

**ENVIRONMENT PROTECTION (FIRE HAZARD REDUCTION)
AMENDMENT BILL 2005**

EXPLANATORY STATEMENT

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Overview

This Bill amends the *Environment Protection Act 1998* (ACT) as it relates to the authorisation and conduct of bushfire fuel hazard reduction burns that are a prescribed activity pursuant to section 30 of schedule 1 of the Act.

At present there are a series of complex guidelines and legislative requirements governing the conduct of hazard reduction burns in the ACT. Approvals are required under the *Environmental Protection Act* and must comply with smoke management guidelines for hazard reduction burns. The practical consequence of these current guidelines is that hazard reduction burns cannot proceed when there will be smoke drift over the residential parts of Canberra. The current requirements and policies relating to smoke pollution and smoke drift could excessively inhibit the conduct of such burns, leading to essential bushfire fuel mitigation work being postponed or cancelled.

The proposed new sections to the Act will ensure the Act enables the imperative to conduct burns in the limited amount of time or “windows” available to conduct such burns, and the associated mitigation in the threat of bushfire, will prevail over concerns about inconvenience caused to the community by smoke pollution.

Summary of Clauses

Clause 1 – Name of Act – This Act is the *Environment Protection (Fire Hazard Reduction) Amendment Act 2005*.

Clause 2 – Commencement – This clause provides that this Act commences on the day after its notification day.

Clause 3 – Legislation Amended – This Act amends the *Environment Protection Act 1997*.

Clause 4 - New Section 51A – Sections 49 and 51 of the *Environment Protection Act 1997* (ACT) provides that an approval to conduct prescribed activities, such as hazard

reduction burns, may be subject to conditions. The proposed new section 51A will have the effect of ensuring that the applicant does not take into account smoke pollution or smoke drift that may be caused by the burn, irrespective of any conditions attaching to the burn.

The limitation on the applicant taking into account smoke pollution or smoke drift in deciding whether to proceed with an authorised burn is subject to limitations. A hazard reduction burn may not be proceeded with on account of smoke pollution if the applicant reasonably believes that there is a substantial risk that the smoke pollution will harm the public. So if, for example, the applicant reasonably believed that smoke pollution caused by the burn may interfere with the visibility of planes landing at the airport which would be dangerous, they may decide not to proceed with the burn.

Section 51A(4) provides that there is substantial risk of harm to the public if there is a substantial risk of inflaming respiratory conditions.

Clause 5 – This clause amends Section 61 of the Act

Clause 6 - New section 61(2) - Section 61 currently provides a number of factors that the Environment Protection Authority must consider when deciding whether or not to approve a prescribed activity such as hazard reduction burns. The amendments would ensure that when the applicant is a territory land manager or the Chief Officer of the fire brigade or the rural fire service applying for approval to conduct a hazard reduction burn, the authority must not consider smoke pollution when deciding whether or not to give approval for the burn.