

Bush Fire Code Review
C/O Manager Community Planning,
NSW RFS Headquarters,
Locked Mail Bag 17,
Granville, NSW 2142.

14 July 2017

RE: HUNTER & CENTRAL COAST REGIONAL SUBMISSION ON THE DRAFT REVISED BUSH FIRE ENVIRONMENTAL ASSESSMENT CODE

The Hunter Joint Organisation of Councils (JO) welcomes the opportunity to provide input to the NSW *Draft Revised Bush Fire Environmental Assessment Code*. The attached submission was developed with input from our member councils and from Central Coast Council.

The member councils of the Hunter Joint Organisation of Councils are:

- Cessnock City Council
- Dungog Shire Council
- Lake Macquarie City Council
- Maitland City Council
- Mid-Coast Council
- Muswellbrook Shire Council
- City of Newcastle
- Port Stephens Council
- Singleton Council
- Upper Hunter Shire Council

Feedback overview:

The Hunter Region supports the NSW Government's desire to provide a one-stop-shop for a streamlined environmental assessment and approval process for mechanical and burning methods for undertaking bush fire hazard reduction work. Unfortunately, we do not believe that the code and its governing legislation (s100C of the *Rural Fires Act 1997*) in their present form appropriately balance bush fire hazard protection and environmental protection considerations - particularly given the recent significant reforms undertaken to create the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016*.

Our region is approximately 35,000 km² in area with some 4,800 plants and animals, 300 of which are included on State and/or Federal Threatened Species lists. There are also over 30 vegetation communities that are listed as endangered or critically endangered under state and/or federal legislation. The region is home to sites of international significance such as The Greater Blue Mountains Area (Wollemi & Yengo National Parks), Gondwana Rainforests of Australia (Barrington Tops National Park), and the Myall Lakes & Hunter Estuary Wetland RAMSAR sites. The region also crosses four bioregion boundaries (North Coast, Sydney Basin, Brigalow Belt South, and New England Tableland).

With growing pressure on these resources arising from mining and residential development, and from a number of new regional growth plans being developed (Central Coast and Hunter regions), it is considered that while the revised Code may simplify processes for assessing and approving hazard reduction works, implementation of the Code and subordinate Guidelines will directly and harmfully impact the natural environment important to the residents and industries of our region.

The following detailed submission provides detail on the issues and concerns of the councils of the region. Key issues we request the Rural Fire Service consider and address are:

- **Inconsistent and incorrect referencing to NSW Legislation** throughout the Code. The revised Code on exhibition directly references repealed SEPPs (14 & 26), repealed Acts (*Threatened Species Conservation Act*, *Native Vegetation Conservations Act*, sections of the *National Parks & Wildlife Act*, and *Noxious Weeds Act*) and directly references the use of a 2004 Draft guideline which was never finalised or adopted as the primary guide for determining location and impact on Threatened Species. Without a complete review of the new legislation and their subordinate Regulations and Codes, it is unclear exactly how the Code will interact or impact on the new legislative environment that currently exists in NSW (and which is continuing to undergo rapid change).
- **Complex administrative systems** are a part of the Code, even though it is supposed to be a 'one-stop-shop' for hazard reduction processes. There is still a significant requirement for officers to refer to large number of subordinate documents and maps and legislation to ensure compliance. Additionally, the Code does not address requirements and issues surrounding impacts to plants and animals protected under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*. The current draft Code does not adequately ensure land managers and RFS staff recognise their responsibilities under federal legislation to manage impacts on Federally threat-listed species and communities and may therefore lead agencies to inadvertently breach this legislation.
- **Limited to no ability to gauge, manage or modify processes to respond to the cumulative impacts** of clearing through development. The allowable activity, clearing to codes and clearing in urban areas, coupled with 10/50 regulations, State Significant Infrastructure, State Significant Development and continued Part 4 developments (EP&A Act) mean that an unprecedented amount of land clearing can occur without approval, or mapping, and therefore direct and timely consideration of the cumulative impact of clearing cannot be provided. The draft Code does not adequately prevent the potentially significant cumulative impact of excessive clearing, nor does it assist the appropriate authorities to understand and gauge the impact of the clearing undertaken in the new legislative environment that now exists in NSW.
- **The Draft Bushfire Code for Existing Development** includes potentially significant requirements for land clearing, which in turn, has potentially substantial costs and management implications for Local Government as public land managers.

Whilst we applaud the NSW Government for wanting to streamline the assessment process, we believe that the documents included in the exhibition package do not provide the required detail and clarity, and in fact are incomplete given the significance of recent changes in the NSW legislative environment. As such we strongly recommend the full suite of documents be reviewed in the context of these changes before being re-released for full consultation prior to finalisation.

Please do not hesitate to contact Mr. Steve Wilson (Deputy Director Hunter Councils Environment Division) on 02 4978 4026 to discuss any aspect of the submission

Yours Sincerely

Roger Stephan
Chief Executive Officer

Detailed Submission

The following submission has been compiled with advice and information from the member Councils of the Hunter Joint Organisation region. Individual Councils will also be submitting their own detailed submissions.

1. Links to other NSW legislation and policies

The review and exhibition of the draft Bushfire Environmental Assessment Code is occurring within a broader environment of significant legislative change being undertaken by the NSW Government. Consequently, the draft Code includes reference to a number of NSW Acts and policies (and terminology within these) that are no longer current, or will cease to be relevant pending proposed legislative change.

Although it may seem a relatively easy task to update the names of the legislative instruments to reflect the new regime, the issue requires a full review of the current NSW Legislative Environment to ensure the issues seeking to be managed through the Code are relevant under the existing legislation. Additionally, correctly referencing the impacted Acts will assist Councils to understand any conflicts or management and resourcing implications through the adoption of this Code

The following table identifies areas of the Code that incorrectly reference repealed or outdates legislation, regulations, State Environmental Planning Policies or guidance documents. Clarity on the correct reference, and implications for the issue and the document (and issues it manages) is required to ensure appropriate responses are provided to the Code.

There is reasonable confusion that will exist because of the Clearing Code provisions included as part of the *Local Land Services Amendment Act 2016* and the Draft *Clearing Code*, as to whether or not approval is required, and from which authority, or if in fact dual approvals may be required.

Document incorrectly or inappropriately referenced	Issue	Reference in the Draft Code
National Parks & Wildlife Act 1974	Potentially repealed and now managed through the <i>Biodiversity Conservation Act 2016</i>	1.9 Bush fire hazard reduction certificates by certifying authorities
		2.6.1 Certificates issued under 100F of the Rural Fires Act
		2.7 Orders & Directions
State Environmental Planning Policy No 14 – Coastal Wetlands	The NSW Coastal Reforms propose to include the intent of this SEPP into a new <i>Coastal Management SEPP</i> which maps and protects lands in a fundamentally different way to the referenced SEPP	2.3 Land excluded from the Code

Document incorrectly or inappropriately referenced	Issue	Reference in the Draft Code
State Environmental Planning Policy No 26 – Littoral Rainforest	The NSW Coastal Reforms propose to include the intent of this SEPP into a new <i>Coastal Management SEPP</i> which maps and protects lands in a fundamentally different way to the referenced SEPP	2.3 Land excluded from the Code
Threatened Species Conservation Act 1995	Repealed and replaced by the <i>Biodiversity Conservation Act 2016</i>	2.3 Land excluded from the Code 2.6.1 Certificates issued under 100F of the Rural Fires Act 2.7 Orders & Directions 4.5.3.1 Modifying management conditions for issuing authorities 4.5.3.2 Modifying management conditions for certifying authorities 5.3.3.1 Modifying management conditions for issuing authorities 5.3.3.2 Modifying management conditions for certifying authorities
Native Vegetation Conservation Act 1997	Repealed and now managed through the <i>Local Land Services Act 2016</i> and/or <i>Biodiversity Conservation Act 2016</i>	2.6.1 Certificates issued under 100F of the Rural Fires Act
Native Vegetation Act 2003	Potentially repealed and now managed through the <i>Local Land Services Act 2016</i> and/or <i>Biodiversity Conservation Act 2016</i>	2.6.1 Certificates issued under 100F of the Rural Fires Act 2.7 Orders & Directions
Nature Conservation Trust Act 2001	Repealed and replaced by the <i>Biodiversity Conservation Act 2016</i>	2.6.1 Certificates issued under 100F of the Rural Fires Act
Noxious Weeds Act 1993	Repealed and replaced with the <i>Biosecurity Act 2015</i> .	4.9 Standards Relating to Weeds 4.9.1 Herbicide Use
References to Noxious and Environmental Weeds	Weeds are now managed through the <i>Biosecurity Act 2015</i> and weed classifications and designations have changed, as has management requirements.	4.1 Vegetation to which mechanical works do not apply

Document incorrectly or inappropriately referenced	Issue	Reference in the Draft Code
<p>OEH Threatened Species Hazard Reduction Map</p>	<p>This Map is unavailable to review to determine scale and accuracy.</p>	<p>4.5.1 Determining presence of threatened species, populations or ecological communities</p>
	<p>It should be noted that this map would only address NSW Threat-listed species and not Commonwealth which still require assessment and approval under the EPBC Act.</p>	<p>5.3.1 Determining presence of threatened species, populations or ecological communities</p>
<p>OEH Threatened ecological community mapping</p>	<p>This Map is unavailable to review to determine scale and accuracy.</p>	<p>4.5.1 Determining presence of threatened species, populations or ecological communities</p>
	<p>It should be noted that this map would only address NSW Threat-listed species and not Commonwealth which still require assessment and approval under the EPBC Act.</p>	<p>5.3.1 Determining presence of threatened species, populations or ecological communities</p>
<p>Threatened Biodiversity Survey and Assessment Guidelines for Development Activities</p>	<p>This guideline was a Draft in 2004 and was never finalised. Given the significant increase in knowledge of biodiversity, and the significant changes in the legislative environment, it is believed this Guideline should not be utilised for the purposes proposed.</p>	<p>4.5.3.2 Modifying management conditions for certifying authorities</p>
	<p>Further, the guideline states (in Section 4) “... <i>should only be used for predictive modelling purposes to assist in the design of field surveys, and as an indication of previous animal and plant distributions in the locality</i>”, enhancing the inappropriateness of using this guideline as a way to determine vegetation present on site.</p>	<p>5.3.2 Determining management conditions from the Threatened Species Hazard Reduction List</p>
		<p>5.3.3.2 Modifying management conditions for certifying authorities</p>
<p>Reference to Keith classes</p>	<p>OEH is currently re-mapping NSW into Plant Community Types (PCT) which will supersede the Keith classification – this Code should reference how the current inland PCT classification (which has been adopted) influences this section. The Coast classification is currently being developed.</p>	<p>5.1 Vegetation or land to which burning does not apply or has limitations</p>
		<p>5.8 Standards for the protection of riparian buffers</p>

Document incorrectly or inappropriately referenced	Issue	Reference in the Draft Code
Soil Erosion Risk for Prescribed Burning Map	This Map is unavailable to review to determine scale and accuracy.	5.7 Standards to prevent soil erosion and instability
		5.7.1 Determining presence of land at risk of soil erosion
No reference provided	Managed via Council DCPs, <i>Vegetation SEPP 2017</i> or <i>SEPP 19 – Urban Bushland</i>	4.4 Standards for the protection of trees
No reference provided	Noted a reference to AHIMS, but should be referencing the <i>Aboriginal Heritage Due Diligence Guideline 2013</i> , and not creating a different management process. Also it is strongly recommended the RFS engage meaningfully with OEH as we understand all issues of Aboriginal Cultural Heritage will be managed through a new piece of legislation and removed from the <i>National Parks & Wildlife Act 1995</i>	4.6.1.1 Determining presence/type (Aboriginal cultural heritage) for issuing and certifying authorities
No reference provided	Refers to an OEH map which has not been provided. Scale and accuracy and currency of map is required to be understood given the clause refers to fires within 100m.	5.6.6 Significant bat colonies

Recommendation

That a Full review of the draft Code be completed prior to its finalisation, to ensure that it accurately reflects the current and planned NSW legislative and policy environment, and to ensure the management actions included in the Draft Code appropriately respond to the management intent in the subordinate legislation that has undergone a full consultation process with stakeholders.

2. Structure and Format

At an overall level, the structure and format of the draft Code, particularly its repetitive nature (i.e. very similar text repeated across multiple sections) can make determining whether an activity is permissible under the Code challenging. For example, by reading one particular section the reader may conclude an activity is permissible; however text in a distinctly separate section may preclude the activity from complying with the Code.

Additionally, the document should ensure consistency in language and formatting between the various documents and tables. For example, different APZ tables use different (or at

least more broadly categorised) vegetation types. Greater consistency would improve clarity and understanding for document users.

Recommendation

- *Greater use of consistent designed and categorised tables and/or checklists be incorporated into the final Code. These could be activity based, with the table or checklist clearly identifying the pathways for approval, or the approvals and exemptions that relate to a specific activity (e.g. establishment or maintenance of an Asset Protection Zone).*
- *That an overall review of the revised code and accompanying documents be completed to ensure consistency in language and formatting across them.*

3. Supporting / reference documents

There are a significant number of supporting documents and guidelines referenced in the Draft Code that have either not been completed, unavailable for comment, or are hosted on a number of websites by a variety of different agencies and organisations. An appropriate review of all materials related to the Code has therefore been exceptionally difficult (with relation to searching for related documents) and impossible (for documents not yet released by the RFS or partner Agencies).

Recommendation

That the Code (and supporting documents) be available in an electronic format that provides direct hyperlinks to the many reference documents that are included, either at the direct point of reference, or by the inclusion of a single table of all reference documents (hyperlinked) somewhere within the Code. This is particularly relevant if the Code is intended to be a “one stop shop” for users. At a minimum, a table of this nature could be included on the Rural Fire Service website.

4. Section 2.5 – Activities to which the Code does not apply

This section of the draft Code identifies that a Certificate cannot be issued solely for “*burning for bush regeneration or ecological purposes*” or “*burning for cultural purposes*”, both of which have hazard reduction benefits as well as broader positive environmental and cultural outcomes.

Recommendation

That “burning for bush regeneration or ecological purposes” and “burning for cultural purposes” be identified as activities that can be assessed using the Code.

5. Section 2.8.2.1 – Determining if a property has been subject to a development consent or approval under the Environmental Planning and Assessment Act 1979 granted since 1 August 2002

The Rural Fire Service (RFS), as part of its certifying responsibilities, has undertaken assessment of all development applications requiring an APZ since 1 August 2002, therefore requiring Local Government to undertake the search and provision of information is an unnecessary burden on the sector.

The imminent introduction of the “Guardian” Fire Risk Management System (to replace the current BRIMS system), there may exist the opportunity to link information on development consent to individual properties, therefore operating in a similar manner to the 10/50 tool.

Recommendation

That the Rural Fire Service centrally maintain data on development consent conditions that incorporate an APZ, and that they be the centralised point of inquiry for this information.

6. Section 3.2.1 - Maximum extent of permissible works for an APZ

The Code sets the maximum width of a permissible APZ along a boundary fence (Section 3.2.1.5) at 6 metres. While this may be considered appropriate for rural areas (for properties above a 1ha), it is not suitable for urban zones where clearing to 6 metres along any property boundary would result in substantial and excessive levels of clearing.

Recommendation

For urban areas, the maximum distance should only apply “along a boundary fence that directly adjoins bushland identified as Bushfire Prone Land in a Bushfire Prone Land Map”.

7. Section 3.2.2 – Work permissible for the creation and maintenance of an APZ

In addition to the permissible works identified in this section to establish and maintain an APZ (i.e. mechanical work, pruning and tree removal, prescribed burning and pile burning), additional methods that can also be used as part of an integrated approach to maintenance of an APZ include:

- Controlled grazing, particularly in rural areas
- Herbicide application
- Bush regeneration works

Recommendations

- *That this section include other potential work methods (refer examples above) that have the potential to be used in an integrated approach to APZ maintenance; and/or*
- *The definition of mechanical works included in the Code be extended to include a broader range of activities (refer examples above)*

8. Section 3.9 – Control lines for prescribed burns (3.9.1.2 – Control lines designed for vehicular use)

The application of the clearing provision for temporary access (i.e. 6m along road boundaries, would lead to excessive and unnecessary clearing along control lines for vehicular use. The 6m allowance is understandable for application where more permanent and sustained fire management infrastructure is used, but excessive for temporary control lines.

Recommendation

- *Reference to the Fire Trail Standards be reviewed to reduce the clearing required for temporary vehicular access (along control lines)*
- *The Code specifically identify the need to rehabilitate control lines once the prescribed burn has been completed.*

9. Section 4.1 – Table 2 (Vegetation classes to which mechanical works do not apply)

Vegetation formations and classes are provided in the table, however no specific reference to the source of these formations and classes is provided. As described in Point 1, the NSW Government, through work being undertaken by OEH is developing a new State-wide Vegetation Map that refers to Plant Community Types (PCT) and not Keith Formation. As much of the Map is already completed and in use, and the remaining coastal areas are currently under development, it is strongly recommended that the Code refer to the new PCT classification and maps to determine where mechanical works are, and are not, appropriate.

Recommendations

- *That this section of the code be completely re-written with reference to the NSW PCT mapping Classification.*

10. Section 4.2.3 – Construction and maintenance of control lines (not designed for vehicular use)

This section outlines required standards for construction of what in effect will be walking trails. The provisions of the Code relating to the construction of walking trails should utilise existing acceptable standards, such as those included in the *NSW National Parks and Wildlife Service Walking Tracks Policy*, not create new / different standards.

Recommendation

The Code should refer to existing walking track standards used by public land managers (NSW National Parks and Wildlife Service Walking Tracks Policy).

11. Section 4.4 - Standards for protection of trees.

The application of the standards included in this section, in the absence of more comprehensive environmental assessment and approval of works by Council, is not considered appropriate for particular trees of significance. For example, trees included on Council Significant Tree Registers, trees of significant ecological value, or trees of Aboriginal Cultural Heritage value.

Additionally, the management of trees and protection of natural assets has been completely changed with the introduction of the Local Land Services Amendment Act

Recommendations

- *That works on trees of significant environmental, cultural or heritage value (refer examples above) should not be permissible under the Code.*

- *That at a minimum, the requirements of “Section 4.5 – Standards for the Protection of Biodiversity” and “Section 4.6 – Standards for the Protection of Aboriginal Cultural Heritage” should apply to the management of trees.*

12. Section 4.5.1, 4.5.2, 5.3.1 & 5.3.2 – Determining presence (and management) of threatened species, populations or ecological communities

The provisions of the Draft Code states “[maps by OEH and DPI] *must be used to determine if threatened species, populations or ecological communities are present at the site*”. As described in Point 1, the maps referred to have not been developed, and are therefore unavailable for comment on scale and accuracy. Given it is acknowledged that most Endangered Ecological Communities (EEC) and Threatened Species (TS) are not exhaustively mapped, due to their fragmented state, and limited occurrence, it is unreasonable to assume these maps will accurately advise officers on the likelihood of presence, and appropriate management issues.

Further to the above point, the Draft Code does not address the requirements to protect and management Commonwealth threat-listed species, and as such a basic desktop assessment of species presence is insufficient to manage Environmental Assessment requirements related to Matters of National Environment Significance listed in the EPBC Act.

It is strongly recommended that the Draft Code require not only the review of appropriately up-to-date mapping sources, but require on-ground assessment to determine impact on species and to confirm if either NSW or Commonwealth Threat-Listed species are present on site and likely to be impacted by the activity to determine the need for further approvals or management activities.

It is noted that sections 4.5.2 and 5.3.2 allow for site inspections, but this is only to determine TS or EECs are not present. To ensure appropriate compliance with the Biodiversity Conservation Act, it is strongly recommended these on-ground assessments be undertaken not only when a data source indicates a likely threat-listed species on site, but to identify if un-mapped threat-listed species are present (which is a common occurrence).

Recommendations

- *That on-site field assessment be undertaken to confirm the likely or actual presence of threatened species, rather than relying on mapping alone.*
- *That direct links to the appropriately scaled and current OEH and DPI mapping to be used as part of the assessment of impacts*

13. Section 5.6.2 – Sensitive Locations

Clarity is sought on exactly which facilities and utilities are categorised as a Sensitive Location. The Draft Code currently states “*Sensitive locations include schools, hospitals, residential aged care facilities, child care facilities, ventilation intakes (e.g. mine shafts), airports and the like*”. It is the contention of Local Government that a more definitive list of locations is required and imprecise language of “*and the like*” makes the determination of Significance all but impossible.

The Draft Code further states “*If any of these locations are within 100 metres of a small fire or 1000 metres of a large fire, the issuing or certifying authority must consult with the owner/*

manager to determine mutually agreeable conditions”, but provides no guidance on what constitutes a “small fire” or a “large fire”. Additionally, there is no guidance on how management activities may be varied to address concerns from the facility managers. Further clarity is required to ensure appropriate application of the Code.

Recommendations

- *The language of this section be improved to clearly identify the range of facilities and developments that are classified as “Sensitive Locations”.*
- *The language of this section be improved to ensure understanding of what is considered a “small fire” and a “large fire” to ensure the Code is not breached.*
- *Further guidance be provided to ensure any modifications to condition negotiated with facility managers are appropriate and not contrary to the Code or other subordinate legislation.*

14. Section 5.6.6 – Significant Bat Colonies

The Grey-Headed Flying-fox is listed as a Vulnerable species under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and is therefore considered a ‘Matter of National Environmental Significance’ and is protected under Commonwealth law. Additionally, in 2001, the Grey-headed Flying-fox was listed as a Vulnerable species under the *NSW Threatened Species Conservation Act 1995* (now managed under the *Biodiversity Conservation Act 2016*)

OEH prepared the *Flying-fox Camp Management Policy* in 2015, which is intended to empower land managers, primarily local councils, to work with their communities to manage Flying-fox camps effectively. It provides the framework within which OEH will make regulatory decisions. The Policy encourages local councils and other land managers to prepare camp management plans for sites where the local community is affected. The majority of Councils in the Hunter, Central Coast and Mid Coast Region have prepared, or are in the process of preparing Camp Management Plans for local Flying-fox populations. As such it is recommended that notification and consultation of the land owner responsible for the protection and management of bat colonies be afforded the same notification and consultation period provided to Road Authorities (Section 5.6.3) to ensure planned hazard reduction activities occur in ways that do not breach state and federal biodiversity conservation legislation.

For clarity, it is not understood as to what criteria the Code determines if a bat colony is “significant”, nor does it refer to which map would provide the required information (although it does refer to a map). Similarly reference is made to management distances from the bat colonies boundaries based on either a ‘small’ fire, or a ‘large’ fire, but there is no guidance provided on how to determine and classify a fire as either ‘small’ or large’.

Recommendations

- *That a review of this section be completed to ensure it adequately reflects current legislative requirements for the environmental assessment and management of Grey Headed Flying-fox populations. Noting that impacts on a Federally protected animal require appropriate management and approval response from the Department of Environment & Energy.*
- *The Code include provision of notification and consultation activities mirroring those provided to Road Authorities in Section 5.6.3 to bat colony land managers.*

- *That this section of the Code specifically identify the need for any hazard reduction works to comply with the requirements of a Camp Management Plan affecting the site on which works are proposed.*
- *The Code include appropriate reference to datasets / maps that provide details of bat colonies that are considered 'significant' and managed by this section of the Code*
- *The language of this section be improved to ensure understanding of what is considered a "small fire" and a "large fire" to ensure the Code is not breached.*

15. 5.9 Standards for the protection of Aboriginal cultural heritage

The draft Code requires "*The issuing/certifying authority must conduct a basic search for Aboriginal cultural heritage in the Aboriginal Heritage Information Management System (AHIMS) or any replacement information management system*". It is strongly recommended this section be reviewed and require issuing and certifying authorities to follow the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010*, which is the accepted minimum responsibility where there is the potential for an activity to impact on Aboriginal Cultural Heritage.

Recommendations

- *That the Code be amended to refer to the requirements of the "Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010" and not just undertake a basic AHIMS search.*

16. Draft Bushfire Protection for Existing Development - Distances for Asset Protection Zones

The "*Draft Bushfire Code for Existing Development*" has been identified by Councils to potentially impact more significantly on their management responsibilities than the Revised Environmental Assessment Code itself, given the impacts on vegetation and publicly managed land that could arise from its implementation.

Particular concern is raised around the "distances specified" (section 3.2.1.1 of the Environmental Assessment Code), which refers directly to the "*Draft Bushfire Protection for Existing Development document, Appendix 1 – APZ Tables for Existing Development*". The distances derived from these tables are large and comparable to "Planning for Bush Fire Protection". These distances fail to take into account the costs, environmental impacts and practicalities of doing this work and then maintaining it in the long term.

Establishing and maintaining APZ's (even up to 10 metres from the boundary) in areas of existing development is a substantial challenge to Local Government due consideration of topography, the presence of open water or saturated soils. Application of the guide in conditions such as a nursing home next to a wetland with a small downslope could require an APZ some 10 times the amount required around bushfire infrastructure. The impact on the natural environment and social impacts from such significant clearing do not support this activity, and it is strongly recommended these provisions be reviewed to recognise the vital importance of natural assets in the community, the social value they provide and the extreme cost burden on local government to create and maintain new APZs for existing infrastructure and developments.

The "*Draft Bushfire Code for Existing Development*" document identifies that "*90% of homes are lost to ember attack, not direct flame contact and not radiant heat*". This indicates that focusing on the establishment of large APZs are not the most effective strategy overall for

reducing risk. At a public policy level the relative level of cost-benefit and the environmental impact-benefit of a range of mitigation strategies (e.g. retrofitting of buildings, insurance subsidies and pre-incident plans) in reducing risk need to be considered. In contrast, focusing predominantly on large APZ's will guarantee cost shifting to bushland owners (in many cases local councils), major environmental impacts, a reduction in shared responsibility and a false sense of preparedness, outcomes that are not consistent with the objectives of the "National Strategy for Disaster Resilience" (2011).

Given that the draft Environmental Assessment Code heavily references the "Draft Bushfire Protection for Existing Development" (Section 3.2), in effect giving it the status of a Regulation (due to references to the "Code" in s100 of the *Rural Fires Act 1997*), combined with the significant implications on land clearing and very large costs to Council land managers that would arise from its implementation, it is strongly recommended that a separate consultation process with specific engagement with local government on the "Draft Bushfire Protection for Existing Development" be undertaken prior to completing and publishing a finalised Code.

Recommendation

That separate and extensive consultation with local government occur specifically on the "Draft Bushfire Protection for Existing Development" prior to the Draft Code being completed and published due to the significant environmental, social and economic impacts that would be created through its implementation.

17. Draft Bushfire Protection for New Development - Distances for Asset Protection Zones

Given the changed APZ distances included in the Code, there is a requirement for Local Government, through their responsibilities under s79C of the *Environmental Planning and Assessment Act 1995*, to reject developments that may otherwise provide appropriate social and economic services to a community, when they consider the environmental and social implications of the excessive clearing that the Code requires for APZs.

Recommendation

It is recommended additional consultation with Local Government be undertaken to fully engage on the development of APZ distances that are suitable to address the Hard Reduction goals of the RFS and the social, environmental and economic responsibilities that Local Government are required to manage under the controls of the Local Government Act.

18. Draft Bushfire Protection for Existing Development - Short Fire Run Calculations

The concept of using "short fire run calculations" to modify APZ distances is supported, as it allows for significant reductions in APZ's for linear corridors of vegetation and smaller bushland areas. However this method is only mentioned once in the document (Section 3.2 – Undertake Site Assessment), and the Draft Short Fire Guideline was released during the short consultation extension period and has not been effectively communicated. Insufficient time was available by Local Councils to adequately consider this Guideline in the context of the Code.

Recommendation

That greater clarification be provided in the document (or as a policy position of the Rural Fire Service) around the application of short fire run calculations.

19. Draft Fire and Weed Management Guidelines for the Bushfire Environmental Assessment Code

Provided as a supporting guideline to accompany the Bushfire Code, the purpose of this document is to “ensure that appropriate measures are undertaken when using fire to manage the bushfire risk posed by weeds”. What the current draft does not do however, is include a focus on ensuring the spread of weeds is not exacerbated by the implementation of hazard reduction activities. This is a key limitation, as the establishment of APZ’s, clearing and burning activities, and the movement of machinery will all contribute to the establishment and spread of weed species. However, there are a range of activities that can be implemented when planning and implementing hazard reduction works (e.g. vehicle hygiene, targeted control works etc.) that can reduce the potential for this to occur.

Recommendation

That the focus of this document be broadened to focus on strategies / requirements that protect against the spread of weeds through appropriate management and mitigation activities (as would be required for all other Activities undertaken and managed by the Environmental Planning and Assessment Act and Biosecurity Act).

20. Training

The need for officer training on application of the revised Code and accompanying documents has been identified by Councils. This could potentially occur as part of an overall training module on the incoming Guardian Fire Risk management System that is planned to replace BRIMS.

Recommendation

That the Rural Fire Service design and deliver a training module for local government staff on application of the revised environmental assessment code and accompanying documents.

21. Links to “Guardian” Fire Risk Management System

The design and application of the “Guardian” Fire Risk Management System by the Rural Fire Service may provide opportunities for creating workflows for many of the processes and decisions required when applying the Environmental Assessment Code and accompanying documents. This includes the ability (as currently occurs with the existing BRIMS system) to easily identify the applicability of the code (e.g. identifying whether land is excluded from the Code), or to access and impose standard conditions. The opportunity to incorporate built in calculators within Guardian (e.g. for the determination of APZ widths) would also be of significant benefit.

Recommendation

That the Rural Fire Service, when designing and introducing the Guardian system, integrate workflows for many of the processes and decisions required by the Environmental Assessment Code and its accompanying documents.