

CLAUSE NOTES

Fire Service Amendment Bill 2012

Clause 1: Short Title

Clause 1 is a formal provision specifying the title of the proposed Act.

Fire Service Amendment Act 2012

Clause 2: Commencement

Clause 2 is a formal provision specifying that the Bill will commence on the day it receives Royal Assent.

Clause 3: Principal Act

Clause 3 identifies that the amendments contained in the Bill relate to the *Fire Service Act 1979* (the Act).

Clause 4: Section 3 amended (Interpretation)

Clause 4 amends section 3 (interpretation of Part 1) of the Act as follows:

Subclause (a) inserts a definition of 'fire management'.

fire management means a strategic defined program to manage bushfire fuels.

Subclause (b) omits "fire management area" in lower case from the definition of *Fire Management Area* and substitutes it with "Fire Management Area" in upper case.

Subclause (c) omits the definitions of *Special Fire Area* and *Special Fire Area Committee*.

Subclause (d) omits “volunteer.” with a full stop from the definition of *volunteer member* and substitutes “volunteer;” with a semicolon.

Subclause (e) inserts two definitions – ‘Wellington Park’ and ‘Wellington Park Management Trust’.

Wellington Park has the same meaning as in the *Wellington Park Act 1993*.

Wellington Park Management Trust means the Trust established under section 9 of the *Wellington Park Act 1993*.

Clause 5: Section 8 amended (Functions and powers of Commission)

Clause 5 amends section 8 of the Act:

Subclause (a) omits section 8(1A). The training of officers and firefighters is called up in Section 10(2)(b) of the Act and there does not need to be a specific reference to hazard reduction burning as in Section 8(1A).

Subclause (a) omits subsections 8(2) and 8(3) of the Act. Previously these functions were carried out by the Commission. The Council will have responsibility for Fire Management Area Committee fire protection plans and the review of those plans on an annual basis.

Subclause (b) omits from subsection (6) the word “must” and substitutes it for “is to”.

Subclause (c) inserts a subsection after subsection (6). Subsection (7) defines the responsibilities of the Commission in relation to reserved land as defined in the *Nature Conservation Act 2002* and the *National Parks and Reserves Act 2002*. The Commission must also take into consideration any management plan that is in place for the reserved land.

Clause 6: Section 15 amended (Functions of Council)

Clause 6 amends section 15 of the Act:

Subclause (a) omits “The Council” and adds a new subsection to Section (15) that will be identified as subsection “(1) The Council”.

Subclause (b) omits the word “extinguishment” from paragraph (c) and substitutes it for “mitigation”. The Council is not responsible for the extinguishment of bushfires. The Council has a shared responsibility in relation to identifying strategic bushfire risks throughout the State and mitigating the risk of bushfires.

Subclause (c) omits the word “extinguishment” from paragraph (d) and substitutes it for “mitigation”. The Council does not have a responsibility for the extinguishment of bushfires.

Subclause (d) omits “Commission.” from paragraph (e) and substitutes it for “Commission prepared under section 107G;”

The Council must prepare a report to be inserted in the Commissions annual report called up under section 107G of the Act.

Subclause (e) inserts a new paragraph for the Council to provide an annual report to the Commission on the activities of Fire Management Area Committees. This report will be provided for inclusion in the Commissions annual report.

Subclause (f)(2) inserts a new subsection 2(a) and (b).

2 (a) requires the Council to consider each fire protection plan submitted to it pursuant to section 20(1)(c) of the Act.

2 (b) The Council may approve the plan or approve the plan subject to any modifications as it thinks fit.

Subclause (f)(2)(c) requires the Council to reject a fire protection plan and to instruct a Committee to recast the plan should it be deficient.

Subclause (f)(3) inserts a new subsection that instructs the Council to perform its functions in respect of Wellington Park in a manner that is consistent with the purposes for which Wellington Park is set aside under the *Wellington Park Act 1993* and consistent with any management plan in force in respect of Wellington Park.

Subclause (f)(4) inserts a new subsection that instructs the Council to perform its functions in respect of reserved land in a manner that is consistent with the purposes for which the reserved land is set aside under the *Nature Conservation Act 2002* and the *National Parks and Reserves Management Act 2002* and consistent with any management plan in force in respect of the reserved land.

Clause 7: Section 17 amended (Fire Management Areas)

Clause 7 amends section 17 of the Act. Subsections (1) and (2) are omitted and substituted for the following subsections;

Subclause (1) by omitting subsection (1) and substituting it to enable the Council to publish in the *Gazette* a notice declaring any area of the State a Fire Management Area.

Subclause (2)(a) enables the Council, by notice, to assign a suitable name to the Fire Management Area that the Council thinks fit. This name may reflect the demographic or topographic area that the Fire Management Area is located.

Subclause (2)(b) enables the Council, by notice, to publish a map of the Fire Management Area.

Clause 8: Section 18 amended (Fire Management Area Committees)

Clause 8 amends section 18 of the Act to enable the Council to establish Fire Management Area Committees.

Subclause (a) omits reference in subsection (1) to the "Commission" and substitutes it for the "Council". Fire Management Area Committees will now report to the Council.

Subclause (b) omits paragraph (b) from subsection (2) and substitutes it with a paragraph enabling each local council, which municipal area lies either wholly or partly within the fire management area, to have a representative on the fire management area committee. Or, those councils which municipal area lies either wholly or partly within the fire management area can jointly nominate a single person to

represent the councils as a collective on the fire management area committee.

Subclause (c) omits paragraph (e) from subsection (2) and substitutes the following sub subsections (e) and (f);

Sub subsection (e) if any part of Wellington Park is within the Fire Management Area, the Committee will include a person nominated by the Wellington Park Management Trust.

Sub subsection (f) where a brigade boundary is wholly or partly within the fire management area, a single person jointly nominated by the brigade chiefs of those brigades is to be nominated to represent those brigades on the fire management area committee.

Subclause (d) omits from subsection (3) the word "Commission" and substitutes it for "Council".

Subclause (e) omits from subsection (4) the word "Commission" and substitutes it for "Council".

Subclause (f) omits from subsection (7) the word "Commission" and substitutes it for "Council".

Clause 9: Section 20 substituted

Clause 9 repeals section 20 of the Act and substitutes it with the following section; **20. Functions and powers of Fire Management Area Committees.** And, adds Section 21 to the Act, **Directions in relation to Fire Management Areas.**

Subclause (1) establishes certain functions on the Committee;

Subclause (1)(a) requires a fire management area committee to coordinate fire management activities within its Fire Management Area and those activities are to include:

- (i) community education and information; and
- (ii) bushfire fuel management.

Subclause (1)(b) requires a committee to identify and assess the community bushfire risks within the fire management area and to prioritise works to mitigate the risks identified.

Subclause (1)(c) requires the committee to prepare a fire protection plan for its fire management area and then submit that plan for approval by the Council no later than 30 September of that year. The plan must be prepared for the next 12 months commencing on 1 October of that year.

Subclause (1)(d) stipulates that a Committees fire protection plan must be consistent and integrated with:

- (i) the State Fire Protection Plan;
- (ii) State vegetation fire management policy; and
- (iii) any instructions or guidelines that the Council may from time to time issue to the Committee regarding the fire protection plan.

Subclause (1)(e) requires the Committee to provide advice to the Council on fire management issues and any other function that the Council may refer to the Committee.

Subclause (1)(f) requires the Committee to advise the Council on such matters concerning fire management, that in the opinion of the Committee, should be brought to the Council's attention.

Subclause (1)(g) requires a Committee to perform such other functions relating to the prevention or mitigation of vegetation fires as the Council may direct.

Subclause (2) provides a Committee with the power to do all things necessary or convenient to be done in connection with the performance of its functions.

Subclause (3) directs a Committee to perform its functions in respect of Wellington Park in a manner that is consistent with any purpose for which Wellington Park is set aside under the *Wellington Park Act 1993* and also to be consistent with any management plan in force in respect of Wellington Park.

Subclause (4) directs a Committee to perform its functions in respect of any reserved land in a manner that is consistent with the purpose for which the reserved land was set aside under the *National Parks and Reserves Management Act 2002* and *National Parks and Reserves Act 2002* and also consistent with any management plan that is in place in respect of the reserved land.

Subclause (5) inserts a definition of *fire protection plan* to clarify that all references to fire protection plan are in relation to the prevention, preparation, response and recovery arrangements for that fire protection plan.

Fire protection plan means a plan that describes the prevention, preparation, response and recovery arrangements for one or more hazards.

Clause 9:21. Directions in relation to Fire Management Areas

Clause 9 adds Section 21 to the Act.

Subsection (1) is inserted to provide powers to the Commission to direct the Council in writing in relation to the performance of the Council's functions in managing Fire Management Areas.

Subsection (2) is inserted to direct the Council to comply with any directions given by the Commission relating to subsection (1)

Subsection (3) is inserted to enable the Council to give directions to Committee's relating to their performance of the Committee's functions and management of the Fire Management Area.

Subsection (4) is inserted to direct Committee's to comply with any directions given by the Council under subsection (3).

Clause 10: Sections 54 and 55 repealed

Sections 54 and 55 of the Principal Act are repealed.

Clause 11: Section 65 amended (Fire permit officers)

Clause 11 amends section 65 of the Act.

Subclause (a) is amended by omitting from subsection (1) reference to the "Commission" and changing it to refer to the "Council". The Council will now appoint fire permit officers.

Subclause (b) is amended by omitting from subsection (4)(b) reference to the "Commission" and changing it to refer to the "Council". The Council will now appoint fire permit officers.

Subsection (c) is amended by inserting two new subsections after subsection (4) that are identified as subsection (5) and (6).

Subsection (5) is inserted to establish fire permit officers appointed by the Commission prior to the commencement of this Bill are recognised as being appointed by the Council. On the same terms and conditions as they were appointed by the Commission.

Subsection (6) is inserted to define the commencement day as meaning the day the *Fire Service Amendment Bill 2012* commences.

Clause 12: Section 65B amended (Public notice of appointment, &c.)

Clause 12 amends Section 65B of the Act.

Subclause (a) is amended by omitting from subsection (1) reference to the "Commission" and changing it to refer to the "Council". The Council may notify by public notice in the *Gazette* or any newspaper the appointment of a permit officer.

Subclause (b) is amended by omitting from subsection (2) reference to the "Commission" and changing it to refer to the "Council". The Council may place any information in any public notice as stimulated in subsection (1) as the Council considers necessary in the public interest.

Clause 13: Section 105 amended (Expenses of Council and Committees)

Clause 13 amends Section 105 of the Act.

Subclause (a) omits the word “Advisory” as this specifically refers to “the Council” being the State Fire Management Council in the interpretation of the Act.

Subclause (b) Omits the words “Fire Management Area and Special Fire Area Committees” and substitutes it for “and Fire Management Area Committees”. Special Fire Areas will no longer exist after the commencement of this Bill.

Clause 14: Schedule 5A amended (Savings and transitional Provisions)

Clause 14 amends the Act by removing clauses 6 and 7 from Schedule 5A. These clauses specifically refer to Special Fire Areas and Hobart Special Fire Area. These will no longer exist after this amendment Bill has commenced.

Clause 15: Repeal of Act

Clause 15 is a standard provision included in Bills to enable the automatic repeal of amendment Acts.

Clause 16 repeals this Act three hundred and sixty five days from its commencement.