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RE: Rural Fire Service 10/50 Clearing Code of Practice

Thank you for considering this submission on the Rural Fire Service 10/50 Clearing Code of Practice.

At the outset we would like to note our substantial concerns with the legislation implementing vegetation clearing entitlement areas, as well as its implementation through the Vegetation Clearing Code of Practice.

Our concerns are fourfold:

1. Such a scheme does not address actual bushfire risk and will give landowners and occupiers a false sense of security that may ultimately put them at greater risk of bushfires.
2. It will reduce essential interaction between Rural Fire Service [RFS] personnel, who are the experts who can give the best advice, and landowners and occupiers.
3. It will create unacceptable damage to a large amount of environmentally sensitive bushland across the State with no substantial impact on safety or ongoing bushfire risk, and
4. It fails to give adequate guidance to landowners regarding the clearing of vegetation.

Addressing actual bushfire risk

The risk is that this new regime will give property owners a false sense of security about reducing their bushfire risk, and may lead to them not finding out about other measures that would help protect their property such as checking on their eaves and having a certain water supply as well as treatment of their house and surrounds.

The data shows that the greatest bushfire risk to property is living within 100 metres of a forest, not the proximity of a small number of trees closer to a house. That is because in many cases it is the ember attack, which travels up to 100 metres ahead of the fire front, that is responsible for spot fires in residential areas and for the loss of many residential homes. Even intensive clearing around homes will not alleviate this risk. It may however create a false sense of security in householders who have undertaken this clearing.



Reducing contact with the RFS

Fire-prone vegetation risks are best assessed by experts in the RFS, not landowners who may have no specific knowledge in this area, and may not understand the ecological impacts of the removal of trees and bushes.

Removing this point of contact between property owners and the RFS or land manager (e.g. local council) is likely to lead to greater uncertainty and higher levels of inappropriate clearing. The current Bush Fire Environmental Assessment Code provides an effective and evidence based model whereby property owners can engage with RFS officers to develop bushfire safety plans and suites of mitigation strategies. This new model is likely to substantially hamper this communication and hamper good fire management practices on the ground.

Application of code – uncertain drafting opens the prospect of large scale clearing

Clause 5.2 of the draft code is in the following terms:

Application of land to the 10/50 Code

5.2 Vegetation clearing under this 10/50 Code may only be undertaken on parcels of land that contain land mapped as 10/50 Vegetation Clearing Entitlement land. This may apply to public or private lands.

Certain parcels of land may have some land that is mapped as '10/50 Vegetation Clearing Entitlement land' and other land that is not. The poor drafting of this clause opens up the entirety of such parcels of land to clearing. This is surely not the intent of the drafters and must be remedied before any final document is promulgated.

Land clearing

The creation of such an entitlement without detailed education and monitoring plans in place is likely to result in substantial additional illegal clearing of land across the state, with a subsequent loss of biodiversity.

In the debate in Parliament it was asserted that the Vegetation Clearing Code of Practice that would cover the type of vegetation that can be cleared and when it should be pruned rather than removed. Unfortunately the final code does not provide any substantive guidance on any of these matters apart from clauses 7.2 and 7.3 that read:

The type of vegetation that can and cannot be cleared, including the types of trees

7.2 All types of vegetation may be cleared other than mangroves and salt marsh on public land.



The circumstances in which vegetation should be pruned and not entirely removed

7.3 Any vegetation may be pruned other than trees greater than 10 metres from the residence.

The pruning of trees must be undertaken in accordance with AS 4373-2007 Pruning of Amenity Trees.

This provides no protection at all for ecologically endangered vegetation types. It does not even provide a safeguard to retain endangered plant communities where proposed clearing would provide no substantive fire protection to the landowner.

If the code is to in any way meet the government's promise of a balance between environmental and political imperatives in the clearing of bushfire prone land, then surely additional safeguards must be established where ecologically endangered plant communities are known, or likely, to exist. In all such cases clearing or pruning should be, *at a minimum*, contingent on obtaining a certificate from the RFS that the clearing or pruning would *materially assist* in the protection of the property in question. With this being said, the Greens make it clear that a preferred solution would be to exempt all such land from the code.

While an additional prohibition is put in place for removing trees on slopes greater than 18° this is not considered a sufficient protection for broadscale clearing of hilly land and the impact this will have on erosion and water quality across the State. The idea that hillsides just a degree less steep can be cleared with impunity is illogical. Far more thought is required to address these matters

Failure to publish mapping

We further note that the code of practice will operate in 10/50 vegetation clearing entitlement areas, which will be determined by the commissioner on a map or maps published on the NSW Rural Fire Service website. These maps are not yet currently available, and in their absence it is impossible to assess what the impacts of the proposed code will be.

Consideration of what is currently considered "bushfire-prone land" across the State covers large swathes of extremely sensitive and valued bushland around the foreshores of Sydney, land throughout the Blue Mountains and adjoining the Blue Mountains National Park, and large swathes of highly valued coastal bushland along the coast as well as extremely important and valued scenic areas across the State, such as the Dorrigo Plateau. Extending the draft code to these areas would be environmental vandalism.



David Shoebridge MLC
Member of the NSW Legislative Council

**The Greens NSW
Submission
5 June 2014**

Land clearing for purported amenity of neighbour should require neighbour's consent

The draft code states that clearing is permissible within 10 metres for trees or 50 metres for bush and scrub of the wall of any building with habitable rooms. Though "habitable" is the definition, there is no requirement that the rooms in fact be inhabited or that there be any plans that they are ever to be inhabited. The provision also allows clearing to be carried out where the building with the habitable room is on the neighbour's property, regardless if the neighbour themselves wants this clearing to occur. Apart from the ecological impacts, there will be circumstances where such clearing would involve substantial, and unwanted, loss of privacy and amenity for residents of adjoining properties.

If such a measure was to be retained, it surely should only be exercised with the express written permission of the adjoining property owner.

Conclusion

This legislation and the Code of Practice implementing it are a substantial attack on biodiversity in New South Wales and together they allow property holders excessive and unwarranted discretion to remove trees and vegetation, even where the vegetation is not contributing to bushfire risk.

Please do not hesitate to contact my office at david.shoebridge@parliament.nsw.gov.au or (02) 9230 3030 if you have any questions regarding this submission or require further information.

Regards,

A handwritten signature in black ink, appearing to read 'D. Shoebridge', written in a cursive style.

David Shoebridge
Greens NSW MP