



# Policy P6.1.4

## Bush Fire Hazard Complaints and Notices

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**Date of Issue** 29 October 2009

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**Version Number** 1.0

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### 1. Purpose

- 1.1 This Policy amalgamates and replaces Service Standards:
- (a) 4.2.3 Bush Fire Hazard Reduction Notices v1.2; and
  - (b) 4.2.6 Bush Fire Hazard Complaints v1.1.
- 1.2 Section 63 of the *Rural Fires Act 1997* (the Act) provides that owners, occupiers and public authorities have a duty to take certain steps to prevent the occurrence and spread of bush fires, on and from land, for which they are responsible.
- 1.3 The Act also provides for certain persons to make a complaint when a bush fire hazard exists because of the failure of an owner, occupier and public authority to carry out bush fire hazard reduction work.
- 1.4 This Policy and the Bush Fire Hazard Complaint and Notice Guidelines provide information which must be complied with to perform and manage the Bush Fire Hazard Complaint and Hazard Reduction Notice processes.

### 2. Policy

- 2.1 The RFS may issue written Bush Fire Hazard Reduction Notices requiring owners, occupiers and public authorities to carry out hazard reduction work.
- 2.2 A bush fire hazard may be identified:
- (a) as a failure under section 63 of the Act as a “duty of care” observation by Rural Fire Service (RFS) staff, or
  - (b) in writing under section 74A of the Act, from the public.
- 2.3 Section 74C of the Act provides that a local authority must refer any complaint made to it to the RFS Commissioner within 14 days of receipt of the complaint.
- 2.4 The Commissioner has sole responsibility for investigating and taking action in respect of bush fire hazard complaints regardless of land tenure.
- 2.5 The RFS must investigate all complaints as set down in the Bush Fire Hazard Complaint and Notice Guidelines.

- 2.6** The RFS may decline to deal with the complaint or dismiss it if they consider it to be vexatious, misconceived, frivolous or lacking in substance.
- 2.7** If the Commissioner finds that a bush fire hazard exists on land to which a complaint has been made because a public authority has failed to take action under section 63 of the Act, the Commissioner may:
- (a)** issue a Notice in writing to the public authority, requiring it to carry out the specified bush fire hazard reduction work; and/or
  - (b)** if the public authority fails to carry out the specified work within a reasonable time frame, carry out hazard reduction works on the land under section 73 of the Act.
- 2.8** If the Commissioner finds that a bush fire hazard exists, (other than on land for which a public authority is responsible):
- (a)** a Hazard Management Officer (HMO) may issue a Bush Fire Hazard Reduction Notice under section 66 of the Act (a "Section 66 Notice") to the owner or occupier; and/or
  - (b)** the Commissioner may enter the land and carry out the hazard reduction work required of the owner or occupier under section 70(2) of the Act, (subject to the provisions of sections 67 and 68).
- 2.9** Section 74F of the Act provides that if any action is taken by the Commissioner in relation to a bush fire hazard complaint, the complainant must be notified of the actions taken as soon as practical.
- 2.10** Section 67 of the Act provides that the owner or occupier may lodge an objection to the Section 66 Notice.
- 2.11** An objection must be lodged with the HMO that issued the Section 66 Notice within seven days of the Notice being served.
- 2.12** Within 14 days of the lodging of an objection the HMO must confirm, vary or withdraw the Section 66 Notice.
- 2.13** The HMO must then notify the person who lodged the objection of the decision and specify the timeframe for the person to comply with the Section 66 Notice.
- 2.14** A person may appeal to the Commissioner, under section 68 of the Act if:
- (a)** the HMO has failed to confirm, vary or withdraw the notice within 14 days; or
  - (b)** the person is not satisfied with the confirmation or variation.
- 2.15** The appeal must be in writing and must be submitted within seven days of the earliest of the following periods:
- (a)** the end of the original 14 day objection period; or
  - (b)** the date of the confirmation or variation.

- 2.16** Within 14 days of the appeal, the Commissioner must confirm, vary or withdraw the Section 66 Notice.
- 2.17** The Commissioner must notify the person who lodged the objection of the decision and specify the timeframe for the person to comply with the Section 66 Notice.
- 2.18** Any costs incurred by the Commissioner in carrying out hazard reduction works may be recovered from the owner or occupier of the land.
- 2.19** RFS staff must apply the provisions of the Bush Fire Hazard Complaint and Notice Guidelines.

### **Definitions**

**Public authority** means:

- (a) any public or local authority constituted by or under an Act other than this Act, or
- (b) any Government Department, or
- (c) a statutory body representing the Crown, or
- (d) a State owned corporation, or
- (e) any person prescribed by the regulations as a public authority.

## **3. Links**

- *Rural Fires Act 1997*
- Rural Fires Regulation 2008
- *Rural Fires Amendment Act 2009*
- Bush Fire Hazard Complaint and Notice Guidelines
- Service Standard 1.3.1 Delegations and Authorisations
- Policy P4.1.1 Delegations
- Policy P6.1.3 Environmental Assessment for Bush Fire Hazard Reduction Works

## **4. Who is responsible for implementing the Policy?**

Director Operational Services

## **5. Amendments**

- 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.