	ATTACHMENT 2	BMCS SUBMISSSION on BEAC 2017
	Section 1	**Comments**
1.4	Purpose	Support the principles of ESD being included however this appears to be just a 'feel good' statement as there is little evidence that this criteria has been applied to the Code. For example the failure to deal with the weed impacts of hazard reduction works (ref 4.9 and 5.12) and to include any habitat of critically endangered species. Both are examples of short term, anthropocentric in focus rather than reflective of ESD principles.
1.8	Refusal to issue and right of appeal	There appears to be no process to appeal against the issuing of a certificate. This is contrary to the principle of natural justice and appeal rights should be available to third parties who may be concerned about the failure of a decision to adhere to the principles outlined in this code. An appeal process should be introduced. At the very least, the draft HR proposals in the annual Bushfire Management Plan should be widely advertised in the local newspaper for public comment and consideration prior to adoption.
1.12	Enforcement	If a person or agency contravenes a conditon or requirement of the certificate issued, there should be some mechanism to remedy the situation if it is not a case of contravening other environmental legislation. For example if weed control pre and /or post HR activiites is not carried out (ref comments in 4.9 and 5.12 following).
	Section 2	
2.2	Time to determine an application	A longer period than 7 days ought be allowed for the assessment of sites which contain vegetation communities listed in any table of this Code or included in any Local Environment Plan as requiring special attention, eg the scheduled Significant Vegetation Communities in Blue Mountains LEP. It is **recommended** that 21 days be allowed for assessment in these situations.
2.3	Land excluded from the Code	(e)Should include any habitat of critically endangered species, not just critical habitat declared in the TSCA.
2.4	Land on which the Code is restricted	(b) The existing and revised Codes state that a certificate may not be issued for designated wilderness areas. However REFs have just become a bureaucratic exercise to get around this and HR burns are undertaken regularly in Wilderness in the Blue Mountains due to pressure to achieve KPIs eg the Grose Valley. (see General comments on p 1). There needs to be an enforcable requirement to prevent REFs being used routinely to bypass such restrictions.
	Section 4	

4.1	Vegetation to which mechanical works do not apply	No Hazard Reduction activities should be permitted in any of the Vegetation classes listed in Table 2. All listed Coastal Heath Swamps should be included in this exemption from HR activities. The paragraph following theTable 2 is ambiguous. No tracks or control lines should be permitted in Coastal Heath Swamps where the slope is > 7 deg. What experience & qualifications does the person have who decides "if no other practical methods are available" to using machinery in such sensitive areas? If control lines are going to be permitted, hand-held equipment should only be used in these swamps, to avoid the risk of channels forming. Channels cause hydrological changes and subsequent drying out of swamps. Retaining the hydrology is also important for the protection of habitat for endangered fauna which have restricted habitat needs such as the Giant Dragonfly, *Petalura gigantea* and the Blue Mountains Water Skink, *Eulamprus leuraensis* . Vehicles can kill these animals directly or indirectly through changes due to hydrology change.
4.2	Standards to prevent soil erosion and instability	The code should specify that the remediation must commence within 7 days and continue until a suitably qualified person has signed off on the works as being sufficient to prevent any further erosion.
4.3	Standards for the protection of riparian buffers and watercourses /waterbodies	1st order streams without clearly defined "banks" or well incised channels should be included (in the definition). These 1st order streams (creeks) in the urban area of the Blue Mountains have been identified in the Blue Mountains LEP 2015 as requiring protection. Creeks/watercourses have mapped riparian corridors 'protected areas' under the LEP 2015 because of their importance in protecting the Greater Blue Mountains World Heritage Area and the health of its rivers.
	4.3.1	(a) The Mechanical work excluded from the riparian buffer zone, should specifically state that this includes control lines for HR burns and any other disturbance. Riparian buffers are being damaged by control lines and their function as 'buffers' subsequently compromised. (b) Buffers are necessary around swamps in order to protect these from edge effects; viz the this exclusion of Coastal Heath swamps, Coastal Swamp Forests and Floodplain Wetlands. Once a buffer has been Hazard Reduced, it is opened up to weed invasion, motorbike tracks etc. This negation of buffers should be removed from the Code. (c) Where an LEP has a scientifically based system of mapped riparian corridors, these should be used for buffer widths rather than the crude calculations of Table 5. [Modelling to establish the Blue Mountains LEP Riparian Corridor Buffers is outlined in Appendix 2 of the *Environmental Management Plan 2002, Planning Study Vol 1, Planning Framework 2002 (BMCC). It is understood that Wingecaribee LGA has developed a similar model]*
4.4	Standards for the protection of trees	Definition of trees should be more inclusive to cover mallied trees, which may be all that survives repeated burns. Any trees with hollows should not be able to be removed in APZs without proper assessment of hollow occupancy or potential value as nest sites for fauna. A clear standard is required to prevent trees from being removed which are used for nesting or roosting, particularly by threatened species.
4.5	Standards for the protection of biodiversity	4.5.1 (a) The Atlas records are not necessarily up to date, nor have all areas been comprehensively surveyed. Fauna species records particularly are not likely to be accurate due to their mobility. The Code should specify that the Cerifying Authority is responsible to ensure that the most recent records have been used in assessing presence or likely presence. (b) Assessment of 'likely presence' should require the same prescriptions as confirmed presence of threatened species/ecological communities etc. This precautionary approach is required if the principles of ESD are to be implemented as they are claimed to be in 1.4 of this Code.

		4.5.2 The section should also include 'likely presence' at the site as outlined above. The Threatened Species Hazard Reduction Lists should all be scientifically reviewed and updated as a matter of urgency. For example, one listing of 2 years ago is still not included and the scientific basis for some of the intervals is questionable.
		4.5.3 These assessments by OEH or other authority assume a detailed knowledge of the target species or community. There is limited data on many target species/communities particularly about response to fire, and the assessing officer will have limited time given the 7 day limit (which should be changed to 21 days). The Precautionary Principle of ESD should be adopted, by inserting a requirement that works cannot proceed unless a person suitably qualified in the relevant Threatened Species/Communities has made an assessment.
4.9	Standards relating to weeds	The inclusion of weed management in this Code is strongly supported, however whilst this clause was in the 2006 Code (as cl 4.9) this has generally **not been implemented . The Society strongly** objects to this failure by the certifying authorities to address the impacts of HR works on weeds and include conditions in certificates. (See also general comments on introductory pages above. Note that changes to the legislation should be included here - ie the Noxious Weeds Act has been replaced by the Biosecurity Act 2015. It is **recommended** that all weed species identified in the relevant Regional Strategic Weed Management Plan be included and also weeds identified in the relevant local control authority instruments (LEPs, DCPs or other policy documents) .
		The assessment process prior to issuing of a Certificate should include a weed assessment. Both HR burns and mechanical HR activities frequently promote the rapid spread of weeds and create conditions conducive to weed invasion and/or expansion. All HR works must include provision for weed management, pre- and post-HR, both in time allowed and in the budget. Post HR weed control works may need to extend for a number of years afterwards to ensure that any weed issues associated with such activities is appropriately mitigated. The Certificate must include conditions to ensure the implementation of this Weed Management Plan and there must be a process of accountability introduced to ensure this occurs. These processes must be incorporated into all bush fire risk management plans.
	Section 5	
5.1	Vegetation or land to which burning does not apply or has limitations	It is recommended that no Hazard Reduction activities should be permitted in any of the Vegetation classes listed in Table 6 and that Coastal Heath Swamps should be added to the table. There is no justification to exclude this community which belongs to the Freshwater Wetland classes. Whilst some swamps may be protected from burning by the 'peat soil' exclusion, the absence of a good test and available 'experts' to assess this makes it unworkable. Fire will dry out organic rich soils which leads to channelisation and subsequent drying out of swamps. Retaining the hydrology is also important for the protection of habitat for endangered fauna which have very specialised habitat needs such as the Giant Dragonfly, *Petalura gigantea* and the Blue Mountains Water Skink, *Eulamprus leuraensis* . Fire can contribute to the death of these animals directly or indirectly.
		We strongly object to the proposal to exclude the undefined "hanging swamps". Any swamp on a slope > 7 deg is vulnerable to loss of its organic-rich soil, particularly once the sedges have burnt.

5.3	Standards for the protection of biodiversity – threatened species	5.3.1 Mapping of threatened species/ecological communities etc must be up to date at time of application for a certificate to ensure that any recent records etc are included. The Atlas records are not necessarily up to date, nor have all areas been comprehensively surveyed. Fauna species records particularly are not likely to be accurate due to their mobility. The Code should specify that the Certifying Authority is responsible to ensure that the most recent records have been used in assessing presence or likely presence. (b) Assessment of 'likely presence' should require the same prescriptions as confirmed presence of threatened species/ecological communities etc. This precautionary approach is required if the principles of ESD are to be implemented as they are claimed to be in 1.4 of this Code.
		Assessment of 'likely presence' should require the same prescriptions as confirmed presence of threatened species/ecological communities etc. This precautionary approach is required if the principles of ESD are to be implemented as they are claimed to be in 1.4 of this Code.
		5.3.2 The section should also include 'likely presence' at the site as outlined above. The Threatened Species Hazard Reduction Lists should all be scientifically reviewed and updated as a matter of urgency.
		5.3.3 These assessments by OEH or other authority assume a detailed knowledge of the target species or community. There is limited data on many target species/communities particularly about response to fire, and the assessing officer will have limited time given the 7 day limit (which should be changed to 21 days). 5.3.3 The Precautionary Principle of ESD should be adopted, by inserting a requirement that works cannot proceed unless a person suitably qualified in the relevant Threatened Species/Communities has made an assessment.
5.4	Standards for the protection of biodiversity – fire regimes and fire interval thresholds	What evidence is there that the risk from repeated minimum interval fires has been considered? The OEH recommended fire intervals for vegetation classes are based solely on plant responses, not fauna. As the current practice by all agencies is to use the minimum interval as a default, these 'minimum's need to be urgently reviewed and some requirement made to vary the fire intervals . The continued application of minimum fire return periods could pose a risk to ecological communities and fauna.
5.7	Standards to prevent soil erosion and instability	Monitoring of burned areas should be required over the 6 months period following a burn and immediately following rain events. There should be a requirement to remediate any areas of erosion within 7 days of a rain event or observation. This should continue until a suitably qualified person has signed off on the works as being sufficient to prevent any further erosion.
5.8	Standards for the protection of riparian buffers	In addition to the requirement that fire is not used within the riparian zone' there needs to be a statement here that any disturbance including control lines must be excluded from the riparian buffer zone. Riparian buffers are being damaged by control lines and their function as 'buffers' is subsequently compromised.
		Buffers are necessary around swamps in order to protect these from edge effects; viz we object to the exclusion of buffers around the listed swamps and wetlands. Once a buffer has been Hazard Reduced, it is opened up to weed invasion, motorbike tracks etc. This negation of buffers should be removed from the Code.
		Where an LEP has a scientifically based system of mapped riparian corridors, these should be used for buffer widths rather than the crude calculations of Table 7. [Modelling to establish the Blue Mountains LEP Riparian Corridor Buffers is outlined in Appendix 2 of the Environmental Management Plan 2002, Planning Study Vol 1, Planning Framework 2002 (BMCC). It is understood that Wingecaribee LGA has developed a similar model]

5.12	Standards relating to weeds	The inclusion of weed management in this Code is strongly supported, however whilst this clause was in the 2006 Code (as cl 5.15) this has generally not been implemented . The Society strongly objects to this failure by the certifying authorities to address the impacts of HR works on weeds, and to include conditions in certificates. (See also general comments on introductory pages above. Note that changes to the legislation should be included here - ie the Noxious Weeds Act has been replaced by the Biosecurity Act 2015. It is recommended that all weed species identified in the relevant Regional Strategic Weed Management Plan be included and also weeds identified in the relevant local control authority instruments (LEPs, DCPs or other policy documents) . Any identified noxious or environmental weed identified as such by Local Authority should be included. Cetificates should only be issued after completion of a risk assessment of identified weeds in proposed HR area (burn or mechanical) and a plan and budgeting developed to address any such weed issues as a result of HR works. Any weed control must continue for as long as is necessary to adequately control the weeds at the site. Use of mechanical equipment for control line or fire trail construction/maintenance may disperse weed propagules, and fire will trigger germination of many weeds, particulalry obligate seeding species such as the noxious weeds, broom and gorse.
		Certificates should only be issued after completion of a risk assessment of identified weeds in proposed HR area and a plan and budget developed to address any weed issues likely to arise as a result of HR works. Any weed control must continue for as long as is necessary to adequately control the weeds at the site. Use of mechanical equipment for control line or fire trail construction/maintenance may also disperse weed propagules, and fire will trigger germination of many weeds, particulalry obligate seeding species such as the noxious weeds, broom and gorse.
	Definitions	
	Hanging Swamps	Hanging swamps' are not defined and is a problematic term in terms of its application.
	Peat Soils	Peat soils' are not appropriately defined for the situation of NSW swamps where soils are organic rich rather than the same as the northern hemisphere 'peat'. It would be more appropriate for the purpose of this Code to accept all Coastal Heath Swamps as containing organic rich soils and be include in Table 6, rather than ask a 'non specialist' to attempt to differentiate between different types of swamp soils.
	Watercourses	1st order streams without clearly defined "banks" or well incised channels should be included (in the definition).
	Wetlands	Wetland' definition is misleading and needs refinement. It is recommended that the NSW Government Wetlands Management Policy Definition be used. Some wetlands are never 'inundated', although the code definition suggests inundation is a defining attribute. Many peatswamps, for example those developed on slopes, are never inundated. Wetlands include any area where the soils and/or biota have developed and/or are adapted to, and are often dependent on, living in wet conditions for at least part of their life cycle. Some wetlands may be dry much of the time.