



## NORTHERN RIVERS FIRE AND BIODIVERSITY CONSORTIUM

Native Vegetation Regulation Review  
Conservation Policy and Strategy Section  
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### **Submission to the draft *Native Vegetation Regulation 2012***

The Northern Rivers Fire and Biodiversity Consortium (NRFBC) is a network of land managers and stakeholders seeking a coordinated and landscape level approach to fire management for biodiversity across the north-east region of NSW.

The NRFBC promotes a collaborative and practical approach to sustainable fire management across landscapes, for healthy ecological and social communities. Through adaptive fire management actions and strategies the Consortium aims to empower communities to improve their understanding of and participation in sustainable fire management practices for biodiversity conservation, whilst also recognising the importance of protecting life and property.

Since its establishment in August 2011, the Consortium has become involved in on-ground projects that involve ecological fire management, such as the protection and enhancement of Eastern Bristle-bird habitat, the management of forests to control the spread of Bell Miner Associated Dieback, and the protection from fire of isolated Koala populations. Recognizing that fire is a natural part of many of the ecosystems in NSW, and is often a key driver in maintaining biodiversity over time, we understand that prescribed fire can be important in achieving specific ecological objectives in pre-identified areas of native vegetation. Using best available scientific knowledge, fire can be used as one of the tools to manage for particular plant species, vegetation communities, native animal habitat, key threatening processes or invasive species.

### **Current Situation**

Historically fire management in NSW has focused primarily on managing wildfires and protecting human life and assets across the landscape. However, inappropriate fire regimes (mostly too frequent or too infrequent) are now also recognized as potentially threatening to the

conservation of biodiversity. Highlighting the increased recognition of the importance of fire as a driver for biodiversity, a nomination for the key threatening process 'Fire regimes that cause biodiversity decline', is currently being assessed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

In NSW the Bush Fire Environmental Assessment Code 2006 (BFEAC) provides the basis for the environmental assessment of fire management activities undertaken for hazard reduction purposes. The BFEAC is designed to streamline the environmental approval process while providing due consideration to measures to prevent or minimise environmental impact, and to address safety issues. This is achieved by the issuing of Hazard Reduction Certificates. However, burning for bush regeneration or ecological purposes are activities specifically excluded from assessment under the BFEAC.

So although the BFEAC provides a mechanism for assessing hazard reduction burns, and recognizes that the inappropriate use of fire can have detrimental impacts for biodiversity, it is not structured to take into account the critical role of fire as a driver for maintaining and/or enhancing biodiversity conservation. Burns initiated specifically to achieve conservation outcomes e.g. to benefit threatened species, manage pest plant species or mitigate against degradation of ecosystems, need to be assessed in accordance with the requirements of those authorities responsible for the administration of legislation governing management of those matters.

However, prescribed burns undertaken primarily for ecological reasons often fall within the Code guidelines i.e. the burn prescription meets or can be modified to meet the standards for burning in appropriately zoned areas, and meet all the requirements under the Code. In these situations, the BFEAC has often been used as the vehicle for environmental assessment of burns undertaken primarily for ecological purposes, provided they can also be shown to provide hazard reduction benefits.

For burns assessed under the BFEAC a Hazard Reduction Certificate is issued to landholders by the NSW Rural Fire Service, often with environmental conditions included. Provided the conditions of the Certificate are complied with, it provides the landholder with protection from liability under a suite of environmental laws.

### **Proposed Ecological Fire Management under the draft *Native Vegetation Regulation 2012***

Under Clause 35 of the draft *Native Vegetation Regulation 2012* an Environmental Works Routine Agricultural Management Activity (RAMA) has been created. The kinds of works that may be undertaken under this RAMA include ecological fire management. The conditions under which clearing of native vegetation for the purpose of environmental works can be undertaken are to be specified in a Code of Practice approved by the Minister for the Environment.

Under this RAMA clearing is exempt from approval under the *Native Vegetation Act 2003* and can be undertaken without requiring approval from the relevant CMA. This only grants exemption for matters captured under the *Native Vegetation Act 2003*. Other legislative requirements would need to be appropriately dealt with by the proposed Code of Practice, setting out the circumstances in which landholders may undertake environmental works in the area to which the Code applies.

The Code of Practice that needs to be prepared for ecological fire management should this RAMA be included in the final Regulation would need to address the matters detailed in the Bush Fire Environmental Assessment Code. Otherwise, there is the potential that some landholders will incorrectly use the Environmental Works RAMA.

### **Northern Rivers Fire & Biodiversity Consortium position**

The NRFBC has significant concerns with the application of Clause 35 of the draft Regulation, particularly in regard to its potential use for purposes which are not for ecological fire management. There are also concerns that the level of compliance management it is subjected to will be inadequate. We strongly oppose the inclusion of any Environmental Works RAMA that is not supported by a Code of Practice with strong compliance provisions in place that are supported by effective penalty provisions.

Only a small percentage of landholders are seeking to implement burns for genuine ecological fire management purposes. Understanding what is required to undertake appropriate ecological burning is complex, and is generally undertaken with considerable input by officers from relevant land management agencies. Landholders seeking to undertake burning for authentic ecological benefits are likely to continue to seek assistance in designing and planning prescribed burns. Ecological burns proposed and undertaken under a RAMA should be required to satisfy scientifically based guidelines under any Code of Practice.

However, the NRFBC considers that current processes exist that are able to manage assessment of the majority of burns involving native vegetation. Burning of native vegetation in the vicinity of built assets is often for hazard reduction purposes and assessed under the BFEAC. However, burning of considerable areas of native vegetation occurs which is not specifically for hazard reduction purposes. We propose that all burns which fall within its scope be assessed under the BFEAC, including those burns which are primarily for ecological fire management. This would enable a single assessment pathway for most burn proposals, regardless of the purpose of the burn.

For that minority of genuine ecological management burns which are unable to satisfy assessment under the BFEAC e.g. burns which are outside specified fire frequency thresholds or which do not satisfy all threatened species requirements, there should be a separate process requiring approval.

Our preference for assessment of this small number of ecological burns is Clause 19 in the draft Regulation. Under Clause 19 the Minister is able to approve a policy providing exemption from assessment under the Assessment Methodology for broad-scale clearing undertaken for conservation purposes or long-term environmental benefits. The NRFBC proposes that a policy be prepared exempting genuine ecological burns which are unable to be undertaken under the BFEAC. Ecological fire management must be clearly defined. The policy should set out the circumstances in which burning of native vegetation can take place to achieve long term environmental benefits, providing legitimacy to such activities. Ecological burns proposed under such a policy would require consultation with relevant land management agencies and need to be supported by sound scientific advice from OEH.

It is essential that appropriate resources are given to resolution of the ecological fire management issue. In particular, should the uncertain RAMA pathway be adopted, appropriate expertise and resources must be committed to the development of a Code of Practice and to the critical steps of identifying the thresholds beyond which the Code of Practice / RAMA cannot be used; and for identifying the appropriate approval pathway for proposals that fall outside the Code of Practice. Additional resources and expertise would also be required to ensure a quality extension role capacity, an ability to undertake additional assessments, and a capacity to manage compliance roles.

Thank you for taking the time to consider our submission. If you require any further information, please contact me on 02 6585 6743 or email: [gbanks@nccnsw.org.au](mailto:gbanks@nccnsw.org.au).

Yours Sincerely

A handwritten signature in black ink, appearing to read "G. Banks". The signature is written in a cursive style with a large initial "G" and "B".

Greg Banks  
Coordinator  
Northern Rivers Fire and Biodiversity Consortium