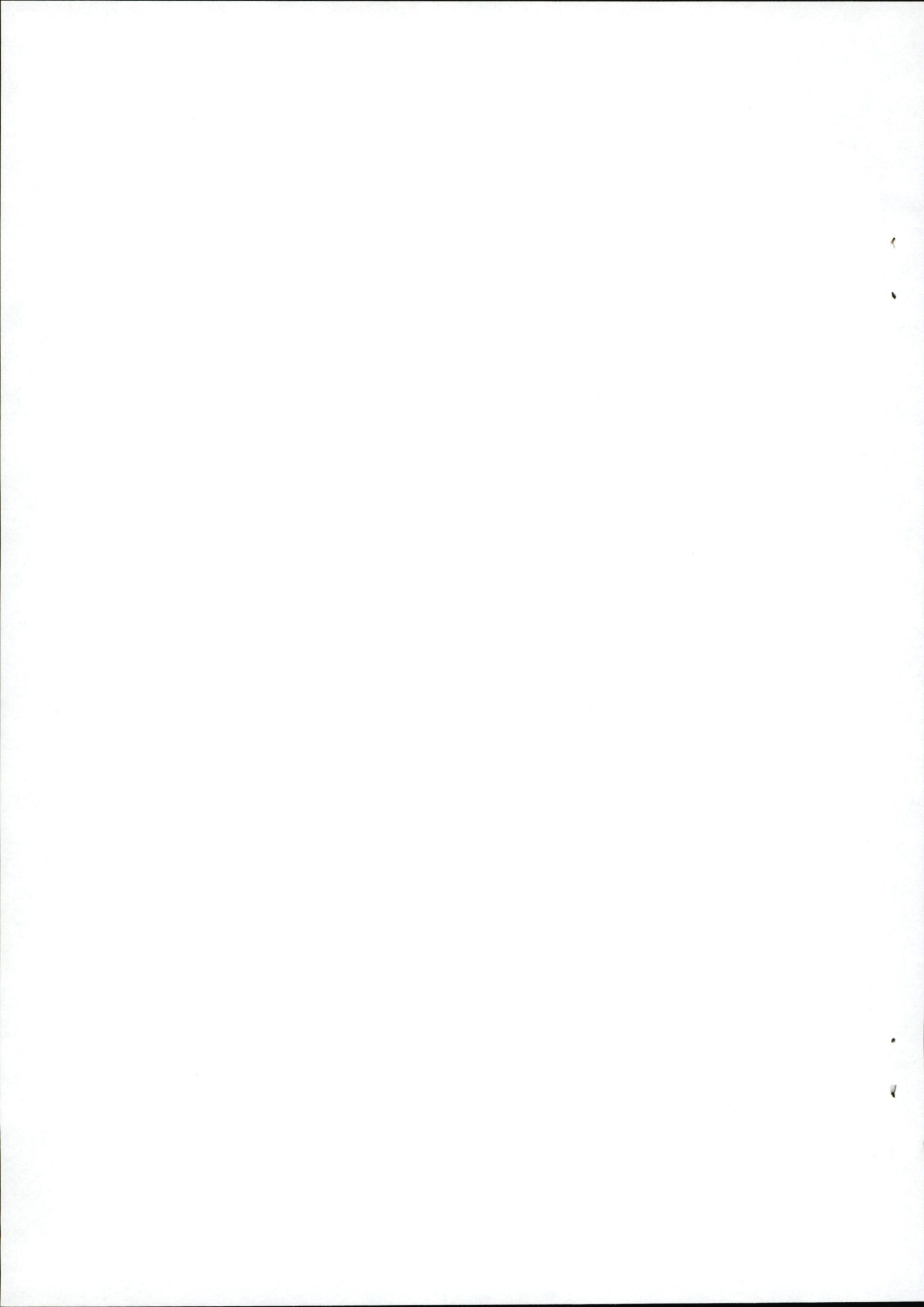
**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Bush Fires Act 1949 No. 31
4. Amendment of other Acts

SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949  
SCHEDULE 2—AMENDMENT OF OTHER ACTS

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**BUSH FIRES (FURTHER AMENDMENT) BILL 1994**

NEW SOUTH WALES



No. , 1994

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**A BILL FOR**

An Act to amend the Bush Fires Act 1949 to make further provision relating to the prevention and control of bush fires and for other purposes; and to amend the Fire Brigades Act 1989 and the Local Government Act 1993 consequentially.

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*Bush Fires (Further Amendment) 1994*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Bush Fires (Further Amendment) Act 1994.

**5 Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Bush Fires Act 1949 No. 31**

3. The Bush Fires Act 1949 is amended as set out in Schedule 1.

**10 Amendment of other Acts**

4. The Acts specified in Schedule 2 are amended as set out in that Schedule.

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**SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949**

(Sec. 3)

15 (1) Section 6 (**Definitions**):

(a) In alphabetical order, insert:

“**Bush Fire Management Committee**” means a Bush Fire Management Committee constituted under section 41AA.

20 “**Bush fire management plan**” means a bush fire management plan approved under section 41A or, if it has been varied under that section, the plan as so varied for the time being.

(b) Omit the definition of “District Fire Committee”.

25 (2) Section 10 (**Requirements to be complied with by persons lighting certain classes of fires**):

(a) In section 10 (1), after “fire break”, insert “, or in circumstances in which doing so would be likely to be dangerous to a building.”.

30 (b) Omit section 10 (2) (b).



*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (c) Omit section 10 (3), insert instead:
- (3) A person must not light, maintain or use a fire, or cause a fire to be lit, maintained or used, at any place in a fire district constituted under the Fire Brigades Act 1989 (being a place within a local government area) in circumstances in which doing so would be likely to be dangerous to a building, unless:
- (a) the person has given the notices required to be given under subsection (1); and
- (b) the person is authorised to do so by a permit granted by the council of the local government area or by the officer in charge of the nearest fire station; and
- (c) the fire is lit, maintained or used in accordance with the conditions, if any, attached to the permit.
- Maximum penalty: 50 penalty units or imprisonment for 12 months.
- (3A) It is a duty of a council to give notice of the grant of a permit under subsection (3) to the Director-General of New South Wales Fire Brigades when the council grants the permit.
- (d) From section 10 (4), omit “Any such permit”, insert instead “A permit must be in writing and”.
- (e) After section 10 (7), insert:
- (8) A person authorised to grant a permit is not, for the purposes of granting the permit, a determining authority within the meaning of Part 5 of the Environmental Planning and Assessment Act 1979. In addition, a person is not a determining authority within the meaning of that Part merely because the person can authorise another person to grant a permit.
- (9) This section does not require a permit to be granted for a fire lit, maintained or used by or under the direction of a public authority.
- (3) Section 11 (**Duration, revocation, suspension and variation of permits**):
- (a) From section 11 (1) and (2), omit “referred to in section 10 (2)” wherever occurring.

*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (b) After section 11 (3), insert:
- 5           (4) A permit remains in force for 21 days after the day on which it was granted unless, before that period expires, it is revoked under this section or ceases to have effect because of a direction under section 16 to prohibit the lighting, maintenance or use of the fire to which it relates.
- (4) Section 13 (**Fire hazard reduction work required by councils**):
- 10           (a) After section 13 (1), insert:
- (1AA) The council must serve a notice under this section if required to do so by a bush fire management plan that is in force.
- 15           (b) In section 13 (1A) (b), after “land”, insert “or whether or not such a notice has been complied with”.
- (c) After section 13 (6), insert:
- (7) It is a duty of a council to keep a record of whether or not bush fire hazard reduction work has been carried out on land within the area of the council in accordance with notices under this section if the work is required by a bush fire management plan.
- 20           (5) Section 14 (**Fire hazard reduction work in default of compliance with notice**):
- After section 14 (1), insert:
- 25           (1AA) The council must exercise its power under this section if the requirement that has not been complied with is made by a bush fire management plan.
- (6) Section 22 (**Powers of bush fire brigade officers**):
- At the end of section 22 (3) (f), insert:
- 30           (g) in relation to a bush fire which is within or outside a bush fire district where the exercise of such powers is sanctioned by the fire control officer in accordance with a bush fire management plan.
- (7) Section 22A (**Reduction of fire hazards**):
- 35           (a) From paragraph (d) of the definition of “authorised person” in section 22A (1), omit “plan of operations in force under section 41A”, insert instead “bush fire management plan”.

*Bush Fires (Further Amendment) 1994*

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SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (b) From section 22A (4), omit “plan of operations in force under that section”, insert instead “bush fire management plan”. 5
- (8) Section 27 (**Powers of fire control officers**):
- After section 27 (2), insert:
- (2A) A fire control officer may call out a bush fire brigade, formed or organised within the bush fire district for which the officer is appointed, to attend a bush fire within or outside that bush fire district. In doing so, the fire control officer must comply with any relevant bush fire management plan. 10
- (9) Section 40 (**Co-ordinating Committee**):
- (a) From section 40 (3), omit “5”, insert instead “8”. 15
- (b) At the end of section 40 (3) (e), insert:
- ; and
- (f) three members of the Bush Fire Council appointed by the Minister on the recommendation of the Bush Fire Council, none of whom is an ex-officio member of that Council and at least one of whom is an occupier of rural land that is (when the occupier is recommended for appointment) affected by a bush fire management plan. 20
- (10) Sections 41AA, 41AB: 25
- After section 41, insert:
- Bush Fire Management Committees**
- 41AA. (1) The Co-ordinating Committee may constitute Bush Fire Management Committees for any part of the State.
- (2) Bush Fire Management Committees must be constituted for all parts of the State that are bush fire districts, but need not be constituted separately for each bush fire district. 30
- (3) A Bush Fire Management Committee must be constituted in accordance with the regulations. 35



*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*
**Draft bush fire management plans**

- 5 41AB. (1) Each Bush Fire Management Committee must, in accordance with this section, prepare and submit to the Co-ordinating Committee a draft of each of the following kinds of bush fire management plans for the part of the State for which it was constituted:
- 10 (a) a plan of operations; and  
 (b) a fuel management plan.
- (2) Draft bush fire management plans of both kinds must be prepared and submitted to the Co-ordinating Committee by a Bush Fire Management Committee:
- 15 (a) within 3 months after the commencement of this section and within each successive 2 year period following that commencement; or  
 (b) within such other periods as may be fixed by the regulations.
- 20 (3) A draft plan of operations is to set out proposed procedures to be followed if:
- 25 (a) a bush fire breaks out in the part of the State for which the Bush Fire Management Committee was constituted and assumes or is likely to assume such proportions as to be incapable of suppression by the fire fighting authority or authorities in that part of the State; or  
 (b) the prevailing conditions are conducive to the outbreak of a bush fire likely to assume such proportions.
- 30 (4) A draft fuel management plan is to set out schemes for the reduction of fire hazards in the part of the State for which the Bush Fire Management Committee was constituted.
- 35 (5) A draft bush fire management plan of either kind may:
- 40 (a) include schemes for the exercise in the part of the State to which it applies of functions conferred or imposed by this Act; and  
 (b) confer or impose functions on the Director-General of New South Wales Fire Brigades, the Forestry Commission, the Director-General of National Parks and Wildlife or any other person or unincorporated body associated with the prevention, control or suppression of bush fires in that part of the State.

*Bush Fires (Further Amendment) 1994*

SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (6) The Commissioner may exercise the functions of a Bush Fire Management Committee under this section if the Committee has failed to submit a draft bush fire management plan in accordance with this section or has submitted a draft plan that, in the opinion of the Co-ordinating Committee, is inadequate. In any such case, the draft plan is taken to have been prepared by the Bush Fire Management Committee and is to be submitted by the Commissioner to the Co-ordinating Committee. 5 10
- (11) Section 41A (**Co-ordination of planning by bush fire management plans**):
- (a) From section 41A (1), omit the definition of “plan of operations”. 15
- (b) Omit section 41A (1A)–(3), insert instead:
- (2) When a Bush Fire Management Committee or the Commissioner submits a draft bush fire management plan for any part of the State, the Co-ordinating Committee must review the provisions of the draft plan and of any current bush fire management plan of the same kind for that part of the State. 20
- (3) After the review, the Co-ordinating Committee may:
- (a) approve the draft plan (as submitted or after alteration by the Co-ordinating Committee) and revoke any other bush fire management plan to the extent that it makes corresponding provisions for that part of the State; or 25
- (b) vary another bush fire management plan for some or all of the same part of the State so as to incorporate in the other plan some or all of the provisions of the draft plan (as submitted or after alteration by the Co-ordinating Committee). 30
- (3A) The Co-ordinating Committee is not to approve or vary a bush fire management plan so as to impose a requirement on a prescribed organisation within the administration of a Minister if the organisation objects to the requirement. 35



*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

(3B) The Co-ordinating Committee may, with the consent of a prescribed organisation:

- 5 (a) vary or revoke any provision of an approved bush fire management plan imposing a requirement on the organisation; or
- (b) vary an approved bush fire management plan so as to impose a requirement on the organisation.

10 (3C) Any dispute between the Co-ordinating Committee and a prescribed organisation about whether such a consent should be given is to be decided by the Minister and, if the organisation is within the administration of another Minister, that other Minister. The decision of the Minister or Ministers is binding on the parties to the dispute.

- 15 (c) From section 41A (4) and (5), omit “plan of operations” wherever occurring, insert instead “bush fire management plan”.

(12) Section 41F (**Functions of Chief Co-ordinator**):

20 From section 41F (5), omit “plan of operations under section 41A”, insert instead “bush fire management plan”.

(13) Section 41I (**Area of operations of Co-ordinating Committee and Chief Co-ordinator**):

Omit section 41I (1), insert instead:

25 (1) The functions conferred and imposed on the Co-ordinating Committee and the Chief Co-ordinator by or under this Act may be exercised only on land in the areas or parts of areas mentioned in Schedule 3, except as provided by subsections (1A) and (1B).

30 (1A) The functions conferred and imposed on the Chief Co-ordinator by section 41F may be exercised on land that is not within an area or part of an area mentioned in Schedule 3 but, in a case in which the bush fire concerned affects only one area or part of one area or land on Lord Howe Island, only if:

- 35 (a) those functions are exercised through a person whose name is included in the list of emergency fire controllers for the land concerned (or for land



*Bush Fires (Further Amendment) 1994*

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SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

including that land) and who is nominated by the Chief Co-ordinator; and

- (b) before making that nomination, the Chief Co-ordinator has taken into consideration any representations made to the Chief Co-ordinator by any Bush Fire Management Committee for the land concerned about such a nomination. 5

While a person is in charge of bush fire fighting operations pursuant to this subsection, section 17 does not apply to the operations. 10

(1B) Subsections (1) and (1A) do not apply to the exercise of functions conferred or imposed by or under this Act and relating to the reduction of fire hazards or conferred or imposed by section 51. 15

(14) Section 51 (**Powers affecting land near certain bush fires**):

- (a) From section 51 (5), omit “plan of operations in force under section 41A”, insert instead “bush fire management plan”.  
(b) From the definition of “appropriate distance” in section 51 (7), omit “plan of operations current under section 41A”, insert instead “bush fire management plan”. 20

(15) Section 54 (**Duty of councils and public authorities to prevent fires**):

From the definition of “practicable steps” in section 54 (3), omit “plan in force under section 41A”, insert instead “bush fire management plan”. 25

(16) Section 54A:

After section 54, insert:

**Bush fire hazard reduction by the Commissioner** 30

54A. (1) The Commissioner may carry out bush fire hazard reduction work on any land in the manner required by a bush fire management plan if any such work has not been carried out on that land when required by the plan or has not been carried out in the manner required by the plan. 35

*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

5 (2) The Commissioner may recover in a court of competent jurisdiction as a debt due to the Crown by the owner or occupier of the land concerned the costs incurred by the Commissioner in carrying out any such work.

(3) Any such work may be carried out by the Commissioner whether or not the owner or occupier of the land or a council has a duty to carry out the work.

10 (4) Any dispute between the Commissioner and a public authority about whether bush fire hazard reduction work has or has not been carried out on any land when or in the manner required by a bush fire management plan may be decided by the Minister and, if the public authority is within the administration of another Minister, the other Minister.  
 15 The decision of the Minister or Ministers is binding on the parties to the dispute.

(17) Section 57 (**Regulations**):

20 From section 57 (2) (z) and (aa), omit “and District Fire Committees” wherever occurring.

(18) Schedule 1A (**Savings and transitional provisions**):

After Part 2 of Schedule 1A, insert:

**Part 3—Provisions consequent on enactment of Bush Fires (Further Amendment) Act 1994**

25 **Saving of permits under sec. 35A of Fire Brigades Act 1989**

30 6. (1) A written permission that was issued under section 35A of the Fire Brigades Act 1989 before the repeal of that section and that was in force immediately before that repeal is taken to be a permit granted under section 10 (3).

(2) Section 11 (4) applies to such a permit as if it had been in force when the permit was granted.

**Saving of former District Fire Committees**

35 7. Each District Fire Committee constituted under section 41A (1A) for an area or locality is, on the repeal of that subsection, taken to be a Bush Fire Management Committee constituted under section 41AA for the area or locality.

*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*
**Saving of plans of operations**

8. (1) A plan of operations prepared under section 41A by the Co-ordinating Committee and in force for any part of the State immediately before the commencement of section 41AB is taken to be a bush fire management plan for that part of the State approved by the Co-ordinating Committee under section 41A. 5

(2) Any such plan may be revoked or varied under section 41A. 10

(19) Schedule 4 (**Provisions relating to the members and procedure of the Bush Fire Council, the Finance Committee and the Co-ordinating Committee**):

(a) From clause 2 (7), omit “40 (3) (b)–(e)”, insert instead “40 (3) (b)–(f)”. 15

(b) At the end of clause 5 (h), insert:

; or

(i) in the case of a member of the Co-ordinating Committee appointed on the recommendation of the Bush Fire Council, ceases to be an appointed member of the Bush Fire Council. 20

(c) From clause 10 (2), omit “or the Co-ordinating Committee”.

(d) After clause 10 (2), insert:

(3) The quorum for a meeting of the Co-ordinating Committee is 5 members. 25

**SCHEDULE 2—AMENDMENT OF OTHER ACTS**

(Sec. 4)

**Fire Brigades Act 1989 No. 192**

Section 35A (**Lighting of fires close to buildings**): 30

Omit the section.



*Bush Fires (Further Amendment) 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

**Local Government Act 1993 No. 30**

**Section 428 (Annual reports):**

After section 428 (2) (i), insert:

- 5           (i1) a report on the bush fire hazard reduction activities of the council during that year, including activities carried out under a bush fire management plan approved under the Bush Fires Act 1949;
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SECOND PRINT

**BUSH FIRES (FURTHER AMENDMENT) BILL 1994**

NEW SOUTH WALES

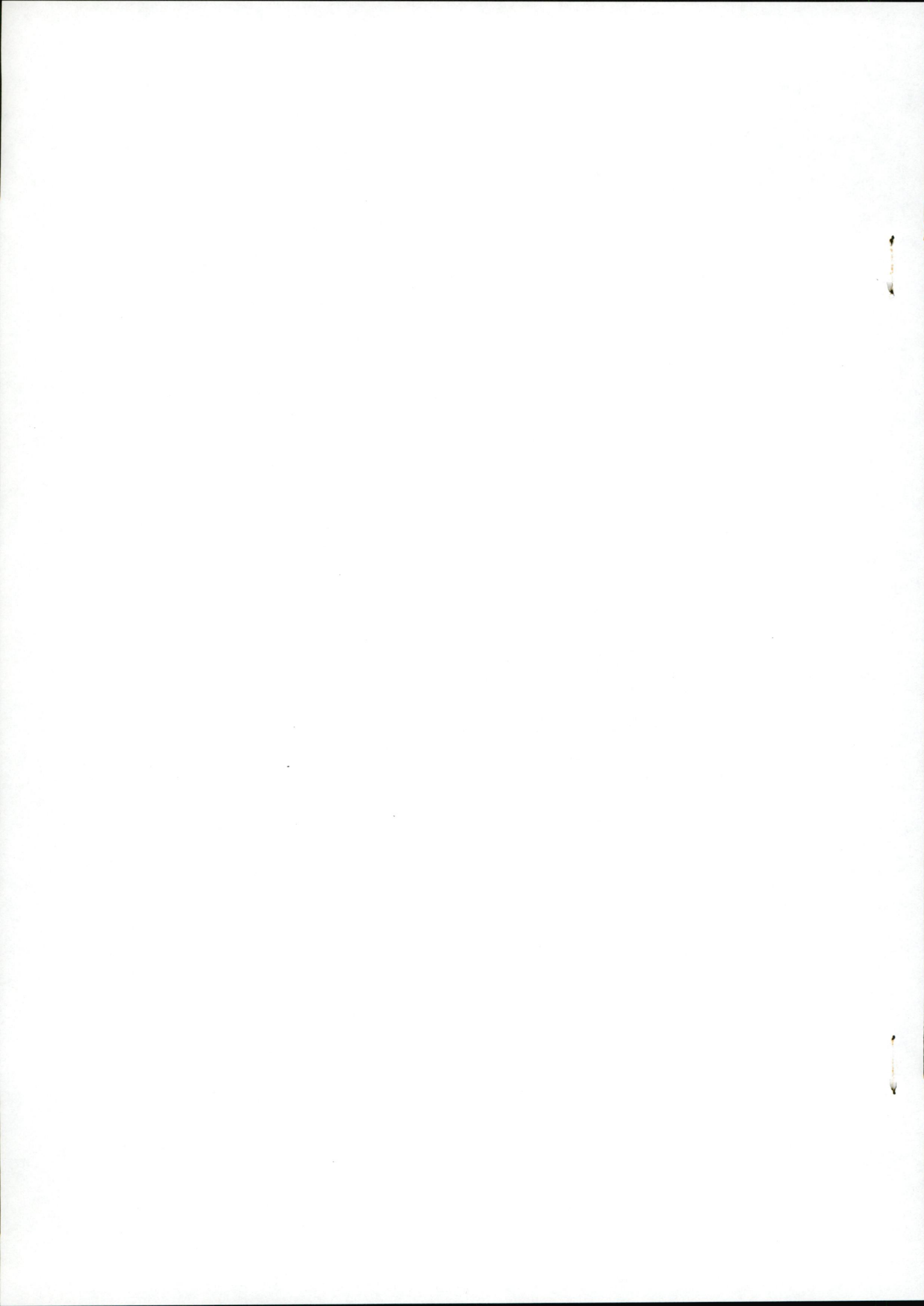


**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Bush Fires Act 1949 No. 31
4. Amendment of other Acts

SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949  
SCHEDULE 2—AMENDMENT OF OTHER ACTS

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly.*

NEW SOUTH WALES



Act No.           , 1994

An Act to amend the Bush Fires Act 1949 to make further provision relating to the prevention and control of bush fires and for other purposes; and to amend the Fire Brigades Act 1989 and the Local Government Act 1993 consequentially.



*Bush Fires (Further Amendment) 1994*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Bush Fires (Further Amendment) Act 1994.

**5 Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Bush Fires Act 1949 No. 31**

3. The Bush Fires Act 1949 is amended as set out in Schedule 1.

**10 Amendment of other Acts**

4. The Acts specified in Schedule 2 are amended as set out in that Schedule.

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**SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949**

(Sec. 3)

15 (1) Section 6 (**Definitions**):

(a) In alphabetical order, insert:

“**Bush Fire Management Committee**” means a Bush Fire Management Committee constituted under section 41AA.

20 “**Bush fire management plan**” means a bush fire management plan approved under section 41A or, if it has been varied under that section, the plan as so varied for the time being.

(b) Omit the definition of “District Fire Committee”.

25 (2) Section 10 (**Requirements to be complied with by persons lighting certain classes of fires**):

(a) In section 10 (1), after “fire break”, insert “, or in circumstances in which doing so would be likely to be dangerous to a building,”.

30 (b) Omit section 10 (2) (b).

*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

(c) Omit section 10 (3), insert instead:

(3) A person must not light, maintain or use a fire, or cause a fire to be lit, maintained or used, at any place in a fire district constituted under the Fire Brigades Act 1989 (being a place within a local government area) in circumstances in which doing so would be likely to be dangerous to a building, unless: 5

(a) the person has given the notices required to be given under subsection (1); and 10

(b) the person is authorised to do so by a permit granted by the council of the local government area or by the officer in charge of the nearest fire station; and

(c) the fire is lit, maintained or used in accordance with the conditions, if any, attached to the permit. 15

Maximum penalty: 50 penalty units or imprisonment for 12 months.

(3A) It is a duty of a council to give notice of the grant of a permit under subsection (3) to the Director-General of New South Wales Fire Brigades when the council grants the permit. 20

(d) From section 10 (4), omit “Any such permit”, insert instead “A permit must be in writing and”.

(e) After section 10 (7), insert: 25

(8) A person authorised to grant a permit is not, for the purposes of granting the permit, a determining authority within the meaning of Part 5 of the Environmental Planning and Assessment Act 1979. In addition, a person is not a determining authority within the meaning of that Part merely because the person can authorise another person to grant a permit. 30

(9) This section does not require a permit to be granted for a fire lit, maintained or used by or under the direction of a public authority. 35

(3) Section 11 (**Duration, revocation, suspension and variation of permits**):

(a) From section 11 (1) and (2), omit “referred to in section 10 (2)” wherever occurring.

*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

(b) After section 11 (3), insert:

5 (4) A permit remains in force for 21 days after the day on which it was granted unless, before that period expires, it is revoked under this section or ceases to have effect because of a direction under section 16 to prohibit the lighting, maintenance or use of the fire to which it relates.

(4) Section 13 (**Fire hazard reduction work required by councils**):

10 (a) After section 13 (1), insert:

(1AA) The council must serve a notice under this section if required to do so by a bush fire management plan that is in force.

15 (b) In section 13 (1A) (b), after “land”, insert “or whether or not such a notice has been complied with”.

(c) After section 13 (6), insert:

20 (7) It is a duty of a council to keep a record of whether or not bush fire hazard reduction work has been carried out on land within the area of the council in accordance with notices under this section if the work is required by a bush fire management plan.

(5) Section 14 (**Fire hazard reduction work in default of compliance with notice**):

After section 14 (1), insert:

25 (1AA) The council must exercise its power under this section if the requirement that has not been complied with is made by a bush fire management plan.

(6) Section 22 (**Powers of bush fire brigade officers**):

At the end of section 22 (3) (f), insert:

30 (g) in relation to a bush fire which is within or outside a bush fire district where the exercise of such powers is sanctioned by the fire control officer in accordance with a bush fire management plan.

(7) Section 22A (**Reduction of fire hazards**):

35 (a) From paragraph (d) of the definition of “authorised person” in section 22A (1), omit “plan of operations in force under section 41A”, insert instead “bush fire management plan”.



*Bush Fires (Further Amendment) 1994*

SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (b) From section 22A (4), omit “plan of operations in force under that section”, insert instead “bush fire management plan”. 5
- (8) Section 27 (**Powers of fire control officers**):  
After section 27 (2), insert:  
(2A) A fire control officer may call out a bush fire brigade, formed or organised within the bush fire district for which the officer is appointed, to attend a bush fire within or outside that bush fire district. In doing so, the fire control officer must comply with any relevant bush fire management plan. 10
- (9) Section 40 (**Co-ordinating Committee**):  
(a) From section 40 (3), omit “5”, insert instead “8”. 15  
(b) At the end of section 40 (3) (e), insert:  
; and  
(f) three members of the Bush Fire Council appointed by the Minister on the recommendation of the Bush Fire Council, none of whom is an ex-officio member of that Council, at least one of whom is an occupier of rural land that is (when the occupier is recommended for appointment) affected by a bush fire management plan and one of whom is the member of the Bush Fire Council appointed by the Minister on the recommendation of the Minister for the Environment. 20 25
- (10) Sections 41AA, 41AB:  
After section 41, insert:  
**Bush Fire Management Committees**  
41AA. (1) The Co-ordinating Committee may constitute Bush Fire Management Committees for any part of the State. 30  
(2) Bush Fire Management Committees must be constituted for all parts of the State that are bush fire districts, but need not be constituted separately for each bush fire district. 35  
(3) A Bush Fire Management Committee must be constituted in accordance with the regulations.

*Bush Fires (Further Amendment) 1994*

SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

**Draft bush fire management plans**

- 5 41AB. (1) Each Bush Fire Management Committee must, in accordance with this section, prepare and submit to the Co-ordinating Committee a draft of each of the following kinds of bush fire management plans for the part of the State for which it was constituted:
- 10 (a) a plan of operations; and  
(b) a fuel management plan.
- (2) Draft bush fire management plans of both kinds must be prepared and submitted to the Co-ordinating Committee by a Bush Fire Management Committee:
- 15 (a) within 3 months after the commencement of this section and within each successive 2 year period following that commencement; or  
(b) within such other periods as may be fixed by the regulations.
- 20 (3) A draft plan of operations is to set out proposed procedures to be followed if:
- 25 (a) a bush fire breaks out in the part of the State for which the Bush Fire Management Committee was constituted and assumes or is likely to assume such proportions as to be incapable of suppression by the fire fighting authority or authorities in that part of the State; or  
(b) the prevailing conditions are conducive to the outbreak of a bush fire likely to assume such proportions.
- (4) A draft fuel management plan is to set out schemes for the reduction of fire hazards in the part of the State for which the Bush Fire Management Committee was constituted.
- 30 (5) A draft bush fire management plan of either kind may:
- (a) include schemes for the exercise in the part of the State to which it applies of functions conferred or imposed by this Act; and
- 35 (b) confer or impose functions on the Director-General of New South Wales Fire Brigades, the Forestry Commission, the Director-General of National Parks and Wildlife or any other person or unincorporated body associated with the prevention, control or
- 40 suppression of bush fires in that part of the State.



*Bush Fires (Further Amendment) 1994*

SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

- (6) The Commissioner may exercise the functions of a Bush Fire Management Committee under this section if the Committee has failed to submit a draft bush fire management plan in accordance with this section or has submitted a draft plan that, in the opinion of the Co-ordinating Committee, is inadequate. In any such case, the draft plan is taken to have been prepared by the Bush Fire Management Committee and is to be submitted by the Commissioner to the Co-ordinating Committee. 5 10
- (11) **Section 41A (Co-ordination of planning by bush fire management plans):**
- (a) From section 41A (1), omit the definition of “plan of operations”. 15
- (b) Omit section 41A (1A)–(3), insert instead:
- (2) When a Bush Fire Management Committee or the Commissioner submits a draft bush fire management plan for any part of the State, the Co-ordinating Committee must review the provisions of the draft plan and of any current bush fire management plan of the same kind for that part of the State. 20
- (3) After the review, the Co-ordinating Committee may:
- (a) approve the draft plan (as submitted or after alteration by the Co-ordinating Committee) and revoke any other bush fire management plan to the extent that it makes corresponding provisions for that part of the State; or 25
- (b) vary another bush fire management plan for some or all of the same part of the State so as to incorporate in the other plan some or all of the provisions of the draft plan (as submitted or after alteration by the Co-ordinating Committee). 30
- (3A) The Co-ordinating Committee is not to approve or vary a bush fire management plan so as to impose a requirement on a prescribed organisation within the administration of a Minister if the organisation objects to the requirement. 35



*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

(3B) The Co-ordinating Committee may, with the consent of a prescribed organisation:

- 5 (a) vary or revoke any provision of an approved bush fire management plan imposing a requirement on the organisation; or
- (b) vary an approved bush fire management plan so as to impose a requirement on the organisation.

10 (3C) Any dispute between the Co-ordinating Committee and a prescribed organisation about whether such a consent should be given is to be decided by the Minister and, if the organisation is within the administration of another Minister, that other Minister. The decision of the Minister or Ministers is binding on the parties to the dispute.

(3D) If agreement cannot be reached between the Ministers, the dispute is to be resolved by the Premier whose decision is binding on the parties to the dispute.

- 20 (c) From section 41A (4) and (5), omit “plan of operations” wherever occurring, insert instead “bush fire management plan”.

(12) Section 41F (**Functions of Chief Co-ordinator**):

From section 41F (5), omit “plan of operations under section 41A”, insert instead “bush fire management plan”.

25 (13) Section 41I (**Area of operations of Co-ordinating Committee and Chief Co-ordinator**):

Omit section 41I (1), insert instead:

30 (1) The functions conferred and imposed on the Co-ordinating Committee and the Chief Co-ordinator by or under this Act may be exercised only on land in the areas or parts of areas mentioned in Schedule 3, except as provided by subsections (1A) and (1B).

35 (1A) The functions conferred and imposed on the Chief Co-ordinator by section 41F may be exercised on land that is not within an area or part of an area mentioned in Schedule 3

*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

but, in a case in which the bush fire concerned affects only one area or part of one area or land on Lord Howe Island, only if:

(a) those functions are exercised through a person whose name is included in the list of emergency fire controllers for the land concerned (or for land including that land) and who is nominated by the Chief Co-ordinator; and

(b) before making that nomination, the Chief Co-ordinator has taken into consideration any representations made to the Chief Co-ordinator by any Bush Fire Management Committee for the land concerned about such a nomination.

While a person is in charge of bush fire fighting operations pursuant to this subsection, section 17 does not apply to the operations.

(1B) Subsections (1) and (1A) do not apply to the exercise of functions conferred or imposed by or under this Act and relating to the reduction of fire hazards or conferred or imposed by section 51.

(14) Section 51 (**Powers affecting land near certain bush fires**):

(a) From section 51 (5), omit “plan of operations in force under section 41A”, insert instead “bush fire management plan”.

(b) From the definition of “appropriate distance” in section 51 (7), omit “plan of operations current under section 41A”, insert instead “bush fire management plan”.

(15) Section 54 (**Duty of councils and public authorities to prevent fires**):

From the definition of “practicable steps” in section 54 (3), omit “plan in force under section 41A”, insert instead “bush fire management plan”.

(16) Section 54A:

After section 54, insert:

**Bush fire hazard reduction by the Commissioner**

54A. (1) The Commissioner may carry out bush fire hazard reduction work on any land in the manner required by



*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*

5 a bush fire management plan if any such work has not been carried out on that land when required by the plan or has not been carried out in the manner required by the plan.

(2) The Commissioner may recover in a court of competent jurisdiction as a debt due to the Crown by the owner or occupier of the land concerned the costs incurred by the Commissioner in carrying out any such work.

10 (3) Any such work may be carried out by the Commissioner whether or not the owner or occupier of the land or a council has a duty to carry out the work.

15 (4) Any dispute between the Commissioner and a public authority about whether bush fire hazard reduction work has or has not been carried out on any land when or in the manner required by a bush fire management plan may be decided by the Minister and, if the public authority is within the administration of another Minister, the other Minister. The decision of the Minister or Ministers is binding on the parties to the dispute.

20 (5) If agreement cannot be reached between the Ministers, the dispute is to be resolved by the Premier whose decision is binding on the parties to the dispute.

25 (17) Section 57 (**Regulations**):

From section 57 (2) (z) and (aa), omit “and District Fire Committees” wherever occurring.

(18) Schedule 1A (**Savings and transitional provisions**):

After Part 2 of Schedule 1A, insert:

30 **Part 3—Provisions consequent on enactment of Bush Fires (Further Amendment) Act 1994**

**Saving of permits under sec. 35A of Fire Brigades Act 1989**

35 6. (1) A written permission that was issued under section 35A of the Fire Brigades Act 1989 before the repeal of that section and that was in force immediately before that repeal is taken to be a permit granted under section 10 (3).

(2) Section 11 (4) applies to such a permit as if it had been in force when the permit was granted.



*Bush Fires (Further Amendment) 1994*


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 SCHEDULE 1—AMENDMENT OF BUSH FIRES ACT 1949—  
*continued*
**Saving of former District Fire Committees**

7. Each District Fire Committee constituted under section 41A (1A) for an area or locality is, on the repeal of that subsection, taken to be a Bush Fire Management Committee constituted under section 41AA for the area or locality. 5

**Saving of plans of operations**

8. (1) A plan of operations prepared under section 41A by the Co-ordinating Committee and in force for any part of the State immediately before the commencement of section 41AB is taken to be a bush fire management plan for that part of the State approved by the Co-ordinating Committee under section 41A. 10

(2) Any such plan may be revoked or varied under section 41A. 15

(19) **Schedule 4 (Provisions relating to the members and procedure of the Bush Fire Council, the Finance Committee and the Co-ordinating Committee):**

(a) From clause 2 (7), omit “40 (3) (b)–(e)”, insert instead “40 (3) (b)–(f)”. 20

(b) At the end of clause 5 (h), insert:

; or

(i) in the case of a member of the Co-ordinating Committee appointed on the recommendation of the Bush Fire Council, ceases to be an appointed member of the Bush Fire Council. 25

(c) From clause 10 (2), omit “or the Co-ordinating Committee”.

(d) After clause 10 (2), insert:

(3) The quorum for a meeting of the Co-ordinating Committee is 5 members. 30

**SCHEDULE 2—AMENDMENT OF OTHER ACTS**

(Sec. 4)

**Fire Brigades Act 1989 No. 192**

Section 35A (**Lighting of fires close to buildings**): 35

Omit the section.

*Bush Fires (Further Amendment) 1994*

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SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

**Local Government Act 1993 No. 30**

**Section 428 (Annual reports):**

After section 428 (2) (i), insert:

- 5           (i1) a report on the bush fire hazard reduction activities of the council during that year, including activities carried out under a bush fire management plan approved under the Bush Fires Act 1949;
-