

**RURAL FIRES AMENDMENT (VEGETATION CLEARING) BILL 2014**

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**Bill introduced on motion by Mr Stuart Ayres, read a first time and printed.****Second Reading**

**Mr STUART AYRES** (Penrith—Minister for Police and Emergency Services, Minister for Sport and Recreation, and Minister Assisting the Premier on Western Sydney) [4.02 p.m.]: I move:

That this bill be now read a second time.

Australia is one of the most bushfire-prone countries on Earth. With more than 30 million hectares of bushfire-prone land, ranging from forested areas along the coastal strip to expansive grass and scrubland areas west of the Great Dividing Range, New South Wales has its own history of fire. In 2013 New South Wales experienced one of its most challenging bushfire seasons yet. Fires began well before the officially declared Bush Fire Danger Period, starting with emergency declarations in early September 2013. Between 1 July 2013 and 31 December 2013 some 5,700 bush and grass fires burnt across the State.

A total of 1,157 of those fires occurred in October alone, resulting in the destruction of almost 7,000 hectares, the loss of 217 residential properties and damage to another 129. There were more than 100 activations of the emergency alert telephone system, resulting in around 485,000 messages being sent to various communities. For the same period 42 total fire bans were declared and 49 emergency declarations were made under section 44 of the Rural Fires Act 1997. On behalf of the New South Wales Government I thank all those involved in the firefighting effort.

The New South Wales Government and our fire services remain committed to protecting life and property from the threat of fire. In November 2013 the New South Wales Government announced a package of measures to streamline hazard reduction processes, strengthen offence provisions and protect emergency services workers. These included the introduction of offence provisions for littering involving cigarettes and matches, including an aggravated offence of littering on days when a total fire ban is in place, and the removal of obstacles to enable home owners to better manage fire risks on their properties. The Government also began to look at ways to allow landowners to undertake other vegetation clearing works to better protect their properties from the threat of bushfire while balancing legitimate environmental objectives.

In response to recent fire events it is proposed that amendments be made to the Rural Fires Act 1997 to allow certain landowners to undertake vegetation clearing work on land situated within what will be known as a "10/50 vegetation clearing entitlement area". Within these areas, clearing and ongoing maintenance of that clearing will be allowed with a minimum of red tape as long as the code of practice is complied with. This will empower landowners who are taking responsibility for minimising the fuel loads near their homes, which is a key fire prevention goal.

The Commissioner of the NSW Rural Fire Service will determine where the 10/50 vegetation clearing entitlement areas are and they will be shown on a map published on the NSW Rural Fire Service website. Landowners will be able to determine whether their property falls

within a 10/50 area by accessing a portal on the NSW Rural Fire Service website. This portal, which will launch when the legislation commences, is a user-friendly web interface. Landowners will simply be required to enter their address or lot number into the portal to determine whether the 10/50 vegetation clearing entitlement provisions will apply to them.

New section 100R (1) of the bill enables an owner of land situated within a 10/50 area to carry out certain vegetation clearing work on that land despite any requirement for approval, consent or other authorisation for the work made by the Native Vegetation Act 2003, the Environmental Planning and Assessment Act 1979 or any other Act or instrument made under an Act. New section 100R (1) of the bill provides that this work comprises:

(a) the removal, destruction (by means other than by fire) or pruning of any vegetation (including trees or parts of trees) within 10 metres,

(b) the removal, destruction (by means other than by fire) or pruning of any vegetation except for trees or parts of trees, within 50 metres of an external wall of a building containing habitable rooms that comprises or is part of residential accommodation or a high risk facility.

Section 100R (2) provides that vegetation clearing work carried out on land pursuant to section 100R (1) must be done in accordance with the requirements of the 10/50 Vegetation Clearing Code of Practice. The code of practice, which is being developed by the NSW Rural Fire Service, will guide landowners in the clearing of vegetation on land situated within a 10/50 area. I will discuss the 10/50 Vegetation Clearing Code of Practice in more detail shortly but I want to be clear that the 10/50 rule will not mean a neighbour can come into a garden and cut down a tree just because it is within 50 metres of their house. Section 100R (4) will make it clear that such over-the-fence clearing would require the owner's permission.

The bill also defines what buildings the 10/50 rule will apply to. For the purpose of section 100R residential accommodation is defined as: residential accommodation within the meaning of the Standard Instrument—Principal Local Environmental Plan such as boarding houses, group homes and dwelling houses; and tourist and visitor accommodation within the meaning of the Standard Instrument—Principal Local Environmental Plan. Examples include backpackers' accommodation and bed and breakfasts. Residential accommodation is also defined as caravans installed in caravan parks within the meaning of the Standard Instrument—Principal Local Environmental Plan and manufactured homes installed in manufactured home estates within the meaning of the Local Government Act 1993.

The New South Wales Government also wants to make sure certain important non-residential buildings can easily have vegetation cleared away to protect their occupants, within the 10/50 limits. These are referred to as high-risk facilities and include hospitals, schools and childcare centres. We need to ensure that occupants of these developments have the maximum protection from bushfire attack. Other high-risk facilities such as hotels, motels, retirement villages and group homes are captured by the proposed legislative provisions as they are forms of residential accommodation.

The bill does put some limitations on the 10/50 rule as applied to caravans and manufactured homes. Confining the 10/50 rule to manufactured homes and caravans in the parameters contained in this bill seeks to prevent situations where a person may, for example, move his or her caravan and apply the 10/50 vegetation clearing provisions within the vicinity of where the caravan is placed. The provisions also exclude buildings containing habitable rooms if

there has been no development consent or other lawful authority under the Environmental Planning and Assessment Act 1979 for the use of those rooms for such a purpose.

From a practical perspective, this will mean that a person will have to ensure that he or she knows that the habitable rooms are lawful in order to be able to use section 100R (1) for vegetation clearing purposes. I mentioned that a Code of Practice will regulate how the system works. Details of the 10/50 Vegetation Clearing Code of Practice are contained in new section 100Q proposed by the bill. Section 100Q (1) requires the Commissioner of the NSW Rural Fire Service to prepare a 10/50 Vegetation Clearing Code of Practice for the carrying out of vegetation clearing work on land situated within a 10/50 area pursuant to section 100R.

The 10/50 Vegetation Clearing Code of Practice must, without limitation, address the following: the type of vegetation that can and cannot be cleared, including the types of trees; the circumstances in which vegetation should be pruned and not entirely removed; the use of herbicides; the management of soil erosion and landslip risks; the protection of riparian buffer zones; the protection of Aboriginal and other cultural heritage; and the protection of vegetation that the owner of the land on which vegetation clearing work may be carried out is under a legal obligation to preserve by agreement or otherwise.

The Commissioner of the NSW Rural Fire Service may also prescribe in the 10/50 Vegetation Clearing Code of Practice whether particular rooms of a building are or are not habitable and what is, or is not, an external wall of a building, for the purposes of section 100R. The 10/50 Vegetation Clearing Code of Practice, once developed, will be placed on public exhibition for a period of at least 21 days. At the completion of the public consultation period the code of practice will be reviewed and any relevant amendments made before the Commissioner of the NSW Rural Fire Service approves the final code of practice. Section 100Q (2) provides that the 10/50 Vegetation Clearing Code of Practice may be amended by the Commissioner of the NSW Rural Fire Service from time to time.

An ongoing public consultation mechanism will be built into the 10/50 Vegetation Clearing Code of Practice in the event that any substantial amendments are required. This will ensure that it remains a robust and relevant document. It is proposed that the code of practice be published in the New South Wales *Government Gazette* and on the Rural Fire Service website. Any owner of land situated within a 10/50 area can be provided with a hard copy of the 10/50 Vegetation Clearing Code of Practice on request and free of charge.

The bill makes a range of other amendments to the Rural Fires Act 1997. For example, the bill makes amendments consequent to the enactment of the Government Sector Employment Act 2013. It updates provisions relating to bush fire hazard reduction certificates, such as a requirement to specify the period for which a bush fire hazard reduction certificate operates, and to clarify that such certificates become effective on the date that they are endorsed. The bill also makes consequential amendments to the National Parks and Wildlife Act 1974 to expand the exemptions contained in sections 118A and 118D of that Act provided there is compliance with the 10/50 Vegetation Clearing Code of Practice.

The provisions contained in the Rural Fires Amendment (Vegetation Clearing) Bill 2014 will enable owners of land situated within a 10/50 area to carry out vegetation clearing works without the need for approval, provided they comply with the 10/50 Vegetation Clearing Code of Practice. They provide for greater streamlining and clarification of the requirements

for approvals to clear vegetation which may be required under relevant legislation. Most importantly, these reforms will work to protect communities vulnerable to the devastating impacts of fire.

These practical changes have been incredibly well received by many members of the community. Given the timing of the introduction of this bill, the Government will be seeking that the bill be dealt with as a matter of urgency in the other place. This is good reform. It has been called for in the wake of the devastating October fires. It strikes a balance between environmental protection and household property safety. Members should endorse these reforms so that we can get on with the job.

**Debate adjourned on motion by Mr Michael Daley and set down as an order of the day for a future day.**