



Policy P6.1.4

Bush Fire Hazard Complaints, Notices and Reviews

Version	2.0
Policy Owner	Deputy Commissioner Preparedness & Capability
Policy Contact	Director Community Risk
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Next Review	4 November 2029

1. Purpose

- 1.1. The Rural Fire Service (RFS) has an important function in the State regarding prevention, mitigation and suppression of fires. The Rural Fires Act 1997 (the Act) reinforces this position.
- 1.2. The RFS is responsible for inspecting bush fire hazards, providing advice and if necessary, issuing notices to landowners and managers to reduce the risk of bush fire to the community.
- 1.3. The RFS has a legislative power and responsibility to take action when a hazard, or potential hazard, is identified, regardless of what land the hazard is on, or how it became aware of the hazard.
- 1.4. This Policy and its Handbook:
 - a. provides the process for taking action following identification of a hazard, either via a bush fire hazard complaint or inspection for the purpose of issuing a hazard reduction notice, including a hazard observation (duty of care);
 - b. outlines the principles and powers for issuing bush fire hazard reduction notices as well as what is required by landowners or managers in carrying out hazard reduction work in accordance with the terms of a notice;
 - c. identifies the framework that governs the bush fire hazard management functions granted under the Act and related instruments; and
 - d. supports compliance with relevant RFS policies and service standards.

2. Policy

- 2.1. The RFS Hazard Management Handbook (the Handbook) forms part of and should be read in conjunction with this policy.
- 2.2. This policy applies to all staff members receiving or managing hazard complaints or conducting hazard observations and assessments.
- 2.3. A Hazard Management Officer (HMO) has the authority to issue a hazard reduction notice in accordance with section 66 of the Act. Hazard Management Officer delegations and authorities

are outlined in Service Standard 1.3.1 Operational Delegations and Authorisations, and the Schedule of Hazard Management Officers contained in Appendix 3 of the Handbook.

- 2.4. All public authorities and owners and occupiers of land have a responsibility to take notified steps to prevent the occurrence and minimise the spread of bush fires, on and from land, for which they are responsible.
- 2.5. A bush fire hazard may be identified:
 - a. by a staff member via an observed hazard (sometimes called a duty of care observation),
 - b. by a member of the public via an informal notification, or
 - c. by a member of the public via a bush fire hazard complaint as prescribed under section 74A of the Act.
- 2.6. The Act provides for a formal complaint process when a bush fire hazard exists on land because of the failure of an owner, occupier or public authority to carry out bush fire hazard reduction work.
- 2.7. Bush fire hazard complaints can be made by any owner or occupier of land adjacent to or in the vicinity of the land to which the complaint relates.
- 2.8. A bush fire hazard complaint may be made whether or not the public authority or owner/occupier concerned has a duty under s63 of the Act to carry out the work required.
- 2.9. A formal bush fire hazard complaint must be made in writing and identify the complainant and the grounds for the complaint. Complaints can be made to the Commissioner directly, lodged via the RFS website or can be sent to the local authority of the local government area in which the land is located.
- 2.10. Informal hazard notifications can be made by any member of the public either by phone or social media post. These notifications will often trigger an Observed Hazard (Duty of Care) if the hazard is confirmed.
- 2.11. The priority of the RFS is to get identified hazard reduction works completed at the earliest opportunity, by the landowner if possible.

Making a bush fire hazard complaint

- 2.12. Information about how and where bush fire hazard complaints can be made, should be well publicised and accessible via the RFS website.
- 2.13. Making a bush fire hazard complaint is free.

Responding to bush fire hazard complaints

- 2.14. The RFS aims to:
 - a. promptly acknowledge bush fire hazard complaints via the most appropriate medium.
 - b. resolve bush fire hazard complaints in a timely manner and in accordance with the statutory timeframes as set out by the Act.
 - c. keep the complainant informed of the progress and outcomes of the complaint as required.
- 2.15. Notice of the making of a complaint and the grounds of the complaint are to be given to the owner/occupier to which the complaint relates, as soon as practicable after receipt of the complaint.
- 2.16. Further detail on responding to a bush fire hazard complaint is contained in the Handbook.
- 2.17. When dealing with bush fire hazard complaints from members of the public, the principles outlined in Policy P7.1.2 Public Complaints Management should be followed where appropriate.

Investigations and notices

- 2.18. Investigation of a bush fire hazard complaint must occur as soon as practicable after it is received, and with consideration to the timeframes set out in the Handbook.

- 2.19. Under s74D of the Act the Commissioner or a delegated officer (see SS 1.3.1 Operational Delegations and Authorisations) may enter land, during the daytime, to investigate a formal hazard complaint.
- 2.20. Service Standard 1.3.1 Operation Delegations and Authorisations establishes three levels of HMOs and their respective authority to investigate hazards and issue notices. These are:
- HMO Level 1** - An officer appointed as a Level 1 HMO can register, investigate and recommend a notice be issued under s66 but is not authorised to issue such a notice. A Level 1 HMO cannot deal with an objection to notices under s67;
 - HMO Level 2** - An officer appointed as a Level 2 HMO can issue a notice under s66 for private lands but can only recommend a notice be issued for public lands. A Level 2 HMO cannot deal with an objection to notices under s67 relating to public lands; and
 - HMO Level 3** - An officer appointed as a level 3 HMO can issue a notice under s66 for private or public lands. A Level 3 HMO can deal with any objection to notices under s67.
- 2.21. Section 66 of the Act outlines the requirements for issuing a bush fire hazard reduction notice.
- 2.22. Under s69 of the Act, a HMO may enter land, during the daytime, to form an opinion as to whether a hazard notice should be issued, or whether a hazard notice has been complied with.

Objections and appeals

- 2.23. The owner or occupier of land to whom a s66 notice relates may, within seven days, lodge an objection to the HMO who served the notice stating the grounds of the objection. The process and timeframes for dealing with objections are detailed in the Handbook.
- 2.24. The HMO must genuinely attempt to resolve the matter by consultation, having regard to:
- the provisions of any applicable bush fire risk management plan;
 - matters referred to in s66(7) regarding the removal of trees to establish firebreaks;
 - the proper needs for conservation; and
 - any other matters prescribed by the regulations.
- 2.25. The HMO is required to confirm, dismiss or vary the notice within 14 days of an objection being lodged and must give the person who lodged the objection notice of the decision within the timeframe stated in the Handbook.
- 2.26. If the HMO fails to confirm, dismiss or vary the notice within 14 days of an objection being lodged, or the person is not satisfied with the decision of the HMO following an objection, they may lodge an appeal in writing to the Commissioner in accordance with s68.
- 2.27. The Commissioner must confirm, vary or cancel the notice within a reasonable timeframe, taking into account all relevant circumstances in relation to the notice and the objection.

Bush fire hazard reduction work in default of compliance with notice

- 2.28. If the owner or occupier to whom a notice applies fails to comply with any requirement of the notice, the Commissioner may carry out the bush fire hazard reduction work that was required under the notice.
- 2.29. Any costs incurred in carrying out hazard reduction works may be recovered from the owner or occupier of the land as a debt due to the Crown.

Penalty notices

- 2.30. Failure to comply with the requirements of a hazard reduction notice within the specified time may result in prosecution or the issuing of a penalty notice. This is subject to the finalisation of review of an objection or an appeal.
- 2.31. A court may impose a maximum of 100 penalty units for a corporation or public authority or 50 penalty unit or imprisonment for 12 months for an individual.

2.32. Authorised Officers who issue penalty notices under the Fines Act 1996 must have regard to P6.1.2 Penalty Notices and Cautions in deciding whether to give a person a caution for a penalty notice offence.

Reporting

2.33. Bush fire hazard complaints will be included in the RFS Annual Report.

Privacy and confidentiality

2.34. Personal information that identifies individuals will only be disclosed or used by the RFS in accordance with Service Standard 1.1.14 Personal Information and Privacy.

3. Definitions

- 3.1. For the purpose of this policy document the following definitions apply:
- Authorised Officer:** For the purposes of issuing penalty notices under the Act, the following classes of persons are specified in relation to all penalty notice offences: a police officer, persons authorised by a local authority for the purposes of issuing penalty notices or persons authorised by the Commissioner to issue penalty notices.
 - Bush fire hazard complaint:** a complaint under section 74A of the Act which details a potential bush fire hazard on land usually because of the failure of a public authority or owner or occupier of the land to carry out bush fire hazard reduction work on the land.
 - Bush fire hazard reduction notice:** a notice in accordance with section 66 of the Act.
 - Bush fire hazard reduction work:** either the establishment or maintenance of fire breaks and fire trails on land; and/or the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of bush fire. Does not include the construction of a road or track.
 - Hazard Management Officer (HMO):** a member of the Service nominated by the Commissioner, who may exercise a function under Division 2 of the Act.
 - Penalty notice offence:** an offence against the Act or the regulations that is prescribed by the regulations as a penalty notice offence.

4. Document control

Release history

Version	Date	Summary of changes
1.0	29 Oct 2009	<ul style="list-style-type: none">– Initial release– Replaces Service Standards 4.2.3 Bush Fire Hazard Reduction Notices v.1.2.– Replaces Service Standard 4.2.6 Bush Fire Hazard Complaints v1.1– Complete review to reflect changes arising from the Rural Fires Amendment Act 2009 and updates position titles.
2.0	4 Nov 2024	<ul style="list-style-type: none">– Repealed, remade and renamed Policy P6.1.4 Bush Fire Hazard Complaints and Notices v1.0.– Comprehensively reviewed to align with and authorise the Hazard Management Handbook.

Approved by

Name	Position	Date
Rob Rogers AFSM	Commissioner	4 November 2024

Related documents

Document name
Rural Fires Act 1997
RFS Hazard Management Handbook
Service Standard 1.3.1 Operational Delegations and Authorisations
Service Standard 1.1.14 Personal Information and Privacy
Policy P7.1.2 Public Complaints Management
Policy P6.1.2 Penalty Notices and Cautions