



Northern
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Government

DEPARTMENT OF LAND RESOURCE MANAGEMENT



RECOMMENDATIONS PAPER

REVIEW OF THE *BUSHFIRES ACT*

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1 Executive Summary

The current review of the *Bushfires Act* seeks to assess the effectiveness of the Act and provide advice on changes that could lead to improved bushfire management in the Northern Territory. A public consultation process generated submissions from a broad cross section of stakeholders. The recommendations presented in this paper are drawn from those submissions, along with expert advice on trends in contemporary bushfire management legislation around Australia.

The key themes to emerge from the submissions included calls to:

- maintain the underlying principle that fire management is the responsibility of the landholder;
- maintain the Bushfires Council and Regional Bushfire Committees in an advisory capacity and remove their operational roles;
- formalise and clearly define the operational roles undertaken by Bushfires NT in different regions, including the bushfire emergency response role currently undertaken in high risk areas close to major population centres;
- recognise the different landscapes and risk profiles within the Northern Territory; recognise that they can change from season to season; and provide flexible and effective bushfire management arrangements;
- establish a clear chain of command incorporating Bushfires NT staff and volunteers; and,
- establish and ensure clarity of accountabilities and responsibilities of Bushfires NT, volunteer brigades and volunteers.

The key recommendations developed from submissions and expert advice are:

- Retain the Bushfires Council as a Ministerial advisory body.
- Retain the Regional Bushfires Committees as regional planning and consultative bodies tasked with monitoring, reviewing and making recommendations on fire management in a Fire Control Region.
- Discontinue the automatic allocation of Fire Warden powers to Council and Committee members and substitute an option for members to be appointed as Fire Wardens.
- Introduce clear Terms of Reference for the Bushfires Council and Regional Bushfires Committees, and introduce a requirement for the Minister to consider advice and recommendations from the Council.
- Formalise and clearly define the powers and duties of Bushfires NT personnel, including volunteers, thereby clarifying Bushfires NT's role in bushfire management in the Northern Territory.
- Authorise Bushfires NT to establish volunteer bushfire brigades and to give authority to volunteer firefighters to take part in fire suppression and mitigation operations.

- Create new seasonal paid positions to coordinate and support groups of volunteer brigades.
- Maintain independence of volunteer brigades as community-based organisations and clarify the status and role of volunteers within the chain of command.
- Authorise the Director of Bushfires NT to intervene in volunteer brigade affairs where necessary to maintain an effective fire management capacity in a brigade area.
- Clarify and streamline the allocation of powers to Bushfires NT staff and volunteers involved in bushfire management operations, using a system of delegation through a chain of command similar to the arrangements described in the NT *Fire and Emergency Act*.
- Define formal bushfire management regimes for areas with different bushfire management requirements and define bushfire management responsibilities in those areas. One category will provide for areas that warrant provision of a wildfire response capacity, another will allow for the declaration of temporary fire management arrangements for the duration of identified high-risk circumstances.
- Establish a capacity to prescribe bushfire management arrangements for individual properties based on bushfire risk assessment.

2 Introduction

The *Bushfires Act* was introduced in 1980 to provide the legislative framework for bushfire management outside the major urban centres in the Northern Territory. The Act is currently administered by the Department of Land Resource Management through the Bushfires NT division.

There has been significant change in the bushfire management landscape since the Act commenced. Growth of rural living and other development in peri-urban areas; greatly expanded transport and communications infrastructure; new areas of regional development; significant changes in land tenure and land use; along with the spread of high-risk fuels such as gamba grass and other exotic grasses; has increased the threat posed by bushfires. These factors, combined with a shift in community expectations, have led to development of a sophisticated wildfire response capacity. The pervading view is that the Act requires updating in order to respond to these changes, and to accommodate future development and growth.

Early in 2014 the Minister for Land Resource Management announced a review of the Act. A discussion paper prepared by Bushfires NT was circulated inviting members of the public to submit views and recommendations on bushfire management and matters relating to the Act. Bushfires NT staff met with many stakeholder groups to provide information and discuss the issues. Bushfires NT also commissioned leading barrister and legal academic in this field to provide advice on trends in contemporary legislation around Australia.

Twenty-three formal submissions were received from a broad cross section of stakeholders including industry groups; Regional Bushfire Committees; Volunteer Bushfire Brigades and volunteers; land care groups; indigenous land management groups; and a number of individual landholders and stakeholders. Some submissions provided concise comments and recommendations on single issues, whilst others offered detailed and comprehensive statements and recommendations. Many submissions, particularly those from stakeholders involved in bushfire management operations, offered detailed comment and advice on operational matters. While this advice will not contribute directly to recommendations about the legislation, it is of great value, and has been passed on to relevant areas within Bushfires NT.

This paper draws from the major themes that emerged from submissions, and the expert advice received around contemporary legislation and trends, to craft a set of recommendations for a preferred legislative framework for bushfire management in the Northern Territory. Where significant diversity of opinion existed within the advice received, a summary of the deliberation in reaching a position is detailed; otherwise, the rationale for each recommendation is described only briefly.

The paper does not address existing legislation clause by clause, but rather it addresses principles and structures, and aims to guide those who will draft legislative amendments or new legislation.

Feedback received on this document will be used to review and refine the recommendations before they are presented for Ministerial consideration.

3 Objectives of the Act

3.1 Background

The object of an Act is a simple statement outlining the rationale and intent of the Act, and describing the structures and activities necessary for its administration. Every piece of Northern Territory legislation has an object.

The current *Bushfires Act* object states:

An Act relating to the prevention and suppression of bushfires

The focus of the current act is the establishment of the Bushfires Council and regional fire management committees; the appointment of Fire Control Officers; and the establishment of fire protection zones and offences.

The importance of enshrining the principles of improved fire management with the overall intent, and preamble, of the Act was expressed strongly in consultation comments. One view contends that it makes practical and sound sense for local and regional fire management to be based on the principles of addressing risk management and associated planning. The view suggests that this process could be enshrined in legislative instruments requiring Regional Bushfire Committees to review strategic (e.g. 5 year) and tactical (e.g. annual) assessments and planning documents. A key emphasis should be placed on supporting prescribed fire mitigation activities and community engagement, rather than prescribing fire exclusion and suppression responses.

Other consultation feedback provides specific suggestions to language and intent of the current preamble within the Act. The advice describes the importance of clearly articulating fire prevention, mitigation, improved co-ordination, suppression, and the continued protection of life, property, and the environment within the object. The inclusion of these, or similar, terms makes a very clear statement of the intent and broad focus of the Act.

Numerous consultation responses included explicit comment on clarifying the roles and responsibilities of fire management organisations in the Northern Territory. Originating from a broad cross section of stakeholders, including volunteer bushfire brigades, industry groups and Bushfire representative committees, these submissions consistently called for the Act to provide a clear definition of the roles and responsibilities of all organisations and stakeholders involved in bushfire management.

A specific view contends that the Act should have a more appropriate preamble that establishes Bushfires NT, and describes the roles and functions of the organisation. It also recommends that a suitable preamble should describe both the similarities and significant points of difference between the functions and roles of the Bushfires NT and the NT Fire and Rescue Service (NTFRS). Similarly, another view suggested that the Act must include detailed definitions of the roles and responsibilities of Bushfires NT, landholders, Bushfire Committees and Volunteer Bushfire Brigades, and these definitions must clearly articulate the legislative relationship between these individuals and organisations.

3.2 Deliberation and response to discussion points

The submissions support the contemporary trend in modern legislation for the object and preamble of the Act to be more descriptive. Broadening the intent of the preamble beyond “prevent and control”, to better reflect the fire scenarios and variety of management responses employed across the Northern Territory, will make the Act more relevant to current management activities and community fire management expectations.

The importance of the principle of landholder or landowner responsibility for fire management is mentioned in many submissions, and is widely held to be a key component of the Act. The legislative basis for this allocation of responsibility lies within Section 49, although it is less clear than the wide acceptance of its existence might suggest. The owner or occupier of any land is required to *take all reasonable steps* to control fire on that land and, if unable to do so, must notify a Fire Warden or Fire Control Officer along with the person controlling each parcel of land to which the fire might spread. There are penalties for failing to comply, although compliance does not require that the fire is controlled, rather that a *reasonable* attempt to control it was made and that neighbours likely to be affected were notified. There is an opportunity to further define the principle of landholder responsibility and to strengthen its fundamental place in the Act.

Fire is a natural component of the Northern Territory landscape, in the most fire prone jurisdiction in Australia, thus requiring ongoing and regular management. Landholders, who regard fire management as just another component of their broader land or property management, including weed and feral animal management and other considerations specific to land use or property planning, are best placed to achieve such management. Given this consideration of integrated land management, it is sensible that fire management remains the principal responsibility of the landholder.

This individual fire management responsibility contrasts directly with the response assumption of many other fire jurisdictions across Australia, where a central authority or agency is principally responsible for fire management, and landholders assume entitlement to a fire control service or fire response. Given the scale of Northern Territory landscapes, and the regular and extensive nature of fire events, it is unreasonable to assume any one organisation will have the resources and capacity to assume responsibility for all fires and provide the necessary response.

The current object of the Act was drafted during the early 1980s, when the population was smaller and land use across the Northern Territory was less diverse than today. Fire management at that time involved a lesser number of stakeholders and required less land manager and agency coordination. Fire management today requires coordination and planning across a complex array of stakeholder groups, to manage high-risk situations, in an increasingly dense mosaic of land uses. The characteristics for such a “whole of community” response should be enshrined within the *Bushfires Act* and described within the initial objects.

These characteristics include other aspects of fire management such as coordination, planning, mitigation and monitoring, as well as defining the organisations responsible for these activities. Such explicit description will ensure that fire management in the Northern Territory incorporates risk assessment and substantial mitigation, and does not focus entirely

upon exclusion and suppression as the major fire control response. It is therefore recommended that these terms be included in the preamble and object of the Act.

Additionally, it is suggested that by including the word “management” in the Act title, so that it reads “*Bushfires Management Act*”, the intent of enshrining broader fire management practices within the Act will be supported.

Discussion point *Should the Bushfires Act include a description of the roles and responsibilities of individuals and organisations involved in fire management across the Northern Territory?*

A clear understanding and description of stakeholder roles, responsibilities, and accountabilities, is a fundamental requirement in engaging a diverse but coordinated group of individuals and organisations in successful fire management. Different stakeholders who have significant legislative engagement in fire management throughout the Northern Territory include

- Minister, Land Resource Management;
- Bushfires Council;
- Regional Bushfires Committee;
- Chief Executive of the host agency;
- Director, Bushfires NT;
- Chief Fire Control Officer;
- Fire Control Officers (various levels);
- Fire Wardens;
- Land holders and owners; and,
- Volunteer Bushfire Brigade members.

The positions of Chief Executive of the host agency, Director Bushfires NT, and volunteer bushfire brigade members are not defined within the current Act, leading to uncertainty regarding appropriateness of role, level of responsibility, and degree of liability. Other key stakeholders mentioned in the current Act include the Bushfires Council and Committees; Chief Fire Control Officer; Fire Control Officers; Fire Wardens and land holders; but better definition of responsibilities, and any associated liability, will improve the understanding of their roles in fire management. Section 5.2 (page 26) addresses these points in detail, suggesting a clear chain of command to clarify relationships, and defining accountabilities of these different stakeholder groups and individuals.

Discussion point *Should a review of the Bushfires Act include a major revision of the structure of the Act to better reflect fire management across the Northern Territory?*

It is essential that a clear definition of broader fire management requirements is included in the revised Act. The current Act focuses upon controlling fire through permits, fire bans and fire protection zoning, provisions that should be retained in principle and augmented with provision for other essential fire management activities. The current Act addresses

mitigation through the requirement for property firebreaks and the ability to declare fire danger areas. Again, these provisions should be retained in principle and augmented with provision for other broad scale mitigation activities, including fuel reduction, regional fire risk assessment, and integrated regional fire planning.

The Act requires updating to include a clear chain of command to clarify relationships, and define accountabilities of different stakeholder groups and individuals. The roles and responsibilities as defined in the Act do not reflect current day structures and capabilities, and the Act is silent on the vital role played by volunteers and volunteer brigades.

The Act needs to reflect the vast scale and diverse landscape of the Northern Territory, and be flexible and responsive to regional variations and needs. A process must be enshrined within the Act that supports the description of fire management activities and responsibilities within different regional areas of the Northern Territory.

To satisfy the above recommendations, the Act requires major revision to ensure it is structured to better reflect fire management across the Northern Territory. All of these aspects are addressed in detail later in this Recommendation Paper.

Discussion point *Should the revision of the Bushfires Act include a description of fire management activities and responsibilities within different regional areas of the Northern Territory?*

The Northern Territory landscape varies from arid low rainfall rangelands in Central Australia to tropical savannas in the north. Fire behaviour and management is as varied as the landscapes and requires specific management that is adapted to local environmental conditions and is consistent with regional land use. For example, fire management in central Australia often focusses upon managing fire risks following significant rainfall events that are sporadic and unpredictable, and can occur as infrequently as once within a decade. The challenge for pastoral land managers in this scenario is to adequately protect their pastoral properties through strategic mitigation, whilst maintaining a reserve of pasture for coming years. It is a land management challenge where pastoralists assess fire risk against future pastoral productivity.

This scenario is very different to fire management in the northern regions of the Northern Territory, where fire is a constant part of the landscape and requires annual management. For the Act to appropriately provide the structure for fire management in both scenarios it is essential to define management in the different regions. By way of order, high fire risk areas should be described within Declared Fire Management Plans, defining the area, timeframe, and specific fire mitigation activities required. Section 6 of this Recommendation Paper expands upon the requirement for different management zones and makes specific recommendations for their inclusion in the Act.

3.3 Recommendations – Preamble And Objectives

- Amend the Act title to '*Bushfires Management Act*'.
- Amend the object to provide for 'The mitigation, management, and suppression of bushfires'. Definitions of these terms should be included in the Act, and should include clarification that bushfire suppression can include emergency response activities in certain circumstances.
- Further define the principle of landholder responsibility for fire management and strengthen its fundamental place in the Act. This should include a clear requirement for landholders to prevent fire on their land from spreading to neighbouring properties.
- Enshrine the broader fire management principles, including coordination, strategic planning, mitigation, monitoring and control within the Act.
- Include a detailed description of the role, responsibility and accountability of
 - key stakeholders groups as described in this section;
 - key host agency and Bushfires NT staff;
 - Volunteer Bushfires Brigades; and
 - key personnel within those organisations.

4 Administration

4.1 Background

Part II of the *Bushfires Act* is titled Administration. It establishes the Bushfires Council and Regional Bushfires Committees as statutory bodies and defines their functions and membership. Many submissions offer suggestions about the continuation of the Bushfires Council and the Regional Committees, with the majority of those favouring the continuation of those bodies with some adjustment of their existing roles and/or membership.

Part II also establishes the offices of Chief Fire Control Officer (CFCO), Senior Fire Control Officer (SFCO), Fire Control Officer (FCO), and Fire Warden (FW). These offices are allocated a range of powers necessary for the prevention and control of bushfires, and only appointees to these positions have those powers. These powers cannot be delegated to non-appointees. Each of these offices is a Ministerial appointment.

The functions currently undertaken by Bushfires NT are associated with administration of the *Bushfires Act* and include employment of FCOs (including the CFCO and SFCOs); enforcement of regulatory provisions of the Act; support and coordination of volunteer brigades; and provision of a secretariat service to the Bushfires Council and Regional Bushfires Committees. Bushfires NT has also taken on roles in coordinating strategic fire management activities across the Northern Territory, along with providing on ground leadership and support to volunteer brigades and landholders in fire suppression operations.

A common theme across the great majority of submissions is the need for the Act to formalise Bushfires NT's role in fire management, and spell out its functions and powers. A number of submissions also call for the legislation to define the chain of command and responsibilities in wildfire and other emergency response activities, and to clearly define the place of volunteers and volunteer brigades within that chain of command. Matters relating to the role of Bushfires NT, the Chain of Command and arrangements for volunteers and volunteer brigades are addressed in Part 5 (from page 20) of this paper.

4.2 Bushfires Council

4.2.1 Background

Provision for the establishment and functioning of the Bushfires Council (the Council) is a major focus of the *Bushfires Act*. Council members are appointed by the Minister for three year terms and each Council member is empowered as a Fire Warden. The Council's functions as described in Section 9 of the Act are:

- a) *to advise the Minister on measures to be taken to prevent and control bushfires in the Northern Territory; and*
- b) *to exercise and discharge such powers, duties and functions as are conferred or imposed on it by or under this or any other Act.*

While the Council has always undertaken the Ministerial advisory role described in Section 9(a), a separate Government structure employing those involved in delivery of its operational functions has always existed. This is an appropriate arrangement; it would not be appropriate for Council members to exercise executive control or to have authority over, and

responsibility for, operational matters. These responsibilities are held by the Chief Executive of the host agency and the senior officer and other employees of the relevant division of Government.

This division was long known as the Bushfires Council, a naming arrangement which inevitably led to confusion about the respective roles of the advisory council and the operational division. A significant attempt to allay this confusion occurred in 2004 when the Government division undertaking operational roles was restructured and renamed as Bushfires NT. The implementation of this change by administrative means, *i.e.* without any amendment of the Act, has contributed to a degree of uncertainty surrounding the role of the Council and the functions and authority of Bushfires NT; the Act is silent on the existence of any operational division.

The renaming of the operational division as Bushfires NT illuminated what was always a relatively conventional bushfire management structure: an advisory body alongside, but separate from, a fire management service. The formalisation and definition of Bushfires NT's role and functions are key components of this recommendations paper, and are considered in detail later.

Many submissions touch on the role of the Bushfires Council, and a clear majority of those recommend that the Council should continue as a ministerial advisory body. Amongst the broad range of views detailed in the submissions were recommendations for greater powers for the Council to become involved in implementation of decisions. In direct contrast, another suggestion proposed that the Council is no longer needed, and that it should fall to Bushfires NT to draw together regional information and provide advice to the Minister.

There was no clear call for change to the structure of the Council, although some submissions discuss Council membership, with one suggestion that Council membership be confined to stakeholders with a vested interest in property or industry within the area covered by the Act. At present the Council membership includes some who are members by virtue of their relevant expertise, rather than any personal interest in land or industry affected by the Act; examples include representatives of CSIRO, Bureau of Meteorology, and the NT Fire and Rescue Service.

A number of submissions suggest that benefits could flow from broadening the membership of Council. Categories of land holding or land management identified as underrepresented included: Aboriginal Land Trust and other indigenous land holdings; road and rail corridors; and other Crown Land including parks and reserves.

4.2.2 Deliberation and response to discussion points

The *Bushfires Act* states that it is the Council's role to *exercise and discharge such powers, duties and functions as are conferred or imposed on it by or under this or any other Act*. The Northern Territory situation is unique amongst Australian jurisdictions in that the Council has both advisory and operational roles; the operational role exists by virtue of Section 31 of the Act which allocates Fire Warden powers to all Council members. In practice these *powers, duties, and functions* relate to the prevention and control of bushfires, tasks that are undertaken by landholders, officers of Bushfires NT and volunteer Fire Wardens.

While some Council members participate, as Fire Wardens, in prevention and control of bushfires, others are not experienced or active fire managers; there is no reason for those members to hold Fire Warden powers. It is proposed that this mandatory allocation of powers be replaced with an option for members to be appointed as Fire Wardens. The Act should reflect and formalise the existing arrangement – a Ministerial advisory structure sitting alongside a bushfire management system that incorporates landholders, Bushfires NT, Volunteer Bushfire Brigades and volunteer Fire Wardens.

Discussion point *Is the Council the best mechanism for providing advice to the Minister?*

The purpose of the Council is to advise the Minister on measures to be taken to improve the management of bushfires in the Northern Territory. The majority of submissions supported the continuation of the Bushfires Council as a ministerial advisory body. Contemporary legislation in other jurisdictions provides for similar advisory council arrangements. With the exception of Western Australia, all bushfire legislation establishes a state or territory-wide council or committee, to advise the Minister and the Chief Executive Officer of the relevant agency, on matters related to bushfire management. A number of these bodies also have a responsibility to prepare or endorse bushfire management plans.

Discussion point *How many members should there be and how should they be chosen?*

The Council should continue to consist of not less than nine members, with members appointed by the Minister for terms of up to three years.

Discussion point *Which sectors or groups should be represented on Council?*

Membership of the Council should include representatives of all key stakeholder groups. Regional representation on the Council should continue through the appointment to the Council of the Chair of each Regional Bushfires Committee. Council should also include representatives of relevant groups with interests across multiple regions; examples include the NT Cattlemen's Association, the major Land Councils, the NT Parks and Wildlife Commission, and other landholders and stakeholders. There should also be representation from experts in relevant fields; examples might include experts in meteorology, fire ecology, fire management, rangeland management, or bushfires research.

Discussion point *How often should Council meet?*

The Council itself will determine the frequency and other arrangements associated with conducting its meetings. The council will need to be cognisant of the fire management season and particularly of the cycle of fire management planning, so meetings will need to occur at least on an annual basis.

Discussion points *Is there value in further defining the nature of the advice the Bushfires Council provides to the Minister (may include, but is not limited to, higher level strategic planning, policy, legislation, and best practice standards for bushfire mitigation and suppression)? and,*

Is there value in the Bushfires Council providing comment on strategic documents such as communications plans, community risk management frameworks, and reviewing and recommending fire management mitigation plans to the Minister?

The Council's role as a ministerial advisory council should not include operational duties and functions, reflecting the existing arrangements. In order to effectively represent stakeholders' views on bushfire management across the Northern Territory, the Council requires a regional consultation and monitoring framework, and the capacity to monitor and review all bushfire management arrangements. Arrangements for regional monitoring and review will be based around the Regional Bushfires Committee network, and advice to the Minister on regional matters will be drawn from Regional Committee input. Review of broader strategic planning and fire management arrangements will require provision of information by Bushfires NT.

The Council represents stakeholder groups and provides advice to the Minister, and Bushfires NT performs the operational duties and functions that are nominally allocated to the Council in the Act. It is not appropriate for operational authorities and responsibilities to be vested in an advisory council. The Chief Executive of the host agency and the head of the operational division have ultimate legal responsibility for operations, and therefore should have clear authority and control over those operations.

The nature of the advice and the specifics of the role of the Bushfires Council will be defined in a Terms of Reference to be included in the Act. A preamble to the Terms of Reference should describe a requirement for the Minister to consider advice and recommendations presented by the Council. The duties of the Bushfires Council may include:

1. To review fire risks across the Northern Territory, and advise the Minister on strategic directions for bushfire management.
2. To review annual regional Bushfire Management Plans as recommended by Regional Bushfires Committees and make recommendations to the Minister on their implementation or adaption.
3. To provide guidance on the development of Codes of Practice and Standard Operating Procedures for bushfire management operations.
4. To provide a forum for consultation and coordination between landholders and other stakeholders.
5. To provide guidance and advice to research organisations on strategic bushfires research priorities and identified knowledge gaps.
6. To respond to specific requests from the Minister for information or advice.

Discussion point *Should the Bushfires Council have a formal role in facilitating fire management partnerships, consultations, and coordination between landowners and stakeholders and recommending those to the Minister for endorsement?*

As outlined in the draft Terms of Reference above, a key duty of the Council will be to provide a forum for consultation and coordination between landholders, researchers, and bushfire managers. Where operational partnerships are developed these should be enshrined in Bushfire Management Plans and endorsed by the Regional Committees.

Discussion point *What other key roles should the Bushfires Council support as a community representation group?*

The Council provides an opportunity to gain a broad range of industry and stakeholder views and perspectives, and to ensure that the best available expertise and advice from both within and beyond Northern Territory Government resources is considered. The Council will maintain a focus on fire management advice to the Minister, and not become involved in other community representative roles.

4.2.3 Recommendations – Bushfires Council

- The Bushfires Council should continue as a Ministerial advisory body with the role to provide advice and make recommendations to the Minister on matters relating to bushfire management in the Northern Territory. It should be specified that the Minister and Bushfires NT must consider recommendations of the Council.
- Clear terms of reference for the Council to be included in the Act.
- Bushfires NT should provide a secretariat service for the Council.
- The Council should not be allocated operational duties and functions, and Council Members should not be automatically appointed as Fire Wardens. Council members will continue to have the option to be appointed as Fire Wardens if they are suitably qualified and prepared to take on that responsibility.
- Members should continue to be appointed by the Minister, and the Act should require that the membership of the Council should include representative of the owners of land and enterprises affected by the Act.
- The chair of each Regional Bushfires Committee should be appointed as a member of the Council.
- There should be a category of Council membership for those providing expert advice.

4.3 Regional Bushfires Committees

4.3.1 Background

Under the Act each part of the Northern Territory is allocated to a Fire Control Region. The Act provides for the establishment and functioning of a Regional Bushfires Committee (Regional Committee) for each region. Each Regional Committee must be comprised of no less than three and no more than six members. A Fire Control Officer (FCO) for each region is a member.

The current functions of Regional Bushfires Committees as described in Section 15 of the Act are:

- a) *to advise the Council on measures to prevent and control bushfires in the region.*
- b) *to prevent and control bushfires in the region.*
- c) *to exercise and discharge such powers, duties and functions as are conferred or imposed on it by or under this or any other Act.*

Many submissions discuss the role of the Regional Bushfires Committees. Apart from one submission proposing greater powers and capacity for Regional Bushfires Committees to control regional Bushfires NT budgets and operations, most submissions support a continuation of the advisory role (providing advice to the Bushfires Council) and the removal of operational duties and functions. One submission suggested that Bushfires Regional Committees should play a greater role in coordinating regional strategic mitigation programs and reviewing operational plans and operating procedures.

The suggested removal of committees' operational functions highlights an anomaly in the current Act. While Section 15b describes a function to *prevent and control bushfires in the region*, committees are not allocated specific powers for that purpose. Presumably the Act is referring to Section 31 which allocates Fire Warden powers to committee members. Many other volunteers and community members are also appointed as Fire Wardens. Fire Wardens have broad powers to take action to prevent and control bushfires (Sections 50 and 51), but the Act does not define when or where they should use those powers. Landholders are responsible for preventing and controlling fire on their land, while the role of planning and coordinating response to regionally significant fires is undertaken by staff of Bushfires NT in consultation with landowners, local Fire Wardens and volunteers.

Several submissions discuss membership of Regional Bushfires Committees, pointing out that the existing upper limit of six members can limit the capacity for representation from all key stakeholder groups, and that the upper limit should be removed. There are suggestions that in some regions Regional Bushfires Committee membership has been confined to land managers associated with the pastoral industry, and that those committees would be improved by broadening the membership base. Some submissions point to the absence of representation from indigenous landholders as a weakness of the Regional Bushfires Committee system, and that committees would be more effective if they included members with expertise in fire ecology and/or fire management.

4.3.2 Deliberation and response to discussion points

The purpose of the Regional Bushfires Committee system is to make recommendations to the Bushfires Council on measures to improve the management of bushfires in a Fire Control Region, and to recommend regional bushfire management plans to the Bushfires Council. It provides an effective way to ensure that regional issues are considered by the Bushfires Council and ultimately by the Minister.

Regional Bushfires Committees also provide a forum for Bushfires NT to consult with regional stakeholders and to work together to develop regional plans and strategies. Committees bring together a broad range of industry and stakeholder views and perspectives, and help to ensure that the best available expertise and advice is considered.

The requirement for Regional Bushfires Committees to undertake operational roles, as described in Section 15, was largely superseded in 2004 when Bushfires NT was established as a division of government and officers of Bushfires NT were tasked with performing those functions. The nature of the operational roles allocated to Regional Bushfires Committees by the current Act is not made clear; this part presumably refers to the Fire Warden role traditionally undertaken by many Regional Bushfires Committee members.

The Act currently provides that every Regional Bushfires Committee member is allocated Fire Warden Powers. Some Regional Bushfires Committee members have no desire to undertake operational fire management roles, and it is consequently proposed that Regional Bushfires Committee members should not be automatically appointed as Fire Wardens. The important and longstanding contribution to local and regional fire management operations by members of Regional Bushfires Committees in a Fire Warden capacity is acknowledged, and Committee members must continue to have the option to be appointed as Fire Wardens if they are suitably qualified and prepared to take on that responsibility. In summary, there is no proposal to discontinue the practise of Regional Bushfires Committee members undertaking operational fire management roles through appointment as Fire Wardens and participation in the Chain of Command, rather the mandatory appointment of committee members as Fire Wardens should be replaced by an option to be appointed.

The establishment of Bushfires NT created a more conventional bushfire management structure; bushfire management operations became the responsibility of employees with appropriate capacities and accountabilities, while the representative committees retained responsibility for consulting with regional stakeholders, monitoring and reviewing regional bushfire management plans and activities, and providing recommendations on regional fire management arrangements to the Bushfires Council.

Section 15 of the Act should be amended to remove the operational functions of Regional Bushfires Committees. The specifics of the role of the Regional Bushfires Committees should be defined in a Terms of Reference to be included in the Act. The duties of a Regional Bushfires Committee may include:

1. To make recommendations to the Council on risks and strategic directions for bushfire management in a Bushfires Region.
2. To guide the development of, review and recommend Regional Bushfire Management Plans.

3. To review and recommend regional strategic mitigation programs.
4. To make recommendations on the development of Codes of Practice and Standard Operating Procedures for bushfire management operations in the region.
5. To provide a forum for consultation and coordination between landholders and other stakeholders.
6. To respond to specific requests from the Council for information or advice.

Discussion point *Is this two tier formal advisory structure efficient and/or necessary?*

A two tier advisory structure is appropriate, providing opportunity for an effective regional level consultation and planning process and a mechanism for regional issues to be resolved at that level. Matters of wider consequence can be progressed to the Bushfires Council through the Regional Bushfires Committee representation on the council. In the past there has been some blurring of the responsibilities of the Council and Committees, and this paper recommends that the Act should provide clear terms of reference for each body. The proposed Terms of Reference for both the Bushfires Council and Regional Bushfires Committees are outlined in this section.

Discussion point *How many members should be on a committee, how should they be chosen, which stakeholder groups should be represented?*

Committees should consist of not less than 6 members, and their membership should be reviewed regularly to ensure that it is representative of all key stakeholder groups. The Minister should appoint the Regional Bushfires Committee members for terms of up to three years.

Discussion point *Should the Fire Control Officer (FCO) be a member or attend in advisory capacity – in some regions there are more than one FCO?*

Section 14 of the Act states that:

The fire control officer for a fire control region ... is a member of the Regional Bushfires Committee for that region.

This requirement is an anomaly stemming from a period, before amalgamations, when there were many more Fire Control Regions and fewer Fire Control Officers. There are now two or more Fire Control Officers working in most regions, and there are also Senior Fire Control Officers with responsibilities to manage operations in each region. The current practice is that a Fire Control Officer provides advice and administrative support for each Regional Bushfires Committee, but does not participate in decision-making. It is proposed that each Regional Bushfires Committee should be supported by an officer of Bushfires NT in an Executive Officer capacity and, reflecting the importance of that role, that it should be undertaken by the Senior Fire Control Officer responsible for that region. The Executive Officer should provide administrative support and advice as requested, and should not be a voting member of the Regional Bushfires Committee.

Discussion points *How often should committees meet? and, Should there be a requirement for committee meetings to occur just prior to council meetings?*

The Regional Bushfires Committees will need to meet at least twice yearly to consider and provide feedback to the Bushfires Council on regional fire plans. It follows then that the timing of meetings should be just prior to Bushfires Council meetings. There is no proposal to limit the number of meetings a Regional Bushfires Committee holds.

Discussion point *Is the committee structure the most effective solution for all regions e.g. in the Arnhem region it is expensive and difficult to bring members together for meetings?*

The committee structure is an effective mechanism for regional representation, although it should be regularly reviewed to ensure that each committee is operating effectively. Regional Bushfires Committee arrangements under the current legislation are sufficiently flexible to allow the Minister to make changes and no change to existing legislative arrangements is proposed.

Discussion points *What types of advice are the regional committees best placed to provide to the Bushfires Council? and, What other roles are appropriate for Regional Bushfires Committees to support?*

The roles to be undertaken by the Regional Bushfires Committees are outlined in the Terms of Reference proposed earlier in this section. The roles are focussed around providing stakeholder input into regional planning, reviewing regional programs and making recommendations to the Bushfires Council on strategic directions for bushfire management in the region. Regional Bushfires Committees should provide an important forum for consultation and coordination between landholders and bushfire managers.

Discussion point *Do Council and/or committee members need fire warden powers?*

Neither Bushfires Council nor Regional Bushfires Committee members need the powers of a Fire Warden simply by reason of their Council or Committee membership. While many members make significant contributions to local and regional fire management operations through their Fire Warden status, other members have stated that they do not wish to be appointed as Fire Wardens. There is no proposal to limit or restrict the ability of Council or Committee members to continue to undertake key roles in local and regional fire management through appointment as Fire Wardens and participation in the Chain of Command. It is proposed that members should be able to choose to be appointed rather than the current arrangement that sees all members automatically appointed.

Discussion point *Is it appropriate that a function of the regional committee is to prevent and control bushfires in its fire control region given that fire management remains the responsibility of the landowner?*

The Act should reflect the existing arrangement – Regional Bushfires Committees are a part of crucial consultative and planning structure sitting alongside a bushfire management system that incorporates Bushfires NT, Volunteer Bushfire Brigades, volunteer Fire Wardens and landholders. Historically these committees were in effect the sole authorities for regional bushfire management, and committee membership carried an implied responsibility to coordinate and direct fire management operations in a region. For this reason committee members were allocated Fire Warden powers, and many continue to play key operational

roles through their Fire Warden status. There is no proposal to restrict committee members from undertaking that role in a Fire Warden capacity. The proposal to remove reference to the Committee's operational responsibility to 'control and prevent bushfires' simply reflects the fact that individuals with the appropriate powers, rather than a committee, can take action to 'control and prevent'.

It is not appropriate for a committee to have powers, duties, or functions beyond monitoring, reviewing, and recommending strategic fire management arrangements in a region. Individuals can contribute to fire management by virtue of their Fire Warden status and participation in the Chain of Command. The ultimate legal responsibility for operational matters rests with the Chief Executive of the host agency and other Government employees; they must therefore have ultimate control of fire management operations.

Discussion points *Is it appropriate that regional committees contribute to fire mitigation and suppression planning processes, and if so, by what mechanism? and,*

What role should regional committees have in developing and commenting upon strategic risk management frameworks?

Regional Bushfires Committees should be making important contributions to fire mitigation and suppression planning processes, as well as strategic risk management frameworks. Committees should contribute to regional strategic fire management planning by making recommendations to the Bushfires Council and Bushfires NT on regional risk, and by reviewing Bushfires NT operational plans and operating procedures.

Discussion point *What role should regional committees have in facilitating and developing fire management partnerships or supporting communication and extension activities to different landowners across the Northern Territory?*

Whilst having no formal role in communication and extension, the Regional Bushfires Committees will provide a forum for consultation and coordination between landholders and bushfire managers, as detailed in the Terms of Reference.

4.3.3 Recommendations – Regional Bushfires Committees

- The primary role of Regional Bushfires Committees should be to make recommendations to the Bushfires Council on all matters relating to bushfire management in their regions.
- Clarify Section 15 of the current Act and replace the mandatory appointment of committee members as Fire Wardens with an option to be appointed as Fire Wardens and participate in local and regional fire management operations through their role in the Chain of Command.
- Committees should contribute to regional strategic fire management planning by making recommendations to the Bushfires Council and Bushfires NT on regional risk, and by reviewing Bushfires NT operational plans and operating procedures.
- The Act should include Terms of Reference clearly defining the role of Bushfires Regional Committees.

- Committees should not be limited to six members, and their membership should be reviewed regularly to ensure that it is representative of all key stakeholder groups.
- The effectiveness of committees should be reviewed regularly and, where appropriate, changes to regional boundaries should be implemented.
- A senior regional officer of Bushfires NT should be appointed as an Executive Officer for each committee, but should not be a voting member. The requirement for a Fire Control Officer to be a member of each committee should be removed.

5 Bushfires NT

5.1 Bushfires NT Structure and Structural Alignment

5.1.1 Background

The *Bushfires Act* does not refer to Bushfires NT and its role in fire management, emergency response, and other 'fire service' type responsibilities. The Act allows the Minister to establish the Bushfires Council, to appoint Fire Control Officers and Fire Wardens, and implies that fire management is carried out in the name of the Council. Bushfires NT was established as a departmental division in 2004 and tasked with functions associated with the administration of the *Bushfires Act*. It is currently a division of the Department of Land Resource Management.

Many submissions to the review recommend that Bushfires NT should be established by the Act as a rural or country fire service similar to those established in other jurisdictions. Conversely, there is also a strong view that the responsibilities of this service should be limited to bushfire management, and should not include responsibility for structure fires, road accidents, rescue and other functions performed by many of the interstate country fire services. The two different and distinct roles currently undertaken by Bushfires NT are highlighted; a broad extension and coordinating role in bushfire management across most of the Northern Territory with a clear focus on mitigation and land management; and the emergency response role in coordinating and managing bushfire suppression, largely provided in conjunction with volunteer brigades, and largely conducted in the intensively developed areas on the fringes of the major towns and cities.

There is also a clear call for the establishment or formalisation of a wildfire response capacity in areas outside the current NT Fire and Rescue Service (NTFRS) Emergency Response Areas (ERAs). This would include areas of rural residential or intensive agricultural and horticultural development, areas largely already serviced by volunteer bushfire brigades, and where Bushfires NT currently provides a bushfire emergency response service.

There is a range of views on how this could best be achieved. Some submissions suggest that the ERAs serviced by the NTFRS should be extended to cover all areas of rural residential or intensive agricultural and horticultural development. The majority prefer that Bushfires NT should continue with its wildfire mitigation and response roles in those areas. Several submissions highlight the contrasting operational and service models of NTFRS and Bushfires NT, and some express concern that moving to the NTFRS model might reduce the existing focus on, and capacity to conduct, mitigation operations.

A number of submissions also discuss the role of Bushfires NT in areas beyond these proposed response areas. Several of these refer to the principle that fire is the responsibility of the landholder and call for that principal to be retained. Most recommend that Bushfires NT should play a support role when requested in property level fire mitigation and suppression, expanding to a regional coordinating role in major fire suppression and regional fire mitigation programs.

The Act allocates a range of powers relating to fire prevention and control to Fire Control Officers and Fire Wardens. The Chief Fire Control Officer and the Senior Fire Control

Officers are also able to exercise those powers. The Act takes a rather convoluted approach to establishing a chain of command amongst these positions; the chain of command is further defined in Bushfires NT's Standard Operating Procedures.

This approach causes some confusion in that the Bushfires NT chain of command includes Fire Wardens and volunteer brigade members who do not have formal relationships with Bushfires NT. A further complexity stems from the existence of a Bushfires NT rank titled Fire Control Officer, and the practice of allocating Fire Warden powers to holders of this rank (rather than Fire Control Officer powers). The distinction between rank and powers is consequently somewhat blurred. A number of submissions describe problems that arise from the unclear chain of command and some relate this to the lack of capacity for Bushfires NT to deal effectively with governance and performance problems that arise from time to time within brigades.

The Discussion Paper raised the question of structural alignment; where does Bushfires NT best sit within Government? The scale of Bushfires NT operations does not appear to warrant creating a stand-alone agency. If Bushfires NT is to undertake the two distinct roles described earlier, it is necessary to consider whether it aligns best with an emergency response or land management agency. The majority of submissions recommend that continuing to locate Bushfires NT within a land management agency will allow Bushfires NT to maintain its land management and mitigation focus without limiting its capacity to undertake the bushfire response role in more intensively developed areas.

5.1.2 *Deliberation and response to discussion points*

A number of submissions call for Bushfires NT to be established as a fire service along the lines of interstate country fire services. Obviously, this consideration is influenced by the fact that Bushfires NT exists and undertakes a number of functions in this area, even though the legislative basis for much of this activity, where it exists at all, is not particularly clear. While some submissions contain broad statements to the effect that little change is required because the system is working, many recognise the risks and uncertainty that stem from the absence of a clear legislative framework encompassing bushfire management operations.

All jurisdictions other than the Northern Territory have legislation that establishes a rural fire service with powers to take charge of a response; to take necessary action to preserve life and protect property; and to do all that is necessary to bring a fire under control. Most also include some level of responsibility for structure fires, road accidents, rescue and other emergency response functions.

While the Northern Territory has an urban firefighting service with responsibilities for bushfire suppression in Emergency Response Areas, there is no central rural fire or bushfire service for the remaining 99% of the Northern Territory land area. Each volunteer brigade is a separate incorporated entity, rather than part of a larger organisation. Responsibility for fire management rests with the landowner, while the Bushfires Council, the Chief Fire Control Officer, Senior Fire Control Officers, Fire Control Officers and Fire Wardens have roles in fire prevention and control. There is a need to define the activities of Bushfires NT across different regions and to have this enshrined in legislation.

A clear majority of submissions recommend that the legislation should establish Bushfires NT as the fire management service responsible for bushfire management in all of the

Northern Territory, apart from the NTFRS Emergency Response Areas. This recommendation stems from a desire to remove the perceived uncertainty around Bushfires NT's responsibilities, particularly in regard to the wildfire response role, and especially in the high risk areas of rural residential development where response is conducted in partnership with volunteer brigades.

Establishment of Bushfires NT as a separate country or rural fire service would come at significant cost and, given the small number of employees and the land management focus of Bushfires NT's operations, does not appear to be warranted at this time. Further, establishment as a separate entity would not, of itself, remove the uncertainty around Bushfires NT's responsibilities. The underlying need is for the Act to clearly authorise Bushfires NT personnel, including volunteers, to take effective action at a bushfire or other emergency.

Part II of the Act establishes the positions Chief Fire Control Officer (CFCO), Senior Fire Control Officer (SFCO), Fire Control Officer (FCO) and Fire Warden. Appointments to these positions are made by the Minister. When these appointments are no longer required, they must be revoked by the Minister. The current practice is that the CFCO, SFCOs, and FCOs are paid employees of Bushfires NT, while a range of people are appointed as Fire Wardens. This includes some operational staff of Bushfires NT, some captains and other members of volunteer brigades, and volunteers from the community in areas not serviced by a volunteer brigade.

The Act allocates a range of powers relating to fire prevention and control to FCOs and Fire Wardens. The CFCO and the SFCOs are also able to exercise those powers. The Act takes a rather convoluted approach to establishing a chain of command amongst these positions; the chain of command is further defined in Bushfires NT's Standard Operating Procedures.

The following sections (Sections 5.2 and 5.3) of this paper describe proposals to strengthen the Chain of Command for allocation of powers within the *Bushfires Act*, and to establish three new levels within that Chain of Command: Authorised Bushfire Volunteer; Brigade Captain; and Local Area Group Captain. A clear chain of command such as this will enable Bushfires NT to manage operational responsibilities and authorities without becoming a statutory fire service. It will enable much clearer role definition and accountabilities within a "land management" department framework, and will effectively formalise Bushfires NT's role in bushfire management and control.

Discussion point *What circumstances require the Minister to provide financial assistance to landholders?*

Section 6 of this paper (page 36) describes and defines some broad fire management regions, to be enshrined within the Act. These definitions will include a description of the rationale for establishing a management zone or area and the responsibilities within each zone or area. These components of the Act will clearly show that in some high-risk situations in a Fire Control Area, or a Declared Fire Management Zone, the government may make co-contributions with land holders to manage specific high risk fire scenarios..

Discussion point *Should the role of Bushfires NT in emergency response be more clearly defined and formalised?*

This paper includes proposals to establish broad fire management regions, as well as a mechanism for establishing a clear Chain of Command which will detail the authority and responsibilities of Bushfires NT personnel and others involved in an emergency response. Enshrining these proposals within the Act will clearly define and formalise the role of Bushfires NT in emergency response.

Discussion point *Does the role vary in different areas – what are the defining factors i.e. risk, asset density, fuel load, availability of resources?*

The role of Bushfires NT will vary according to the specific management area. Table 1 (page 42) describes the characteristics of fire control and fire management zones and areas, and defines the role of Bushfires NT in each.

Discussion point *How far does the principle of landholder responsibility for fire management go and when does Bushfires NT assist or intervene?*

Landholder or landowner responsibility for fire management is a key component of the current Act (Section 49) and as described elsewhere it is sensible that fire management remains the principal responsibility of the landholder. Any necessary intervention and assistance from Bushfires NT is described and enshrined in the Act through the creation of Fire Control and Management areas and zones, as described in Table 1 (page 42).

Discussion points *Should we have declared ‘response areas’ where Bushfires NT staff or brigades would respond to wildfire? and, What should the Bushfires NT role be in other areas?*

There should be declared ‘response’ areas and this is clarified through the creation of Fire Control and Fire Management areas and zones, as described in Table 1 (page 42). This approach clarifies the role of Bushfires NT throughout all areas of the Northern Territory.

Discussion point *What role, if any, should Bushfires NT have in other emergencies such as flood, cyclone, road crash, hazardous materials incidents, etc.?*

As a government agency with some capacity for emergency response, Bushfires NT should be expected to support an emergency response, if and when requested. The nature and details of this would not be defined within the Act, but rather be commensurate with capacity, and consistent with that of other support services.

Discussion points *Should there be a fire-planning requirement for landowners? and, Should Bushfires NT have a formal role in fire planning extension – helping to prepare fire plans for individual properties, fire planning for land development, public education, producing fire planning resources?*

Fire management is primarily the responsibility of the landowner. Fire is a natural component of the Northern Territory landscape, thus requiring ongoing and regular management. Landholders, for whom fire management sits alongside other land management tasks such as weed and feral animal management, are best placed to undertake fire planning and integrate it with other components of land management. It is therefore appropriate that landowners take responsibility for fire management planning on their land, while Bushfires NT has responsibility for preparing regional fire management

plans covering multiple properties and jurisdictions. The varying roles and accountabilities of landholders and Bushfires NT associated with different fire management regimes are described in Table 1 (page 42).

Discussion points *Where does Bushfires NT best align, within a land management or emergency response department or portfolio?*

What will be the major strategic advantages and disadvantages of Bushfires NT remaining within a land management focussed department? and

What will be the major strategic advantages and disadvantages of Bushfires NT moving to an emergency response department or agency?

The small scale of Bushfires NT operations, and the land management focus of bushfire management in the Northern Territory, does not warrant creating a stand-alone agency at this point. Continuing to locate Bushfires NT within a land management agency will allow formalisation of Bushfires NT's role in bushfire response in more intensively developed areas, without detracting from its land management and mitigation focus. This approach aligns well with the integrated land management approach to fire management that is best suited to Northern Territory circumstances.

The great majority of submissions that address these matters call for the formalisation and clarification of Bushfires NT's role as a fire service. Many submissions also call for the volunteer bushfire brigade network to be more clearly integrated with Bushfires NT. Further analysis of the call for establishment of a fire service reveals an underlying assumption that this is the most appropriate way to formalise and strengthen Bushfires NT's existing role in wildfire response. This is not currently the case; maintaining Bushfires NT's current structural alignment as a division within a land management agency need not jeopardise Bushfires NT's capacity to accommodate an integrated approach to fire management, including a 'command and control' role in emergency response.

To the contrary, establishing Bushfires NT as a stand-alone fire service would inevitably shift the focus of operations away from land management and towards fire exclusion and suppression, and indeed towards the host of other emergency response activities undertaken by rural fire services in other jurisdictions: responding to road accidents, search and rescue, hazardous materials incidents and so on.

It is recommended that Bushfires NT can best contribute to the objects of a revised *Bushfires Act* while aligned with a land management agency.

5.1.3 Recommendations – Bushfires NT

- Bushfires NT should retain its land management focus through structural alignment with a land management agency. The limited scale and land management focus of Bushfires NT's operations does not currently warrant the establishment of a separate bushfire management agency or country fire service.
- Replace the current allocation of broad operational powers and functions to the Bushfires Council and Committees with allocation of more specific powers and functions to the Director Bushfires NT and the Chief Fire Control Officer.

- Provide for powers and authorities to be delegated to employees and volunteers as required through a clear chain of command.
- Providing clearer definition in the Act of the authority and responsibilities of Bushfires NT personnel will have the effect of defining and formalising the role of Bushfires NT in emergency response.
- The Act should continue to provide for the establishment of volunteer bushfire brigades in areas of high fire risk.
- Bushfire management should continue to be addressed as a component of integrated land management.

5.2 Powers, Chain of command, Delegation

5.2.1 Background

Sections 50 and 51 of the *Bushfires Act* are concerned with the allocation of powers to Fire Control Officers and Fire Wardens. Section 50 (1) states:

Subject to this section, a fire control officer and fire warden may do any act (whether or not it involves the use of fire) necessary for or incidental to:

- (a) controlling a bushfire; or*
- (b) protecting property or the life of any person from existing or imminent danger arising out of a bushfire.*

The section then goes on to list some specific examples of acts that are authorised, including entering land, cutting fences, closing roads, and using fire to create fire breaks (*i.e.* back-burning).

Fire Control Officers and Fire Wardens are empowered to take action to control or suppress a bushfire. In most cases, the majority of the personnel involved in bushfire suppression operations conducted by Bushfires NT are volunteers. The Act neither allocates powers to volunteers, nor does it allow the powers provided to Fire Control Officers and Fire Wardens to be delegated to volunteers. Apart from the small number of volunteers who have been appointed as Fire Wardens, all other volunteers therefore have no formal authorisation to participate in fire suppression or monitoring activities.

The powers provided in Section 50 are considered appropriate for those participating in bushfire suppression operations. These powers can only be allocated by an instrument in writing signed by the Minister, and they cannot be delegated. This arrangement is cumbersome and cannot easily accommodate rapidly changing requirements that may emerge in wildfire response.

The current act lays a rudimentary foundation for a chain of command by establishing a hierarchy based on rank amongst the officers provided with powers under Section 50. Officers are ranked from Chief Fire Control Officer through Senior Fire Control Officer, Fire Control Officer to Fire Warden. There is no reference to other Bushfires NT staff or to volunteers. The chain of command is further defined in Bushfires NT's Standard Operating Procedures.

This approach causes some confusion in that the Bushfires NT chain of command includes Fire Wardens and volunteer brigade members who do not have formal relationships with Bushfires NT. A number of submissions describe problems that arise from the unclear chain of command, and some also relate this to the lack of capacity for Bushfires NT to deal effectively with governance and performance problems that arise from time to time within Brigades.

5.2.2 Deliberation and response to discussion points

Part II of the Act establishes the positions Chief Fire Control Officer, Senior Fire Control Officer, Fire Control Officer and Fire Warden. There is no reference to roles of the Chief

Executive of the department or the Director of Bushfires NT. These are key roles that should be defined in the Act.

The fact that volunteers participate extensively in operations with no formal authorisation is a considerable weakness in the current arrangements. While there is an expectation that the Northern Territory Government would accept liability for any claims against volunteers or volunteer brigades resulting from legitimate fire control activities, this is not provided for in the existing legislation. Section 5.3 (page 29) of this paper recommends the Act should define the position Authorised Bushfire Volunteer and formalise its place in the Chain of Command.

The powers provided in the Act are considered appropriate for those participating in bushfire suppression operations. There needs to be a mechanism for the delegation of these powers, as required, to all personnel involved in a bushfire management operation. The NT *Fire and Emergency Act* calls for the appointment of an incident controller for each incident, and for that officer to have all powers necessary to deal with the incident. Those powers are then delegated to personnel involved in the incident through their participation in the Chain of Command. Put simply, a direction to perform a task in these circumstances carries with it delegation of the power or authority to undertake that task. This is a simple and effective arrangement, and a similar approach should be adopted in the *Bushfires Act*.

The *Fire and Emergency Act* provides an effective model for the establishment of a formal command structure or Chain of Command. This is accommodated through a provision for the Director to issue General Orders. Orders made under this provision can provide for establishment of a command structure, or ranks, or a range of other matters. A provision for issuing General Orders is an effective tool for dealing with these matters and should be adopted in the *Bushfires Act*.

Discussion point *Are the powers of Fire Control Officers and Fire Wardens appropriate/sufficient?*

It is considered that the powers of Fire Control Officers and Fire Wardens are sufficient, however many volunteers involved in bushfire management or control operations have no powers or authority to justify or support their actions.

The NT *Fire and Emergency Act* establishes the NT Fire and Rescue Service, authorises it to establish volunteer brigades, and authorises its 'members' (employees and registered volunteers) to participate in fire management. Specific powers to act at an incident are conferred by direction from an incident controller, passed on through a clearly defined chain of command. Adopting arrangements similar to those in the *Fire and Emergency Act* would allow for rapid delegation of power and authority during critical incidents and situations.

Discussion point *Should there be a formal qualification/skill requirement for wardens, Fire Control Officers etc.?*

All personnel should have at a minimum the Fire Fighting 1 (FF1NT) qualification. This course is aligned with the nationally accredited PUA12 Public Safety Training Package and is designed to ensure that participants gain an understanding of bush/grass fire behaviour and obtain skills and knowledge of safety procedures prior to attending any Bushfires NT incident.

Discussion point *Should there be terms for Fire Warden appointments (currently they are ongoing)?*

A fixed term is preferable, and will bring a requirement to regularly review appointments and seek new candidates where required. A three year term, renewable and subject to review, would be appropriate. Appointment of Fire Wardens is currently by instrument in writing signed by the Minister. This is a cumbersome process, and lacks the flexibility sometimes required in rapidly developing bushfire risk environments. A more flexible appointment arrangement should be adopted.

5.2.3 Recommendations – powers, chain of command, delegation

- The Act should define the roles of key personnel including the Chief Executive of the host agency, the Director Bushfires NT and the Chief Fire Control Officer.
- The Director should have power to make General Orders, including orders to establish a Chain of Command with associated responsibilities, authorities and powers to delegate.
- The Act should define all positions with clear fire management responsibilities and authorities including staff positions within Bushfires NT, Fire Wardens and Authorised Bushfire Volunteers.
- There should be provision for appropriate powers to be delegated to authorised officers and volunteers on an incident basis and through a formal Chain of Command.
- The powers currently allocated to Fire Control Officers and Fire Wardens are appropriate.
- Fire Warden appointments should be for a fixed term, and a more flexible appointment process should be adopted.

5.3 Volunteer Bushfire Brigades

5.3.1 Background

Implementation of the *Bushfires Act* is underpinned by the activities and resources of Volunteer Bushfire Brigades (brigades). There are approximately 500 active volunteers across 22 brigades that support wildfire mitigation and suppression in the Darwin, Katherine, Tennant Creek and Alice Springs regions and their work is the foundation of an essential public safety wildfire management program. This volunteer community has come to occupy an important place in the tapestry of Northern Territory rural life. Volunteer Bushfire Brigades are community groups that have developed to meet the challenge of bushfire management, in the process creating their own unique identities and often providing more than just a framework for the ongoing management of fire. Many brigades play key roles in the social fabric of their communities, often making significant contributions to community safety and welfare that go well beyond core brigade functions.

The NT *Associations Act*, administered by the NT Department of Business, provides the legislative basis for the incorporation of community groups and associations within the Northern Territory. Each brigade is an independent association established under that Act, and is governed by a constitution prescribed within the *Bushfires (Volunteer Bushfire Brigades) Regulations*. This model constitution must be adopted *verbatim* by brigades, and cannot be subsequently changed. The constitution addresses the usual suite of governance arrangements, but provides no specific guidance on the roles and responsibilities of members in fire management or firefighting. Brigades are independent organisations managed by an elected management committee which reports to brigade membership and annually to the Department of Business for finance and governance reporting requirements.

Independence, rather than being formally incorporated into Government, provides some significant advantages for brigades:

- Independence reinforces community ownership of the brigade and community responsibility for bushfire management.
- Brigades are able to apply for grant funding and conduct fund raising, and to make decisions about the use of funds raised.
- Brigades are able to contribute to broader community safety and resilience through involvement in disaster response, relief services, and other community safety projects.

Many submissions comment on the relationship between brigades and Bushfires NT. This is not unexpected, as the issue of brigade independence is fundamental to brigade identity, and is at the heart of the powerful affinity that exists between many brigades and their communities. Brigades most often describe themselves as community organisations rather than arms of government, even while they acknowledge their role in delivering a public safety service that could be perceived as a core government responsibility.

Unfortunately these acknowledged benefits of brigade independence are, to some extent, countered by the consequential requirement for brigades to deal independently with governance challenges or internal disputes. Experience shows that problems of this nature do arise from time to time, and brigades sometimes struggle to deal with them effectively. It is not unknown for a brigade to experience a degree of dysfunction in these circumstances,

adversely impacting on the brigade's partnership with Government for the delivery of vital community safety services.

Many submissions comment on the desirability of Bushfires NT having a capacity to intervene in brigade affairs when a brigade experiences governance challenges or is unable to operate effectively as a result of internal disagreement or conflict. The majority of submissions support some capacity for intervention as a means of addressing group dysfunction, and several call for the Director of Bushfires NT to have power to intervene in the affairs of a brigade if confidence is lost in that brigade's ability to discharge its functions.

Several submissions support a proposal to separate the roles of Brigade Captain and head of the brigade Management Committee in order to improve governance standards and brigades' capacities to deal with internal disputes. The rationale for this proposal lies in the contention that the primary skills required of a Brigade Captain are significant practical fire management and incident leadership skills, whereas the skills required of a Management Committee leader are more related to administration, governance and organisational leadership. One view suggests the creation of a new role as Chair of the Management Committee to work alongside the Brigade Captain who would have control of fire management activities. Another view describes the value of creating a paid Brigade Captain position with a clearly defined role coordinating fire management activities and programs, while brigade governance is undertaken by an elected management committee.

A further view suggests introducing a maximum term for Brigade Captains as a means to promote other members gaining leadership experience, thereby increasing the succession resilience of the particular brigade. This view contends that stagnation can sometimes be mistaken for stability, and that rotation through different roles and development of leadership skills amongst brigade members will serve to strengthen brigades' resilience and combat the disenchantment that sometimes grows in these circumstances.

Finally, several submissions comment on better protecting volunteer employment rights whilst volunteers are participating in active fire management duties. The view is that this is fundamental to maintaining current volunteer numbers and promoting the recruitment of new volunteers, and should therefore be enshrined within the Act.

5.3.2 *Deliberation and response to discussion points*

A recurring theme in many submissions is acknowledgement that the relationship between Bushfires NT and brigades needs to be more effective and more clearly defined. The submissions describe the need to support brigades when they experience governance challenges in a way that is duly respectful of the group's independence, but also focussed on maintaining the availability of brigade resources for firefighting. These comments probably stem from a recent experience when, during a period of conflict within a brigade, the brigade's firefighting appliances became temporarily unavailable. Obviously a governance dispute that leads to decrease in community firefighting capacity is unacceptable, and warrants rapid intervention and resolution.

Given the broad community expectation that taxpayer funded firefighting assets allocated to brigades will be readily available for firefighting, such intervention is warranted. Additionally, a closer relationship would:

1. Ensure appropriate levels of work health and safety (WH&S) best practice are maintained in all fire management activities and programs.
2. Ensure that the gazetted Chief Fire Control Officer (or his delegate), as the individual legally responsible for fire management activities and outcomes across the Northern Territory, is able to manage all firefighting resources including personnel, equipment, and appliances.
3. Ensure that the use and deployment of resources are coordinated across different regions and that resources are available for relocation according to fire risk priorities.
4. Include support for a program to assist brigades to better manage internal governance challenges, including a protocol for engagement of an external mediator where appropriate.

The challenge is to manage the support and intervention capacity in a way that does not diminish the independence and identity of individual brigades. This could be achieved by focussing Bushfires NT's formal intervention role solely upon firefighting matters, including the ultimate control of all Government provided resources. Ultimately, Bushfires NT is responsible for coordinating fire management throughout the Northern Territory, and building relationships with brigades around this principle will lead to stronger fire management outcomes through strategic deployment and timely response to high risk fire scenarios.

Under such an arrangement brigades would remain as independent organisations incorporated under the *Associations Act*, and would continue to be responsible for their corporate governance. They would maintain their independent fund raising capacity, and would be able to continue their contributions to broader community resilience by taking on roles in disaster response, relief services and other community safety projects. There would be no dilution of community ownership of the brigade, and community acceptance of responsibility for wildfire management should remain unaffected.

Discussion Point *Is it appropriate that Bushfires NT is more closely aligned to brigades, and if so, what would this alignment look like, and what would it aim to achieve?*

A general view across the majority of submissions is that Bushfires NT should be more closely aligned with brigades. This formal alignment should be focussed on the maintenance of a community based fire management capacity. The most glaring deficiencies in current brigade and volunteer arrangements are:

- the absence of a formal Chain of Command encompassing Bushfires NT staff and volunteers; and
- the absence of any formal authorisation of volunteer participation in fire management operations.

The Act gives neither specific authority nor power to volunteer brigades to fight fires, and it does not establish brigades as part of an overall larger firefighting organisation. Management of the response to a fire is in the hands of Fire Control Officers and Fire Wardens. A member of a volunteer brigade is required to comply with any directions given by a Fire Control Officer or Fire Warden at a fire, but only to the extent required of any member of the public. In the absence of a Fire Control Officer or Fire Warden, a volunteer

bushfire brigade only has the common law to justify its actions. While there is an expectation that the Northern Territory Government would accept liability for any claims against volunteers or volunteer brigades resulting from legitimate fire control activities, this is not provided for in the existing legislation. There is clearly a need to rectify this situation. It should be noted that the health and safety of volunteers is very clearly protected through provisions of the *Work Health and Safety (National Uniform Legislation) Act* and the *Workers Rehabilitation and Compensation Act*.

New Chain of Command and delegation of powers arrangements proposed in this paper (Section 5.2, page 26) would introduce a new designation for volunteer firefighters. Authorised Bushfire Volunteers would be appointed by the Director of Bushfires NT subject to criteria around skills and training and a police criminal history clearance. Appointments would be for a fixed term. Appointment would be subject to volunteers formally accepting their responsibilities within the Chain of Command, and would see powers and authority to undertake fire management tasks delegated to volunteers on an incident by incident basis through participation in that Chain of Command. Authorised Bushfire Volunteers would occupy a new category alongside currently legislated roles such as Fire Control Officer and Fire Warden.

It is further proposed to create seasonal paid positions to support brigade operations. Appointments to these local area operational positions will focus on candidates with extensive bushfire management experience along with demonstrated leadership and organisational skills. The positions would provide a local and familiar point of contact with Bushfires NT for a group of brigades, and would be responsible for coordinating the activities of several brigades and supporting and mentoring individual Brigade Captains as appropriate.

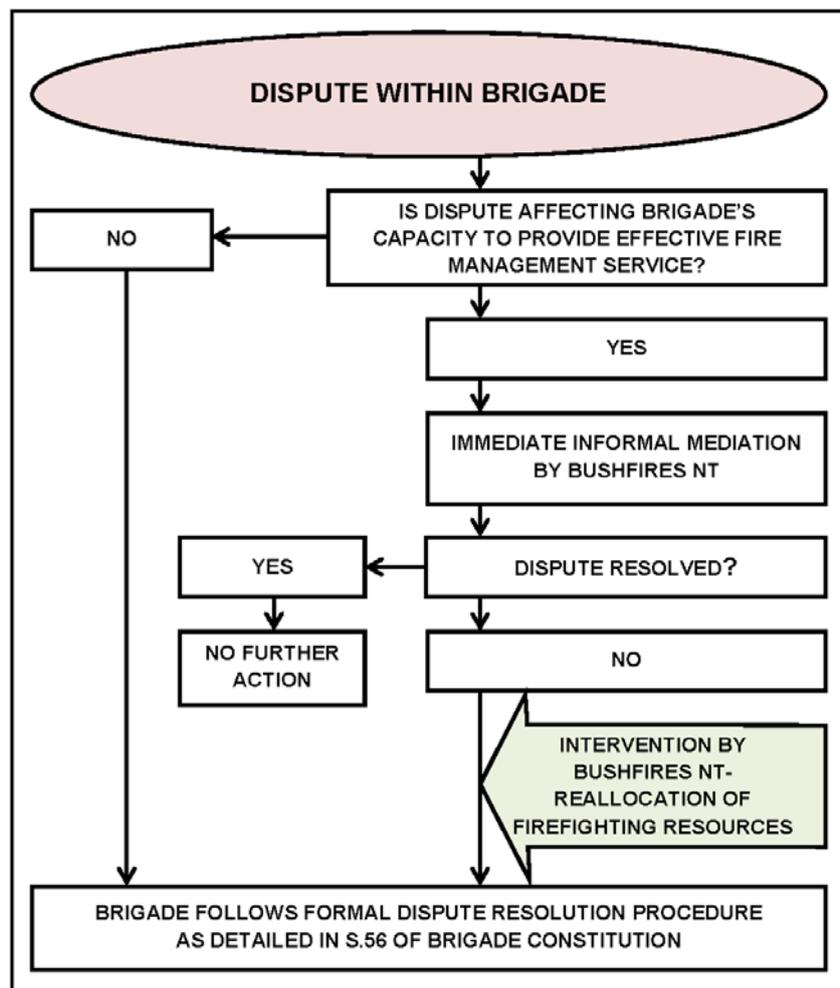
Discussion Point *Is it appropriate that Bushfires NT has a formal capacity, described in the Bushfires Act Regulations, to intervene in the corporate affairs if brigades become inactive or stagnate due to conflict or governance challenges?*

As discussed previously it is appropriate that Bushfires NT should intervene in fire management aspects of brigades when necessary to maintain community fire management capacity. Brigades are incorporated under the *Associations Act*, and the provisions of that legislation, along with the brigade constitution, provide for dealing with conflict or grievances or dysfunction within a brigade.

Governance models for volunteer brigades in other jurisdictions allocate much greater control over brigade affairs to the parent agency or fire service. A very clear message from volunteers and brigades, as reflected in many submissions, is the desire to retain independence and community ownership. There is consequently no proposal to significantly change the organisational independence of brigades, however, a second very clear theme in the submissions is a call for Bushfires NT to have greater powers to intervene when governance disputes or grievances impact on the ability of a brigade to provide a fire management service to the expected standard.

It is therefore proposed that the brigade constitution should be amended to give the Director of Bushfires NT limited powers to intervene in the affairs of a brigade. These powers should be governed by a clear set of criteria based on the brigade's capacity to provide an

acceptable community-based fire management service. The intervention process should include a requirement to first attempt to reach agreement with the brigade for firefighting resources to be voluntarily reallocated until the brigade is again able to provide the required service. If such an agreement cannot be reached quickly, the Director should be empowered to issue a legally enforceable order to reallocate firefighting resources to ensure their ongoing availability for fire management in that area. The ultimate resolution of the dispute remains the responsibility of the brigade, and a dispute resolution process is clearly detailed in the brigade constitution for dealing with such a situation.



Intervention decision diagram

While brigades should retain their independence and responsibility for brigade governance, it is not appropriate for brigade involvement in firefighting and mitigation operations to be managed independently. Brigades are components of an integrated bushfire management capacity, established and funded to provide a service through involvement in a command and control structure managed by Bushfires NT. The principles of command dictate that Bushfires NT must have clear control over these arrangements; the Director Bushfires NT or the Chief Fire Control Officer must have the power to appoint and direct volunteer firefighters through a chain of command, and to allocate firefighting resources in a way that best addresses bushfire risk.

There is an opportunity to further define what is expected of brigades and volunteers by introduction of a code of practice for brigades. This could provide a clear and transparent

rationale for Bushfires NT intervention in brigade operations including circumstances where firefighting resources need to be reallocated. Similarly, a code of conduct for employees and volunteers could contribute to development of a clear framework for appointment of Authorised Bushfire Volunteers. These codes must be co-developed with brigades and volunteers.

It is important that provision of independent mediation to support brigades with issues or governance challenges, as described in Section 56 of the current *Bushfires (Volunteer Bushfire Brigade) Regulation*, be continued and supported by Bushfires NT. If a dispute cannot be resolved under these arrangements, then the existing provision to seek resolution under the *Associations Act* should remain.

Discussion Point *What are the advantages and disadvantages of separating and further defining the roles of Brigade Captain and Brigade Management Committee Chairperson?*

As discussed earlier in this section, the primary skills required of a Brigade Captain are significant practical fire management and incident leadership skills, whereas the skills required of a Management Committee leader are more related to administration, governance and organisational leadership.

Submissions on this matter were mixed; some called for the two roles to be clearly separated while others were strongly opposed to that suggestion. It is possible to accommodate both views by allowing each brigade management committee to decide. It is proposed to amend the brigade constitution to allow, at the captain's request, the task of chairing the committee to be delegated to another committee member. If no such delegation is made, then the role of chairing the management committee should remain with the captain.

Discussion Point *Do you think volunteer employment protection rights are useful and should these be reflected in the Bushfires Act?*

Active volunteers who participate in fire control activities are often called upon at short notice, sometimes requiring an absence from their normal workplace or duties. Under such circumstances, volunteers have no protection from the potential employment dismissal or loss of employment benefit associated with being absent from their regular workplace. A "protection of employment rights" provision would be a useful addition to the *Bushfires Act* and would assist in providing assurance to volunteers that they will not be exposed to unfair treatment following attendance at a fire or other declared emergency.

5.3.3 Recommendations – Volunteer Bushfire Brigades

- Maintain the current brigade structure based on incorporation under the *Associations Act* to enable ongoing operations and engagement with the broader community.
- Create seasonal paid positions to better facilitate direct collaboration between volunteers and Bushfires NT.
- Allow the Director to appoint Authorised Bushfire Volunteers, subject to fire management qualifications and criminal history checks.

- Amend the brigade constitution to allow the Director of Bushfires NT to reallocate publically funded brigade equipment and resources when internal brigade disputes affect the availability of resources for fire management activities.
- Amend the brigade constitution to allow a brigade management committee an option to delegate the role of chair of the management committee to someone other than the brigade captain.
- Establish an employment rights provision in the Act to support volunteers and encourage recruitment of new members.

6 Fire Management and Protection Zones

6.1 Background

The definition and declaration of fire management zones is a long established principle in broad scale fire management, enabling management actions and responses to be tailored to specific threats. Such threats include, but are not limited to, high-risk weather conditions; high fuel build-up following unusually favourable seasonal conditions; and increased risk associated with intensively developed areas, such as urban and peri-urban residential estates. The inclusion of appropriate fire management zones must be described within a legislative framework, and several submissions comment directly on this issue.

The current *Bushfires Act* provides two mechanisms for establishing specific fire management regimes; Section 33 allows for the declaration of a Fire Protection Zone; and Section 37 allows for declaration of a Fire Danger Period in a specified area.

There are four declared fire Protection Zones in the Northern Territory, each covering an area of rural residential development outside Darwin, Katherine, Tennant Creek and Alice Springs respectively (see Figure 1, page 41). These zones roughly coincide with areas serviced by volunteer brigades. The declaration of a Fire Protection Zone (Section 35) carries a requirement for landholders to obtain a permit before burning, apart from fires for camping, cooking or animal carcass disposal. Further conditions or requirements can be applied to a Fire Protection Zone under Section 34:

The Minister may, by public notice, if he is satisfied that the prohibition or requirement is necessary for the protection from bushfire of land within a fire protection zone, prohibit or require the doing of an act specified in the notice.

In effect, the sole difference in fire management regulation in a Fire Protection Zone is the requirement for landholders to obtain a permit before burning at any time of the year. No notice has ever been made under Section 34. In practice the Fire Protection Zones roughly coincide with the areas of intensive development and/or high asset density in which Bushfires NT and the volunteer brigades provide a wildfire response capacity.

A Fire Danger Period can be declared in a particular area for a specified period. This declaration initiates more stringent fire management conditions over the affected area. A permit is required for fires other than those for camping, cooking or disposing of animal carcasses. The other requirements associated with a declared Fire Danger Period are:

- A fire must not be left unattended.
- Burning or smouldering matter must not be 'thrown down' within 4 metres of flammable material.
- Engines must be fitted with spark arrestors.

Unlike the Section 34 provisions that provide some flexibility in the conditions associated with a Fire Protection Zone, there is no provision to modify the conditions established by declaration of a Fire Danger Period. While Fire Danger Period conditions are quite specific, they are not of great consequence; in practice they simply oblige a landholder to obtain a permit before burning, and to not leave a fire unattended.

The inadequacy of these two mechanisms for establishing specific fire management regimes is raised in submissions, and there are calls for greater capacity and flexibility in the process of declarations and their consequent management implications.

Several submissions refer to the importance of structuring the Act to reflect the diversity of fire environments across the Northern Territory. This feedback highlights the importance of differentiating between arid and tropical environments, and emphasises the need for fire management frameworks to be responsive and dynamic if they are to effectively deal with emerging fire management risks such as above average fuel build up. The submissions include a suggested process of independent seasonal assessments to identify bushfire risk levels, and to guide the provision of appropriate funding and support. The declaration of specific fire management zones in response to emerging fire management risks would provide a dynamic and adaptive management framework without requiring legislative redrafting.

The mechanism for declaring Fire Danger Areas and Fire Bans for specific periods was also raised in submissions, with a suggestion that the Director of Bushfires NT should have the power to make these declarations in order that the decision can be made at short notice, and published without delay. The current Act requires that these declarations are made by the Minister *by public notice*.

Some submissions seek greater clarity about the geographic relationship and respective fire management responsibilities of Bushfire NT and the Northern Territory Fire and Rescue Service (NTFRS). These submissions describe the impacts of significant population growth in the rural areas surrounding Darwin, how this has led to more intensive fire management practices, and an emerging expectation of a dedicated fire response capacity.

The importance of the Act detailing fire management activities and responsibilities within different regional areas of the Northern Territory is raised, including comments that all the bushfire network personnel structures, including volunteers and landholders, must be clearly defined in this description.

Another perspective suggests that fire management activities and responsibilities should be defined within different land tenures. It notes the opportunity for the Act to define the different fire management practices required across crown and government land, roadside verges, railway corridors and conservation areas.

6.2 Deliberation and response to discussion points

The current Act provides for the ministerial declaration of Fire Danger Areas that require landholders to obtain a Permit to Burn prior to undertaking any burning activities. The declaration focuses upon preventing and controlling fire during high fire risk periods. The declaration does not provide for broader fire management activities and does not provide a framework for managing unusual fire risks such as extraordinary fuel loads in particular areas.

While many fire managers favour the introduction of a universal requirement for a Permit to Burn, this is seen as an unnecessary burden by many landholders and there is no proposal to introduce that requirement. The requirement to obtain a Permit to Burn is the only significant condition associated with the declaration of a Fire Danger Period and, in the

absence of any universal requirement for a Permit to Burn, it will be necessary to retain the Fire Danger Period arrangements.

The suggestion that different types of land tenure should have different legislative requirements is not appropriate given the small geographic areas of many land titles, and the fact that land tenure type is not the major determinant of fire type. Regional landscapes and vegetation types combined with broader environmental conditions determine fire regimes, making regional declaration processes the most appropriate.

A process is therefore needed to allow the declaration of Fire Management Zones with clearly defined activities and responsibilities beyond simple fire exclusion and suppression. This appears to be appropriate and will provide a framework for fire management that encapsulates regional variation.

It is recommended that three broad fire management regions, in addition to the current NTFRS Emergency Response Areas (ERAs), be described within the Act. The determination of these regions should be based upon landscape and land use characteristics, fire regimes, and fire management activities. Table 1 (page 42 **Error! Bookmark not defined.**) details the rationale and intent for each recommended management region. These management regions will complement the existing NTFRS ERAs.

Broadly, the management regions should include:

1. A **Fire Protection Zone** that includes an incident management response focus to protect intensively developed rural blocks from high fire risk scenarios. This area will feature response management by Bushfires NT personnel, high resource capability (including aerial and ground support) and high level of participation by Volunteer Bushfire Brigades.
2. A **Fire Management Zone** that includes landscape fire management response through planning, mitigation and response to protect extensive rangeland areas. This area will largely involve management by landholders with coordination and on-ground support from Bushfires NT personnel during extensive or significant fires. All of that part of the Northern Territory not included in Emergency Response Areas or Fire Protection Zones would be included in a series of Fire Management Zones reflecting regional landscape and fire regime variation.
3. The declaration of specific **Declared Fire Management Areas** to provide for adaptive management of unusually high fire risks across a region for a determined period. Actions will focus on early and extensive mitigation and preparedness, and extensive coordinated response and suppression involving landholders, Bushfires NT personnel, and other emergency service organisations.
4. The already existing **Emergency Response Area** managed by the NT Fire and Rescue Service.

The boundaries between these management regions will require regular review to account for changing populations, land uses, and community expectations. It is recommended that this review requirement be described within the Act.

Discussion point *Is the fire protection zone and fire danger period system an effective way to apply bushfire management conditions?*

A system of establishing different zones and areas, and providing for appropriate management responses according to fire conditions, is a sensible and effective system. The zones and areas defined in the current Act do not provide the flexibility to fashion fire management regimes tailored to the ongoing or seasonal fire risk in a particular area. This paper describes an improved approach providing for broad fire management regions to be enshrined within the Act. The Act will describe the rationale for establishing each management zone or area and the fire management responsibilities associated with each. These components of the Act will be based on the characteristics of different areas and regions, and the conditions that will influence the required fire management responses.

Discussion point *Should there be more limitations on cooking/camping/stock disposal fires?*

The requirements and conditions associated with the lighting and control of fires will be detailed in Strategic Fire Management Plans developed according to fire management area and zone requirements, detailed in Table 1. These will include description of conditions and limitations associated with cooking/camping/stock disposal fires. As these fires are generally considered low risk, there is no intention to apply limitations beyond those currently in place.

Discussion point *How should fire bans be publicised? How effective is the current system?*

The current system of publicising fire bans is considered effective, with some slight modifications. Once a declaration is made and the requirement to communicate is current, the existing arrangement for bans to be publicised through the Bureau of Meteorology's public weather warning arrangements, complemented by utilising social media, is considered the most effective means of publicising fire bans.

Discussion point *Is it always necessary to extinguish all fires on a fire ban day?*

As detailed above, the requirements and conditions associated with the lighting and extinguishing of fires will be detailed in Strategic Fire Management Plans developed for fire management areas and zones as detailed in Table 1. These would include description of conditions and limitations associated with lighting and extinguishing fires. It will include the provision that all fire will need to be extinguished within a fire ban declaration area on a fire ban day.

Discussion point *Who should be responsible for the declaration of fire bans - the Minister or the CFCO? and
Are the current penalties appropriate?*

The Director of Bushfires NT should be responsible for the declaration of fire bans. Once enshrined within the Act, this will ensure that the Director has the legislative capacity for declarations, and the decision can be made at short notice, and published immediately. The current penalties associated with breaching fire ban conditions are considered appropriate and will be reflected within the Act.

Discussion point *Should there be a specific penalty for allowing fire to spread to another property?*

As mentioned above, the current penalties regarding fire management, including that associated with allowing fire to spread to another property, are considered appropriate and should not be changed.

Discussion point *Section (60), Contribution for Firebreaks, allows a land occupier to recover any cost incurred due to an order under Section 47 (i.e. cost of establishing a fire break) from the landowner. Is this an appropriate/reasonable requirement? Or should the land occupier be responsible for that cost?*

This is a reasonable and appropriate requirement and should remain unchanged in the Act.

6.3 Recommendations – Management Areas and Zones

- Within The Act, define a:
 - Fire Protection Zone;
 - Fire Management Zone; and
 - Declared Fire Management Area.
- These definitions will include a description of the rationale for establishing a management area or zone and the responsibilities within each area or zone.
- The new Fire Protection Zone will replace the existing Fire Protection Zone arrangements.
- The requirement for regular review of the management area boundaries to be described within the Act.
- Fire Bans and Fire Danger Areas/Periods be retained but with authority to declare allocated to the Director and recognition of electronic/social media as a suitable means of publicising.

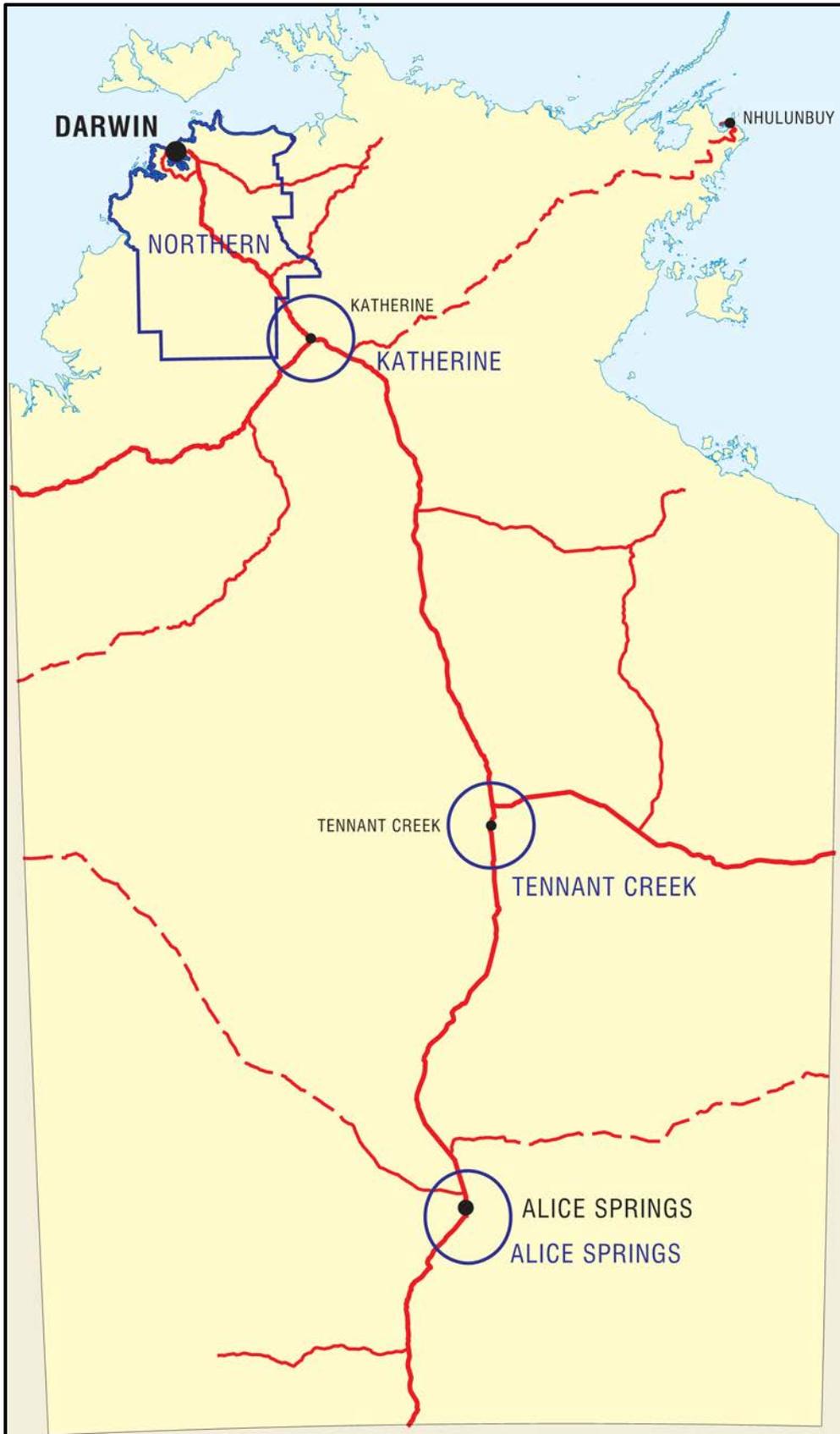


Figure 1 Existing declared Fire Protection Zones

Fire Determinants	Fire Protection Zone	Fire Management Zone	Declared Fire Management Area	Emergency Response Area (NTFRS)
Landscape & Landuse Characteristics	<ul style="list-style-type: none"> • Rural blocks, free hold acreage. • Many areas of crown land • Intensely developed, multiple land uses • Often absentee landholders • High fuel loads • Critical power and water infrastructure • Residential loss risk. 	<ul style="list-style-type: none"> • Extensive areas of pastoral, Aboriginal and Defence Dept. land. • Less intensively developed (property rather than residential development) • Low population density • Enterprise and livelihood loss risk. 	<ul style="list-style-type: none"> • May be in any area of the Northern Territory • Declared to manage any unusual fire risk requiring specific management activities and responses. • Area specified and time bound e.g. high regional fuel build up, or historical high fire risk areas impacting upon multiple land users. 	<ul style="list-style-type: none"> • Currently responsibility of Northern Territory Fire and Rescue Service. • Small rural blocks and rural residential suburbs. • High population density • Intensively developed • Structural and residential loss risk
Fire Regimes	<ul style="list-style-type: none"> • Intense fires (often requiring aerial water bombing) • Fast running • Difficult to contain, given intensive land use and residential infrastructure. 	<ul style="list-style-type: none"> • Moderate fires from burning of native vegetation • Average running fires • Generally landscape fires (broad in area but lower in intensity) 	<ul style="list-style-type: none"> • Higher fire intensity than normally experienced in an area or region. • Fire risks require greater management than historically imposed. 	<ul style="list-style-type: none"> • Generally average intensity grass fire. • Risks increased by degree of residential development. • Small tenure size can make fire containment difficult. • Structural fires
Fire Management Activities	<ul style="list-style-type: none"> • Managed by Bushfire NT • Incident focus • Rapid response (time critical) • Resource demanding (aerial and ground appliances) • Major VBB contribution • Significant Bushfires Act enforcement 	<ul style="list-style-type: none"> • Generally managed by land holders • Bushfires NT coordination and support with extensive or significant fires. • Landscape fire management response (not incident response) • Use of fire to contain fire • Planning, mitigation and land management focus. 	<ul style="list-style-type: none"> • Development and implementation of a Strategic Fire Management Plan to manage risk. • Coordinated by Bushfires NT • Strong focus on coordination and preparedness for unusually high fire threats • Extensive planning and mitigation • Significant response activities by Bushfires NT, land holders and other emergency service organisations. 	<ul style="list-style-type: none"> • Managed by NTFRS • Incident focus • Rapid response • VBB role.

Table 1 Characteristics of fire control and fire management areas and zones

7 Firefighting

7.1 Background

The *Bushfires Act* and associated regulations provide the legislative basis for management of bushfires in the Northern Territory. Since the commencement of the *Bushfires Act* in 1980, a number of bushfire management arrangements have evolved under this framework, with differing approaches in different parts of the Northern Territory reflecting the Northern Territory's variety of landscapes and fire risk profiles.

These existing bushfire management arrangements are primarily based on the legislative tools provided in the Act, and also incorporate a range of policies, procedures and structures developed over time in response to changing circumstances and community expectations. This evolutionary development has resulted in a simple, efficient, and effective system which is well adapted to the situation it serves.

The risk posed by bushfires in some parts of the Northern Territory has grown significantly in recent years. This growing risk level stems from the combined effects of changes in land use, more intensive development in areas surrounding major population centres, and greatly increased fuel loads associated with the spread of exotic, high fire risk grasses such as gamba grass.

Part IV of the Act addresses firefighting, and includes:

- Requirements for landholders to install firebreaks, manage fuel loads, and control fire on their land. These requirements underpin the principle of landholder responsibility for fire management.
- Provision for the appointment of Fire Control Officers and Fire Wardens with powers related to prevention and control of bushfires. The Act does not define the roles that those officers should perform and offers little guidance on the circumstances in which those powers should be used.
- Provision for the creation of Volunteer Bushfire Brigades. The Act does not spell out the role of those brigades, and nor does it give members of those brigades any specific authority to conduct bushfire prevention or suppression.

Section 47 of the Act authorises the Director to order the establishment of fire breaks or the removal of flammable material from land. This authority is used extensively to order establishment and maintenance of fire breaks, but it is not a suitable mechanism for management of fuel loads or other fire risk factors on individual properties and has never been used for that purpose. This is a serious deficiency in the current Act; there needs to be a capacity to prescribe fire management arrangements for an individual property when the management of that property has allowed an unacceptable fire risk to develop. Prescribed fire management plans could require a landholder to undertake specific actions to mitigate bushfire risk.

The Act empowers Fire Control Officers and Fire Wardens, in circumstances where landholders are unable to control a bushfire on their land, to initiate, participate in, or take control of, the response to a bushfire (Section 49). Section 50 of the Act further empowers Fire Control Officers and Fire Wardens to:

... do any act (whether or not it involves the use of fire) necessary for or incidental to

- a) controlling a bushfire, or
- b) protecting property or the life of any person from existing or imminent danger arising out of a bushfire.

These powers form the basis of Bushfires NT's authority to conduct bushfire suppression operations. The powers are allocated to Fire Control Officers and Fire Wardens; there is no provision in the Act for these powers to be delegated to, or conferred on, others involved in a bushfire suppression operation. The status of volunteer firefighters is therefore somewhat unclear. Section 5 of the *Bushfires (Volunteer Bushfire Brigades) Regulations* requires volunteer brigade members to:

... comply with a direction given by a fire control officer or fire warden for the prevention or suppression of fire or the mitigation of a fire hazard.

In practice, this regulation is taken as authority for volunteer brigade members' participation in fire suppression operations under the supervision of a Fire Control Officer or Fire Warden. Authority for volunteer action when a Fire Control Officer or Fire Warden is not present is less clear.

Unlike the *Fire and Emergency Act*, which establishes the NT Fire and Rescue Service, the *Bushfires Act* does not establish an agency to be responsible for fire management and bushfire suppression. Bushfires NT is currently a division of the Department of Land Resource Management, providing two streams of service: an extension/advisory service for landholders dealing with fire management as a component of land management; and an emergency response service providing limited response capacity for wildfire and other emergencies focussed on identified high risk areas. Bushfires NT's status as a division of the host land management agency, rather than as an emergency response agency created by legislation, rightly reflects the Act's focus on land management while still accommodating Bushfires NT's geographically constrained role in bushfire related emergency response.

Elsewhere in this paper the need for provision of differing bushfire management services in different parts of the Northern Territory is described. It is recognised that in areas of intensive development and high fuel loads there is a need to provide a wildfire response capacity; it is proposed that these areas will be designated as Bushfire Control Areas (see section 6, page 35).

The NT Fire and Rescue Service provide a comprehensive response capacity within its Emergency Response Areas; these ERAs include the major urban centres and surrounding developed urban fringe areas. In practice the NTFRS ERAs include areas of peri-urban development where the predominant tenure size is no greater than 2Ha. Beyond the ERAs, and particularly in the area adjoining the Darwin/Palmerston/Humpty Doo ERA, there are extensive further areas of rural living and other development taking in several thousand landholdings in the 8Ha to 150Ha range.

While the *Bushfires Act* aligns with an underlying principal that landholders are responsible for the management of fire on their land, in practice it is recognised that this principle alone fails to provide adequate community safety outcomes in the areas to be designated Bushfire Control Areas. In line with community expectation, and the desire of Government to provide appropriate levels of community safety, Bushfires NT and the network of Volunteer Bushfire

Brigades are the key components of a bushfire response and suppression capacity that has evolved in these response areas.

7.2 Deliberation and response to discussion points

In clearly allocating responsibility for fire management to landholders, the *Bushfires Act* reflects its original primary purpose - establishing a framework for management of wildfire on large, managed landholdings located away from the urban centres and their surrounding areas of small holdings and intensive development. The Act aims to protect those remote, large-tenure landholders from the threat of fire spreading from neighbouring properties. There are presumptions that:

1. Landholdings will be managed and occupied or at least monitored.
2. The scale of the holding will allow sufficient time and space to contain and control a fire before it can spread to neighbouring properties.
3. Landholders will be well prepared and able to deal with a fire threat, and will have on hand sufficient resources to contain and control a fire within the landholding.

Fire is a natural component of the Northern Territory landscape and the Act treats fire management as a land management task, not unlike the regulatory treatment of weed management or soil erosion control.

In normal circumstances this arrangement has been, and continues to be, an effective basis for bushfire management in areas characterised by large, managed landholdings such as pastoral leases or parks and reserves. It has been enhanced over time through greater involvement of Bushfires NT in coordination and planning of strategic regional mitigation programs, and provision of extension services around the development of regional and property level fire management plans. There is no requirement for involvement of a Fire Control Officer or Fire Warden in a particular fire event until a landholder believes that it will not be possible to contain a fire within the landholding. At this point the landholder is required to inform a Fire Control Officer or Fire Warden and holders of any neighbouring land to which the fire might spread.

In the coastal and tropical savanna landscapes of the Northern Territory, seasonal climatic fluctuation leads to some variation in fuel load and fire season weather conditions. While this impacts on fire management tasks and presents land managers with challenges, these fluctuations are expected and normally manageable.

The variation between usual and extraordinary seasons in the central Australian arid landscapes can provide much greater challenges. Unusual rainfall events followed by good growing conditions can lead to rapid build-up of very high fuel levels and, if followed by severe fire weather, very high fire risk can eventuate. The extraordinary Central Australian fire season of 2011 is an example of a sequence of events leading to a very serious, but predictable, situation. While the events of that season were predicted with some accuracy, the legislation at that time did not provide for rapid response and mitigation of the situation.

The proposal outlined in section 6 (page 35) recommends the creation of three new fire management areas or zones. The declaration of a Declared Fire Management Zone is proposed to be for a fixed period of time and is designed to facilitate an appropriate response in extraordinary circumstances such as those described above. This might involve a range of mitigation and other preparatory actions, including a temporary build-up of

increased firefighting capacity in an area. The proposed Declared Fire Management Zone would not be used exclusively to deal with extraordinary seasonal conditions, but also under circumstances such as:

- significant build-up of fuel due to destocking or altered land management practice;
- sudden loss of landholder or community based bushfire management capacity; or
- outbreak of malicious or deliberate fire lighting.

In areas of small tenures and more intensive development there is obviously a much greater density of population, assets and infrastructure, and bushfires consequently represent a greater threat. In the area surrounding Darwin this threat is further exacerbated by very high fuel loads resulting from the spread of high-risk invasive weeds such as mission grass and gamba grass. In adverse weather conditions (strong wind, low humidity) it is possible for wildfire to spread very quickly; indeed the capacity for gamba grass fires to generate spot fires up to several kilometres ahead of the main fire front can lead to concurrent ignition in multiple locations.

During the mid to late dry season the combination of very high available fuel levels and frequent occurrence of severe to extreme fire weather conditions, often leads to fast moving wildfires that are very difficult to control. In these conditions, there is little chance that even a skilled and well-prepared landholder would be able to contain and control a wildfire on a small (20Ha or less) property. There is an immediate risk that a wildfire will spread to neighbouring properties. Experience has shown that many of these fires can only be controlled by teams of well-trained and suitably equipped firefighters. In areas of significant gamba grass infestation it has been found that adequate levels of firefighter safety can only be maintained with aerial firefighting support. In these circumstances the principle of landholder responsibility for bushfire management clearly does not provide an adequate level of community safety.

In recent years, the area surrounding Darwin and extending to Adelaide River township has experienced significant growth in fuel load due to the spread of gamba grass. In many parts of this area fuel loads have increased to levels five or more times higher than the levels prior to the arrival of gamba grass, and these fuel loads continue to climb. This change in fuel type and quantity has had a significant impact on bushfire risk; fires are much more intense and difficult to control. The consequent threat to community safety posed by bushfires in these areas has led to the evolution of sophisticated bushfire response arrangements that are appropriate for the risk level. These arrangements include regular use of formal incident management teams coordinating large-scale, multi-brigade responses and deploying aerial firefighting resources.

As outlined earlier in this section, the existing authority to manage fire risk on individual properties as provided in Section 47 is inadequate and there is a need to provide a capacity to prescribe fire management actions on individual properties. Such prescription would be based on wildfire risk assessment with consideration given to the risk posed to nearby properties and firefighters. This part should include the capacity to undertake works at the landholder's expense should the landholder fail to comply with the prescribed plan.

A number of submissions to this review highlight the lack of clarity in the relationships between Bushfires NT and members of volunteer bushfire brigades. This lack of clarity extends to the ultimate control of firefighting assets allocated to brigades, and to the

responsibility and authority of volunteers involved in firefighting operations. These deficiencies have been largely overcome through good will and common sense, but this review of the Act provides a timely opportunity to bring clarity and certainty to these areas.

Discussion point *Should the role of Bushfires NT in emergency response be more clearly defined and formalised?*

The Department of Land Resource Management administers the *Bushfires Act* through Bushfires NT which is a division of the Department. The *Bushfires Act* establishes the powers of Fire Control Officers (including the Chief FCO and Senior FCOs) and Fire Wardens.

A significant change to the Act recommended in this paper is the defining of the powers and duties of key personnel including the Director of Bushfires NT and the Chief Fire Control Officer. These duties will include a responsibility to maintain the capacity to undertake bushfire suppression in concert with volunteer brigades and landholders. The recommended changes around zoning will further define the role of Bushfires NT and include recognition of the need for wildfire response in designated high risk areas. The addition of these components to the Act will serve to clearly define and formalise the role of Bushfires NT across the full range of its responsibilities around bushfire management.

This paper also recommends that the roles and authorities of brigades and volunteers should be more clearly defined; that volunteers involved in firefighting should be formally recognised and authorised by Bushfires NT; and that their authority should be clearly defined within a chain of command (section 5.2, page 26).

Discussion point *How far does the principle of landholder responsibility for fire management go and when does Bushfires NT assist or intervene?*

As discussed earlier in this section, the principle of landholder responsibility for fire management is effective on large, managed properties but does not afford reasonable levels of community safety in areas of intensive development and high fuel loads. In essence, this paper recommends:

- The establishment of Fire Control Areas with capacity for rapid centralised and coordinated response to wildfire incidents in those areas.
- The criteria for the establishment of Fire Control Areas are based on wildfire risk, assets at risk, and reasonable expectation of landholder capacity to control a fire within the landholding.
- Response capacity in Fire Control Areas to be provided by Bushfires NT and Volunteer Bushfire Brigades with support from landowners where available.
- Response to be coordinated and managed by Bushfires NT through a newly defined chain of command incorporating Bushfires NT personnel, authorised volunteers and other seconded or co-opted authorised personnel.

All areas of the Northern Territory outside Fire Control Areas are designated Fire Management Areas. In these areas fire management is the direct responsibility of the landholder, but Bushfires NT provides assistance and support on a number of levels including regional coordination of mitigation programs and strategic fire breaks, and direct assistance for property managers in fire management planning and fire risk assessment.

Discussion points Should we have declared 'response areas' where Bushfires NT or brigades will respond to wildfire? and,

Does the role vary in different areas – what are the defining factors i.e. risk, asset density, fuel load, availability of resources?

This paper recommends the creation of a zoning system incorporating four different fire management regimes that can be applied in different parts of the Northern Territory. One of these regimes, to be known as a Fire Control Area, will be used in areas where fire poses a high risk to life and property and it is necessary to provide for a wildfire response capacity. The four fire management regimes are characterised by:

1. a Fire Protection Zone that includes an incident management response focus to protect intensively developed rural blocks from high fire risk scenarios;
2. a Fire Management Zone that includes landscape fire management response through planning, mitigation and response to protect extensive rangeland areas;
3. the declaration of specific Declared Fire Management Areas to manage unusually high fire risks across a region for a determined period of time; and
4. the existing Emergency Response Area managed by the NT Fire and Rescue Service.

7.3 Recommendations – Firefighting

- The principles underlying existing provisions covering landholder responsibility to maintain fire breaks and manage fuel loads should be retained and strengthened.
- The Act should provide capacity to prescribe fire management actions for an individual property with such prescription based on fire risk assessment including the risk posed to other properties and firefighters.
- The powers currently allocated to Fire Control Officers and Fire Wardens are appropriate, but it should be possible to delegate these powers to any officer of Bushfires NT, or volunteer, as required.
- The Act should give volunteers authority to participate in firefighting and other fire management activities.
- The Act should spell out the roles of volunteers and volunteer bushfire brigades; clearly define the relationship between brigades and Bushfires NT; and define a chain of command and authority.
- Volunteer bushfire brigades should remain independent, community-based organisations.
- Bushfires NT should have authority to direct the use of firefighting assets controlled by Brigades.