

**UNITED FIREFIGHTERS UNION
OF AUSTRALIA**



UFU Submission concerning Strategic Bushfire Management Plan: Version 4 Consultation Draft

The United Firefighters Union ACT Branch welcomes the opportunity to provide our views in response to the consultation draft.

Our views are of most relevant to Item 11 of the Consultation Draft “Integrated Bushfire Protection at the Urban Edge”. They concern 3 matters which relate to command and control arrangements in the event of a bushfire, grassfire or ember attack potentially having an impact on the Built Up Area. These are:

1. Command and Control Arrangements in the Bushfire Abatement Zone;
2. The methodology for determining the boundaries of the Built Up Area; and
3. The skills and competencies of personnel in pre-formed incident management teams.

Item 1: Command and Control in the Bushfire Abatement Zone

The Inquiry into the Operational Response to the January 2003 Bushfires in the ACT (“The McLeod Report”) made the following recommendations:

- A fire-abatement zone should be defined between the north-west and western perimeter of Canberra and the Murrumbidgee River and the foothills of the Brindabella Range.
- A set of Bushfire Protection Planning Principles in relation to fire mitigation and suppression should be adopted and applied to future developments in the designated abatement zone.
- The abatement zone should be declared a bushfire-prone area, and the requirements of the Building Code of Australia—in particular, its standards for bushfire-prone areas—should be applied to all future developments in the zone.

The Coroner found that the firestorm that caused the loss of 500 houses and 4 lives was caused by a range of factors including that:

“As late as 17 January 2003, the Emergency Services Bureau’s lack of plans or strategies for dealing with the fires in the event that they reached the suburbs – other than leaving the problem to the ACT Fire Brigade.”

Following the recommendations of Doogan and McLeod, the Emergencies Act 2004 was enacted, and importantly it provided:

- a Bushfire Abatement Zone was put in place for planning and operational purposes;
- The BAZ was included in the definition of City Area;
- The Response Arrangements at this time (see NI 2004 – 499) included that: “If, in the opinion of the Fire Brigade, the fire poses a risk to life or property in the Built-up Area, then the Fire Brigade will assume incident control.” This remained in place in the 2006 iteration (NI 2006 – 221)

In 2011 the requirement described above was removed, and instead the applicable arrangement was:

“If, in the opinion of the Chief Officer ACT Fire Brigade or the Chief Officer ACT Rural Fire Service the fire is likely to escalate, or has escalated, into a complex incident threatening life, property or significant environmental assets, or multiple incidents are occurring that may compete for resources, the fire will be under the control of an off-scene located IMT. If an IMT is not in place, the Chief Officer ACT Fire Brigade and the Chief Officer ACT Rural Fire Service will liaise with each other and appoint an Incident Controller and other key IMT roles as required, taking into consideration the risk profile of the incident. 4.

In the event that agreement is not reached between the Chief Officers as described in this Guideline, the Emergency Services Commissioner will appoint an Incident Controller and other key IMT roles as required.” (NI2011–64)

With the passage of the Emergencies Act Amendments in 2016, the concept of the BAZ for operational purposes was abolished. This means that the arrangements for response are that the first available appliance responds. There is no longer any capacity for the Chief Officer Fire and Rescue to assume control in the event that a fire is thought to be threatening the Built Up Area.

ACTF&R has legislated responsibility to for fires in the Built Up Area, and this is why it has the equipment, training, expertise in dealing with such fires. It follows that ACT Fire and Rescue should have control of a fire that is going to impact the Built Up Area.

By way of background, the following points are relevant.

- 99% of grassfires are over in 2 hours.
- Where there is a pre-formed IMT for L 3 incidents, control will transfer to an IMT, but this requires a decision to be made that the incident is in fact L 3.
- As soon as a grassfire is running, resources will be on the ground and someone will have taken control. This includes while a decision about L3 is made.
- The decision to scale up to L3 is a decision made by senior personnel not on the fire ground to take control over from the initial incident controller. The time required to make this decision could be at least an hour.

- Even where an incident is deemed L3, in effect incident control remains on the fireground, and a heavy onus on an L3 incident controller to not deliver requested resources might have serious consequences for the IMT, including in court.
- These circumstances in practice remove any perceived distinction between L1, L2, and L3 incidents insofar as incident control is concerned within at least the first hour of a grass fire.
- Hence, in ALL circumstances, the original intent of the BAZ should remain: that if an incident has, in the opinion of ACTF&R, the potential to impact upon the BUA, ACTF&R can choose to assume incident control.

Recommendation 1:

To prevent similar findings to those made by Doogan and McLeod again being made in the event of another tragedy, we strongly advocate that:

- The Bushfire Abatement Zone be restored to its original intent, so that if a fast moving fire is assessed by ACT Fire and Rescue as having the capacity to impact upon the Built Up Area, ACT Fire and Rescue can assume incident control.
- The recommendations of the McLeod Inquiry and the Coroner concerning the ESA having a direct line of reporting to the Minister should be implemented.

Item 2: Methodology for Determining Built Up Area

Canberra is developing rapidly as an increasingly urbanised capital city, with population growth estimated to be in the vicinity of 8,000 per year. In recognition of this, the ACT Government when re-elected in 2016 committed to:

“ensure the Strategic Bushfire Management Plan and the boundaries of the Built Up Area continue to appropriately deliver the best planning and safety outcomes for the city.”

Since the 15 October 2016 Election, the boundaries of the Built Up Area have undergone minor changes on 3 occasions, as follows:

- Emergencies (Built-Up Area) Declaration 2016 (No 1) (Repealed) NI2016-580
- Emergencies (Built-Up Area) Declaration 2017 (No 1) (Repealed) NI2017-145
- Emergencies (Built-Up Area) Declaration 2018 (No 1) NI2018-707

The final of these changes took effect on 18 December 2018, and was not subject to any prior notification to the UFU, or to the Emergency Services Operational Review Group, which includes representation from relevant volunteer organisations and the UFU.

As a consequence of the above, the methodology and rationale for the changes to the boundaries are not widely known: either before or after they are made. Typically, the UFU becomes aware of such changes by conducting periodic searches of the “ACT Legislation Register”, and we suggest that it is highly likely that this is the case for other interested organisations and individuals. In addition, it is highly questionable as to whether such

infrequent changes to boundaries in a context of increasing urban development are adequate.

Recommendation 2

The UFU strongly suggests that a greater degree of transparency be applied to the process and outcomes of reviews of Built Up Area Boundaries. This should include full disclosure at meetings of the Emergency Services Operational Review Group.

Item 3: Incident Management Teams.

This matter is addressed in the Emergencies (Concept of Operations for bush and grass fires in the Australian Capital Territory) Commissioner's Guidelines. Various iterations of this notifiable instrument have provided:

“When an IMT is formed for the management of bush and grass fires within the ACT, the key positions within the IMT will be resourced from the list of approved personnel as determined by each agency and detailed in Appendix 2 - Approved Incident Management Team Members. Wherever practicable, IMTs should be resourced as a multi agency IMT recognising the need for appropriate competencies, skills knowledge and attitude to fulfil such roles.” (Notifiable Instrument NI2017–92, Item 6.2)

In addition, the relevant Notifiable Instrument addresses pre-formed IMT's in the following terms:

“On days of elevated fire danger or by agreement with both Chief Officers a pre-formed multi agency Incident Management Team shall be established.” (Notifiable Instrument NI2017–92, Item 6.3)

As an employee organisation, the UFU is concerned to ensure that command and control arrangements have suitable regard to ensuring that persons with incident management responsibilities are suitably qualified and experienced. While the AIIMS Incident Control System provides for various qualifications, those qualifications are intended to be based on a strong foundation of operational experience and proficiency. We are unconvinced that the training of, for example, a Human Resources professional in an AIIMS level 3 course in itself equips that person to be an incident controller with command and control responsibilities for highly competent, experienced and qualified career firefighters.

Yet the above is precisely what has occurred. Media Coverage of the Pierce's Creek fire of November 2018 reported the then ESA Director of People and Culture as the Incident Controller, despite that individual having no documented experience or competency in command and control of firefighters.

While conducting a periodic search of the ACT legislation Register, the UFU became aware of the Emergencies (Concept of Operations for bush and grass fires in the Australian Capital Territory) Commissioner's Guidelines Amendment 2018 Notifiable instrument NI2018–713,

signed by the ESA Commissioner on 14 December 2018. Like the Built Up Area Declaration of 18 December 2018, there was no prior notice or consultation in relation to this instrument. Concerningly, NI2018–713 adopted a new practice in relation to IMT Roles. Whereas previous instruments had provided that the ESA was to maintain a schedule of persons with IMT responsibilities, this Notifiable Instrument included a list of such persons. In effect, NI2018–713 adopted a practice of legislating who would be in a position of command and control.

This approach is highly troubling. From a governance perspective alone, it creates an unacceptable degree of complexity in the chain of command, whereby the Chief officers of the Rural Fire Service and Fire and Rescue are constrained insofar as appointment of persons to IMT's is concerned. From a maintenance point of view, the fact that the list in NI2018–713 includes persons no longer employed by the ESA or its constituents, including the Director of People and Culture, it is cumbersome and is already outdated. From an industrial / legal point of view, it is open to legal contest and disputation. Finally, to the extent that it places the ESA Commissioner at an operationally senior level to the Chief Officers it is arguably inconsistent with the scheme of the Emergencies Act itself. Section 8 of the Emergencies Act sets out the Commissioner's role as follows:

“8 Commissioner's functions

(1) The commissioner is responsible for—

- (a) the overall strategic direction and management of the emergency services; and
- (b) operational and administrative support to the services.”

On 2 occasions in 2019 (5 March and 23 April), the UFU wrote to the ESA Commissioner asking:

“...could you please provide the UFU with a description of the following matters in respect of members of pre-formed Incident Management Teams (IMTs) which have been put in place during the 12 Months to the beginning of March 2019?

- Name;
- Position / role held;
- AllIMS competencies held;
- Fire and Rescue competencies held;
- Other competencies held (relevant to the IMT role);
- Role filled in IMT and date and duration that role was filled.
- Reason for formation of IMT.
- Previous experience in managing emergency incidents.”

We are yet to receive a reply.

The above shows that there is a complete lack of transparency over the qualifications of persons appointed to IMT's. Career firefighters, as persons who daily deal with inherently dangerous and often life-threatening situations, are entitled to know about the qualifications and experience of person's commanding them. The rank structure combined

with the uniform quickly provides them with this visible assurance on the fireground. The same cannot be said of persons of unknown career history in a distant room, who nonetheless purport to hold the necessary qualifications to assume command.

The Workforce Capability and Governance Division of the Chief Minister and Treasury Directorate regularly writes to public sector unions to appraise them of proposed legislative changes affecting the employment of their members. It should not be too much to ask of the Emergency Services Agency that it similarly appraise firefighter representatives of the arrangements affecting the immediate health and safety of members on the fireground.

Recommendation 3

- (a) That NI2018–713 be revoked.
- (b) That an independent review, with agreed terms of reference, be conducted into the assignment of IMT roles, including an assessment of:
 - Position / role held;
 - AIIMS competencies held;
 - Fire and Rescue competencies held;
 - Other competencies held (relevant to the IMT role);
 - Role filled in IMT and date and duration that role was filled.
 - Reason for formation of respective IMT.
 - Previous experience in managing emergency incidents.
- (c) That persons should only be appointed to incident management team roles where they can demonstrate skills and competencies commensurate with those held by the most experienced persons under their command and control. This should be rigidly enforced in the case of persons being appointed as incident controllers.

Conclusion

The UFU would welcome the opportunity to elaborate on our submission.

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3 July 2019.