



NSW RURAL FIRE SERVICE



Director Industry and Infrastructure Policy
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

Submission on Infrastructure SEPP Review

Thank you for the opportunity to comment on the *Public Consultation Draft – State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016* (draft SEPP).

NSW Rural Fire Service (NSW RFS) would like to take this opportunity to request relatively minor amendments to *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) as part of this review, as well as introduce a proposal for further, more significant amendments as part of the next review of the ISEPP. It is understood that there is an opportunity for the next review and amendments of the ISEPP to occur in late 2017.

This submission is structured as follows:

1. Request for relatively minor amendments to the ISEPP, comprising inclusion of additional exempt development provisions in Division 6, Clause 48A of the ISEPP; and
2. Identification of potentially more significant amendments to the ISEPP for consideration as part of the subsequent review, comprising the provision of complying development for RFS in Division 6 of the ISEPP, as well as changes to existing Part 5 provisions and prescribed zones in this division.

In this submission all NSW RFS facilities are referred to as emergency services facilities. It is noted that NSW RFS facilities may include, but are not necessarily limited to, Brigade Stations, Fire Control Centres, Logistics Storage, Training Grounds and radio/pager sites.



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1. Proposed Amendments for Current Review

NSW RFS would like to request that the following works be included in Division 6, Clause 48A of the ISEPP as exempt development:

Proposed Development Purpose	Proposed Development Standards	Rationale/Comment
New hard surface driveway aprons/new driveways	<ul style="list-style-type: none">Must be located within an existing emergency services facility; andMust comply with clause 20	<p>It is noted that landscaping (including paving and turfing and access tracks) carried out in conjunction with other development which is exempt under the ISEPP.</p> <p>However, NSW RFS would like to undertake development for the purpose of new hard surface driveway aprons/new driveways as exempt development independently from any other exempt development.</p> <p>This is considered to be a fairly minor alteration to existing emergency services facilities if constructed within an existing facility. It is intended for this clause to be used for hard surfacing areas where vehicle movements are currently undertaken within a site, and in many situations will result in improved land management (by minimising erosions and assisting in managing run-off). Construction would be appropriate for use by heavy vehicles.</p> <p>If any such works are located in a road reserve, approval under Section 138 of the <i>Roads Act 1993</i> would apply.</p>

Proposed Development Purpose	Proposed Development Standards	Rationale/Comment
Hose drying facility (racks or poles)	<ul style="list-style-type: none"> Must be located within an existing emergency services facility; and Must comply with clause 20 	<p>These items are considered fairly minor additions to existing emergency services facilities and are likely to have minimal environmental impact if installed within an existing facility.</p> <p>The largest rack installed at an emergency services facility (eg fire station) would be 15 m x 1.5 m and between 0.5 m and 1.5 m high. The maximum pole height would be 20m. Hose drying racks are the preferred option, however where they cannot be utilised due to site constraints, hose drying poles are the alternative solution.</p>
Backup generator	<ul style="list-style-type: none"> Must be located within an existing emergency services facility; and Must comply with clause 20 	<p>This item is considered to be a minor addition to an emergency services facility and is likely to have minimal environmental impact if installed within an existing facility.</p> <p>The generator size would be no more than 3.5m long, 2m wide and 2.5m high and would be diesel powered. It would be located on a small slab adjacent to the existing building.</p> <p>As a backup generator it would only generate noise occasionally (when there are mains power supply interruptions) and therefore is not considered to need a merit assessment for noise impacts, consistent with the NSW Industrial Noise Policy (EPA, 1999).</p>

Proposed Development Purpose	Proposed Development Standards	Rationale/Comment
Toilets (prefabricated and freestanding)	<ul style="list-style-type: none"> • Must be located within an existing emergency services facility; and • Must be connected to Council's sewerage system or an on-site sewerage system (septic tank and absorption trench system, aerated wastewater treatment system or pump out system); and • Must comply with clause 20 	<p>There is a need to provide toilet facilities at all emergency services facilities. Due to the nature of some existing facilities (essentially shed-type structures), their intermittent use and the volume of stations (more than 2000) across the NSW, this may be most efficiently achieved by provisions of a prefabricated and freestanding toilet structure.</p> <p>A small prefabricated and freestanding toilet structure is considered to be a minor addition to an emergency services facility and is likely to have minimal environmental impact if installed within an existing facility and to the manufacturer's specifications.</p>

Proposed Development Purpose	Proposed Development Standards	Rationale/Comment
<p>Onsite sewage system</p> <p>Applies to septic tank and absorption trench system, aerated wastewater treatment system or pump out system only</p>	<ul style="list-style-type: none"> • Must be located within an existing emergency services facility; and • Must comply with clause 20; and • Only applicable where a connection is not available to Council's sewerage system; and • Must comply with "Environment & Health Protection Guidelines "On-Site Sewage Management for Single Households"; and • Must not be located on flood prone land or within 40 metres from the top of an embankment for a river or creek. 	<p>This item is considered to be a minor addition to an emergency services facility and is likely to have minimal environmental impact, if located within an existing facility and the development standards are met.</p> <p>Such works would require a licence under Section 68 of the <i>Local Government Act 1993</i>.</p>



2. Potential Amendments for Subsequent Review

NSW RFS would like to request that future amendments be considered for Division 6 of the ISEPP, specifically for development for an emergency services facility by or on behalf of NSW RFS. In summary, these amendments comprise:

1. Removal of Part 5 provisions currently available for development for the purpose of emergency services facilities undertaken by or on behalf of NSW RFS, under Clause 48(2); and
2. Introduction of complying development provisions for specified development for the purpose of emergency services facilities undertaken by or on behalf of NSW RFS, under Division 6; and
3. Addition of R5 Large Lot Residential as a prescribed zone under Clause 46 and removal of this zone from Clause 47(2).

Background

Under Section 7 of the *Rural Fires Act 1997*, a Local Authority (Local Councils or the Western Lands Commissioner in the Unincorporated Area) holds the authority for prevention, mitigation and suppression of bushfires. This responsibility is then delegated to the NSW RFS through Section 12A of the *Rural Fires Act 1997* and the associated Service Agreement.

Under Section 119 of the *Rural Fires Act 1997*, all NSW RFS buildings and other firefighting assets are vested with the Local Council and are located on land that is under the Local Council's control. NSW RFS does not own any land and are subject to Local Council requirements through 'owners consent' of the land. Local Councils are therefore the asset owner and therefore undertake building works on behalf of/for NSW RFS use, and are often responsible for obtaining approval via the appropriate development approval pathway.

NSW RFS is unique in its delivery of emergency services in that emergency services facilities (particularly fire stations) are required to be located close to member's residences and/or close to their employment so that the time between callout and arrival at the emergency services facility are minimised and the consequently the arrival time to at the incident is also minimised. This means that there are over 2000 emergency services facilities (many very small shed-style facilities) across NSW that need to be located in or immediately adjacent to a very large number of small village communities. There is also a minimum standard of facilities which are needed to be provided for volunteers and to accommodate modern firefighting equipment, with many stations across NSW not compliant with these standards.

Current Issues

NSW RFS has identified that the implementation of the planning approval process for emergency services facility developments vary across Local Government Areas within NSW, resulting in inconsistencies across their Regions in relation to approvals/consents required by a local Council. Furthermore, the DA process in general has been identified as a time consuming and costly process.

It is our understanding that there is a state wide aim to decrease, where considered appropriate, the workload demands on local Councils and streamline processes for approvals via exempt or complying development pathways. Both the Part 4 development application approach and the Part 5 assessment approach which are currently applicable to emergency services development are often overly onerous, time consuming and resource intensive for local Councils. Therefore, where works meet the standardised pre-determined criteria, it is considered that a complying development approach is a feasible and practical pathway.

Rationale for Amendments

Despite being a public authority within NSW, NSW RFS has a unique relationship with Councils in the development and management of emergency services facilities, as detailed above. The approach outlined in the table below is intended to streamline the current approvals process to allow emergency services facilities to be delivered more efficiently where considered appropriate and feasible.

NSW RFS has relatively recently become a State Government entity (since 2001) and previous to this Fire Control staff and Rural Fire Brigades were under the control of local Councils. The NSW RFS will develop Policies and Service Standards to ensure that the close working relationship with local Councils is retained despite any amendments to planning approvals pathways.

Current Relevant Provisions	Proposed Amendment	Rationale/Comment
<p>Development permitted without consent, Clause 48(2):</p> <p><i>Development for any of the following purposes may be carried out by or on behalf of an emergency services organisation without consent on any land...</i></p>	<p>Development permitted without consent, Clause 48(2):</p> <p><i>Development for any of the following purposes may be carried out by or on behalf of an emergency services organisation (other than the NSW Rural Fire Service) without consent on any land...</i></p>	<p>Local Councils are the asset owner and therefore undertake building works on behalf of for NSW RFS use, and are often responsible for obtaining approval via the appropriate development approval pathway. NSW RFS understands that the Part 5 provisions of the ISEPP currently applicable to NSW RFS development may not be applied consistently across NSW by either NSW RFS or local Councils.</p> <p>NSW RFS considers that it, as a public authority, does not currently have the appropriate resources across NSW to oversee/ regulate the implementation of development without consent provisions for emergency services facilities it utilises. This is of particular importance given that the current draft amendments propose the removal of the requirement for alterations and additional to be "minor", potentially significantly increase the amount of NSW RFS development that may be permissible without consent.</p> <p>As NSW RFS wish to utilise complying development provisions for the reasons outlined below, it is proposed that NSW RFS be exempted from all Part 5 provisions, and that complying development provisions be included in the ISEPP instead. This must be undertaken simultaneously to avoid an interim period where NSW RFS is required to submit DAs for all non-exempt development (ie if NSW RFS is exempted from Part 5 provisions before complying development provisions are put in place). This is proposed on the basis that development which is permitted without consent cannot be complying development.</p>
<p>Complying development – no current provisions</p>	<p>Development carried out by or on behalf of the NSW Rural Fire Services is complying development if the development consists of:</p> <ul style="list-style-type: none"> (a) New emergency services facilities in prescribed zones; or (b) Alterations and 	<p>Emergency services utilised by NSW RFS, particularly stations, often resemble sheds used for rural or industrial purposes, and their use can be intermittent depending on the level of risk in the local area. It is considered that appropriate complying development criteria can be applied to new emergency services facilities in prescribed zones, as they have been for other new industrial facilities (eg Part 5A of SEPP (Exempt and Complying Development Codes) 2008). For existing facilities, criteria related to boundary setbacks (eg 5m) and building height restrictions (eg 12m) are considered appropriate, in line with proposed complying development provisions for other infrastructure facilities (eg health services and education). It is also noted that complying development provisions are specifically provided for public</p>

Current Relevant Provisions	Proposed Amendment	Rationale/Comment
	additions to existing emergency services facilities	<p>authorities for development for the purpose of correctional centres.</p> <p>The inclusion of complying development provisions for emergency services facilities undertaken by or on behalf of NSW RFS would present the following benefits:</p> <ul style="list-style-type: none"> (c) Significantly streamline assessment processes and reduce assessment times/delays for projects that can be addressed with specified predetermined development standards within prescribed zones or within existing facilities. (d) Provide a more standardised approach to planning approvals for emergency services facility developments across all Local Government Areas within NSW (e) Reduce the workload demands on Local Councils who are often responsible for obtaining consent or undertaking environmental assessments for emergency services facilities on behalf of NSW RFS. (f) Adopting this approach will remove the third party rigour requirements for Local Councils through a codified consent process (ie remove the need for Councils to require third party review of their assessments of developments for emergency services facilities, given that Council is both land/asset owner and applicant).
<p>Prescribed zones, Clause 46 and 47(2):</p> <p>Zone R5 Large Lot Residential is not currently a prescribed zone but is listed as a zone for which consent is required for emergency services facilities</p>	<p>Prescribed zones, Clause 46 and 47(2):</p> <p>Include Zone R5 Large Lot Residential as a prescribed zone and remove it from the list of zones for which consent is required for emergency services facilities</p>	<p>NSW RFS has emergency services facilities (particularly fire stations) located in predominantly rural areas of NSW, including Zone 'R5 Large Lot Residential'. It is therefore considered appropriate that this zone be removed from Clause 47(2) of the ISEPP (where development is permitted with consent) and added to the "prescribed zones" list in Clause 46. If complying development is then included in the ISEPP for NSW RFS development in prescribed zones, complying development could be undertaken in this zone.</p> <p>It is considered that the impact of an emergency services facility on adjacent (large lot) residential development would be minimal due to the larger land sizes and would allow the stations to be built near the risk areas, allowing quicker responses for the protection of the community.</p>



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As previously acknowledged, we understand that our request for these additional, more significant amendments would most likely be considered within the subsequent review period. We look forward to being part of discussions as part of the ongoing review of the *State Environmental Planning Policy (Infrastructure) 2007*.

Please do not hesitate to contact me should you have any concerns or queries regarding this submission.

Yours Sincerely,


John Parnaby
Director, Assets & Infrastructure
NSW Rural Fire Service



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NSW RURAL FIRE SERVICE



Sabina Miller
NSW Department of Planning & Environment
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Sydney 2001

11 April 2017

Dear Sabina

SEPP Infrastructure 2017

I refer to your call for comments on the Infrastructure State Environmental Planning Policies Review April 2017. Thank you for the opportunity.

As discussed please find the NSW Rural Fire Service comments regarding the draft ISEPP on public exhibition.

Please note that although not commenced as yet, the *Rural Fires Amendment (Fire Trails) Bill 2016* needs to be considered.

Please also note that Fire Trail Standards once prepared will provide direction on a number of matters including fire trail dimensions and soil erosion mitigation.

1. Bush fire hazard reduction and fire trails

We note that:

1. the definition of bush fire hazard reduction is now linked to the *Rural Fires Act 1997*. This is supported.
2. The reference to Cl20(g) no longer applies to the maintenance of APZs or fire trails. This is supported.

However, as highlighted in our previous submission, the inclusion of 'fire trails' (within the *Rural Fires Act 1997*) definition of bush fire hazard reduction has an effect on the construct of the ISEPP which traditionally separated out bush fire hazard reduction and fire trails. It is important that the effect of this along with the introduction of the Amendment Bill is discussed to ensure appropriate provisions are constructed.

Clause 48(3) should be amended by removing 'or the construction of fire trails', to reflect that bush fire hazard reduction works are inclusive of fire trails.

- 48(3)(b) should be amended by deleting reference to a 'bush fire risk management plan' and instead reference a 'bush fire management plan and/or a designated or certified fire trail,' within the meaning of the *Rural Fires Act 1997*. And possibly delete 'that applies.....'

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This is because bush fire management plans will be of three types under S52 of the RF Act: bush fire risk management plans, fire access and fire trail plans, and operational plans. Fire trails are currently in bush fire risk management plans but will transition across to Fire Access and Fire Trail Plans. In addition Designated and Certified Fire Trails may occur but not necessarily be reflected in a Fire Access and Fire Trail Plan until such time as that Plan is updated.

Clause 48A should be amended to delete 'existing' from fire trails. Existing fire trails has a definition within the *Rural Fires Amendment (Fire Trails) Bill 2016*. And maintenance inherently implies that there is a fire trail in existence.

- CI 48A(1)(b) should delete reference to a 'bush fire risk management plan' and instead reference a 'bush fire management plan and/or a designated or certified fire trail,' within the meaning of the *Rural Fires Act 1997*.
- CI 48A(c) should be amended by replacing reference to – '.....fire trail Register.....' with – 'the development must be in accordance with the Fire Trail Standards under the RF Act'. And deleting reference to gates etc from this sub-clause.
- CI 48A(d) should be amended by deleting reference to gates etc from this sub-clause.

Clause 48B should be amended by:

- CI 48B(2) should be amended by inserting 'other than fire trails' after bush fire hazard reduction work, as this provision has been designed around asset protection zones.
- CI 48B(3) should be amended by deleting reference to a 'bush fire risk management plan' and instead reference a 'bush fire management plan and/or a designated or certified fire trail,' within the meaning of the *Rural Fires Act 1997*.
- CI 48B(3)(b) should be amended by deleting this sub-clause and replacing with 'the development must be in accordance with the Fire Trail Standards under the RF Act'.

Possible consideration of gates, as per exempt development.

Clause 46 should be amended by deleting reference to 'Bush Fire Management Committee' in the definitions.

SEPP 14 provisions

This position is supported through previous cabinet submissions regarding the Coastal Management SEPP.

It is also important that any consequential amendments arising from the *Coastal Management Act* and associated SEPP are appropriately reflected in the ISEPP. The critical issue is for the ISEPP to retain its current application to SEPP 14 and not extend to incorporating the new coastal wetland proximity area.

As such reference should possibly be to 'land identified as coastal wetlands on the coastal wetlands area map'. The aim being to ensure that the proximity area is explicitly not captured.

2. Emergency Service Facilities

Please find attached submission detailing NSW RFS comments.

3. Development Control

There does not appear to be clear and obvious referencing for requirements for compliance with Planning for Bush Fire Protection (PBP) on bush fire prone land under the ISEPP (although there are some requirements they should be clear and unambiguous for all occupancies covered by the ISEPP). The legislative requirements for compliance with PBP should be clearly articulated (noting that in some cases the ISEPP stipulates only that PBP be considered and not explicitly complied with).

In addition, certain high risk facilities (on bushfire prone land) which ordinarily require a bush fire safety authority under 100B of the *Rural Fires Act 1997* should not be considered appropriate for development under the ISEPP unless a bush fire safety authority is obtained from the NSW Rural Fire service. This includes hospitals.

Please note also that it is envisaged that a new edition of *Planning for Bush Fire Protection* will be enacted later this year so there will be referencing details that will apply when it comes into effect.

Because of the complexities involved in addressing our comments we would be eager to meet with you soon hereafter to further discuss how they will be implemented.

Finally, it is requested that the NSW RFS be included in any future reviews or amendments to the State Environmental Planning Policies or other strategic matters.

If you have any questions regarding this please contact me on 8741 5445 or 0458 715 952.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'David Boverman', with a stylized flourish at the end.

David Boverman
Manager
Development Planning & Policy

