



## Full Day Hansard Transcript (Legislative Council, 18 June 2014, Proof)

### Proof

Extract from NSW Legislative Council Hansard and Papers Wednesday, 18 June 2014 (Proof).

## RURAL FIRES AMENDMENT (VEGETATION CLEARING) BILL 2014

### Second Reading

**The Hon. MATTHEW MASON-COX** (Minister for Fair Trading) [5.02 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

#### Leave granted.

In 2013, New South Wales experienced one of its most challenging bush fire 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.

Some 1,157 of those fires occurred in October alone, resulting in the destruction of almost 7,000 hectares and the loss of 217 residential properties, with damage to another 129.

The emergency alert telephone system was used extensively during the October bushfires, with more than 400,000 messages sent to areas including the Blue Mountains, Southern Highlands, Port Stephens and Central Coast.

Natural disaster declarations were made to 19 local government areas for bush fire events that occurred since 9 October 2013.

Natural disaster declared areas included the Blue Mountains, Lithgow, Port Stephens, Wingecarribee, Coffs Harbour, Wyong and Wollongong.

In places such as the Blue Mountains, the New South Wales Government provided immediate support through evacuation centres, followed by a recovery centre and later the Bushfire Information and Support Centre, which operated until 18 March 2014.

I understand that in Springwood, 961 people were given immediate assistance and/or grants to ensure that they could live in safe and habitable homes.

New South Wales is a leader in bushfire prevention.

In November 2013, we introduced a series of measures to streamline hazard reduction processes, strengthen offence provisions and protect emergency service workers.

These included the introduction of offence provisions for littering involving cigarettes and matches including an aggravating offence of littering on days when a total fire ban is in place and the removal of obstacles to enable homeowners to better manage fire risks on their properties.

But what else can be done to help our communities to better themselves from the threat of fire?

Following the October 2013 fires, the New South Wales Government began to look at how it could help people maximise their bushfire protection by allowing them to clear vegetation close to their homes.

The Rural Fires Amendment (Vegetation Clearing) Bill 2014 is our response to these deliberations.

Through this bill, landowners whose properties are situated within a "10/50 vegetation clearing entitlement area" will be able to undertake vegetation clearing works in addition to vegetation clearing schemes that are already in place.

A central tenet of the legislative provisions will be the ability of these landowners to undertake clearing with a minimum of red tape, provided they comply with the 10/50 Vegetation Clearing Code of Practice.

The code of practice complements the provisions contained in this bill, and supports landowners in their efforts to minimise fuel loads near their homes. This is a key fire prevention goal.

A 10/50 vegetation clearing entitlement area will be determined by the Commissioner of the NSW Rural Fire Service.

These areas will be illustrated on a map which will be published on the NSW Rural Fire Service website.

People 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 will be simple and easy to use.

All landowners will need to do is enter their address or lot number into the portal to determine whether the 10/50 vegetation clearing entitlement provisions will apply to them.

I will now turn to the legislative provisions contained in the bill.

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, Environmental Planning and Assessment Act 1979 or any other Act or instrument made under an Act.

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, and

(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 so in accordance with the requirements of the 10/50 Vegetation Clearing Code of Practice.

I will discuss the 10/50 Vegetation Clearing Code of Practice in greater detail shortly.

One of the most important aspects of this bill relates to the removal of vegetation from a neighbouring property.

Section 100R (4) of the bill makes it clear that the 10/50 rule does not mean that you can go into your neighbour's garden and cut down a tree just because it is within 50 metres of your home.

Section 100R (4) is explicit: any instances of "over the fence" clearing must first require the owner's permission.

The 10/50 rule will apply to certain types of residential accommodation, and high-risk facilities. These are:

(a) residential accommodation within the meaning of the Standard Instrument—Principal Local Environmental Plan;

(b) tourist and visitor accommodation within the meaning of the Standard Instrument—Principal Local Environmental Plan;

(c) caravans installed in caravan parks within the meaning of the Standard Instrument—Principal Local Environmental Plan; and

(d) manufactured homes installed in manufactured home estates within the meaning of the Local Government Act 1993.

High-risk facilities include hospitals, schools and childcare centres. These facilities have a high risk to life and property in the event of a fire.

The New South Wales Government regards these facilities as a high priority; it is important that they be able to clear vegetation away from their environs within the 10/50 zone.

We want to ensure that occupants of these developments have the maximum protection from bushfire attack.

Other high-risk facilities such as hotels and motels, retirement villages and group homes are captured by the proposed legislative provisions as they are forms of "residential accommodation".

There are some limitations to the 10/50 scheme.

First, the bill confines the vegetation clearing provisions to caravans installed in caravan parks and manufactured homes installed in manufactured home estates.

Confining the 10/50 scheme to manufactured homes and caravans within these parameters seeks to prevent instances of indiscriminate vegetation clearing, such as people moving their caravan on an ad hoc basis, and applying the 10/50 scheme 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 as habitable

rooms.

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.

The 10/50 Vegetation Clearing Code of Practice will regulate how the system works.

Provisions relating to the 10/50 Vegetation Clearing Code of Practice are contained at section 100Q of 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
- 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.

Once it has been developed, the 10/50 Vegetation Clearing Code of Practice will be placed on public exhibition for at least 21 days.

At the close of consultation, the code of practice will be reviewed and refined where necessary before the final version is approved by the Commissioner of the NSW Rural Fire Service.

Section 100Q (2) allows the 10/50 Vegetation Clearing Code of Practice to 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 should any substantial amendments be required.

This will ensure that it continues to remain relevant.

The code of practice will be published in the New South Wales *Government Gazette* and on the NSW Rural Fire Service website.

Landowners whose properties fall within a 10/50 area can obtain a 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.

These include amendments:

- consequent to the enactment of the Government Sector Employment Act 2013.
- relating to bushfire hazard reduction certificates, such as a requirement to specify the period for which a bushfire hazard reduction certificate operates, and to clarify that such certificates become effective on the date that they are endorsed.
- to the National Parks and Wildlife Act 1974 to expand the exemptions contained in sections 118A and 1180 of that Act provided that there is compliance with the 10/50 Vegetation Clearing Code of Practice.

This bill enables owners of land situated within a 10/50 area to carry out vegetation clearing works with a minimum of bureaucracy, provided they comply with the 10/50 Vegetation Clearing Code of Practice.

It provides for greater streamlining and clarification of the requirements for vegetation clearing approvals which may be required under relevant legislation.

I commend the bill to the House.

