



NSW RURAL FIRE SERVICE



10/50 VEGETATION CLEARING CODE OF PRACTICE FOR NEW SOUTH WALES

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1 Introduction

This Code of Practice is known as the 10/50 Vegetation Clearing Code of Practice for New South Wales (the 10/50 Code) and has been prepared in accordance with section 100Q of the *Rural Fires Amendment (Vegetation Clearing) Bill 2014*.

This 10/50 Code has been developed to provide for vegetation clearing work to be carried out in certain areas near residential accommodation or high-risk facilities to reduce the risk of bush fire.

It permits landowners in the 10/50 vegetation clearing entitlement area to clear on their own land, vegetation that is adjacent to an external wall of a building containing habitable rooms that comprises or is part of residential accommodation or a high-risk facility.

The Commissioner of the NSW Rural Fire Service (NSW RFS) may review this 10/50 Code at any time.

2 Definitions

Expressions defined in Division 9 of the *Rural Fires (Vegetation Clearing) Amendment Bill 2014* have the same meaning for this 10/50 Code.

A definition within the *Rural Fires Act 1997* applies to this 10/50 Code, except where the terms defined in Division 9 of the *Rural Fires (Vegetation Clearing) Amendment Bill 2014* apply.

For the purpose of this 10/50 Code the following definitions apply:

10/50 vegetation clearing entitlement area: land determined by the Commissioner of the NSW Rural Fire Service to be a 10/50 vegetation clearing entitlement area, and is identified as such on a map published on the NSW RFS website.

External wall: see Section 6.2

Habitable room: See Section 6.3

Tree: a perennial woody plant having:

- (a) a single stem or trunk
- (b) is 3 or more metres in height, and
- (c) the trunk, at a height of 1.3 metres above the ground, has a circumference of more than 0.3 metres.

A tree does not include a shrub, which is a small low growing woody plant with multiple stems, or a vine which is a woody plant that depends on an erect substrate to grow on.

3 Links

The following Acts, Instruments or other documents are referred to in this Code of Practice:

- > [Rural Fires Act 1997](#)
- > [Children and Young Persons \(Care and Protection\) Act 1998](#)
- > [Education Act 1990](#)
- > [Environmental Planning and Assessment Act 1979](#)
- > [Local Government Act 1993](#)
- > [National Parks and Wildlife Act 1974](#)
- > [Native Vegetation Act 2003](#)
- > [Nature Conservation Trust Act 2001](#)

- > [Threatened Species Conservation Act 1995](#)
- > [Threatened Species Conservation \(Biodiversity Banking\) Regulation 2008](#)
- > [Road Transport Act 2013](#)
- > [Standard Instrument – Principal Local Environment Plan](#)
- > Australian Standard AS 4373-2007 *Pruning of Amenity Trees*

4 Access to the 10/50 Code

The 10/50 Code is available from the NSW RFS website at rfs.nsw.gov.au or as a hard copy from a NSW RFS District Office at no charge to any owner of land situated within the 10/50 vegetation clearing entitlement area.

5 The 10/50 Code of Practice

5.1 Compliance and enforcement

If an owner of land in a 10/50 vegetation clearing entitlement area carries out vegetation clearing work for which an approval, consent or other authorisation is required, and the work is carried out without that approval, consent or authorisation and other than in accordance with the 10/50 Code, then offence provisions and any available remedies will apply, under relevant legislation.

Vegetation clearing that is carried out in accordance with this 10/50 Code is considered to be authorised clearing under NSW legislation.

5.2 Application of land to the 10/50 Code

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.

5.3 Determining if your land is mapped as 10/50

An online assessment tool is available on the NSW RFS website at rfs.nsw.gov.au and allows a landowner to conduct a self-assessment as to whether their land falls within the 10/50 vegetation clearing entitlement area and complies with the requirements of this 10/50 Code.

5.4 Landowners consent

The clearing of vegetation under this 10/50 Code can only be conducted with the consent of the landowner. It is not permissible to clear any land without the owner's consent:

- > Tenants must obtain approval from the landowner prior to commencing any clearing works
- > Landowners may not clear adjoining land without the approval of the landowner

Where a single tree trunk occurs across two or more properties, the approval of all landowners is required for removal of the tree.

It is recommended that evidence of such consent be recorded.

6 Buildings

This 10/50 Code applies to vegetation adjacent to external walls of a building containing habitable rooms that comprises, or is part of, residential accommodation or a high-risk facility.

This section does not apply to a building containing habitable rooms if there is no development consent or other lawful authority under the *Environmental Planning and Assessment Act 1979* for the use of those rooms as habitable rooms.

6.1 External walls

External walls refer to the external walls of a building containing habitable rooms and includes permanent fixed structures such as decks and garages that are attached to the building.

6.2 Habitable rooms

A building containing habitable rooms requires that:

- (a) For the purpose of residential accommodation (including tourist and visitor accommodation, caravans and manufactured homes):
 - the building contain one or more rooms designated and approved as bedrooms for sleeping. Vegetation clearing is not provided under this 10/50 Code for associated adjoining buildings that do not contain habitable rooms.
- (b) For the purpose of a childcare centre:
 - the building contain one or more rooms designed and approved for the purpose of the supervision and care of children. Vegetation clearing is not provided under this 10/50 Code for associated adjoining buildings that do not accommodate children, such as external storerooms.
- (c) For the purpose of a school:
 - the building contain one or more rooms designed and approved for the purpose of accommodating children. Vegetation clearing is not provided for under this 10/50 Code for associated adjoining buildings that do not accommodate children, such as external restrooms or storerooms.
- (d) For the purpose of a hospital:
 - the building contain one or more rooms designed and approved for the purpose of accommodating patients, or providing sleeping facilities for hospital staff. Vegetation clearing is not provided for under this 10/50 Code for associated adjoining buildings that do not accommodate patients, such as cafeterias or ancillary hospital buildings such as maintenance storerooms.

6.3 Residential accommodation

For the application of this 10/50 Code residential accommodation is accommodation that includes:

- Residential accommodation
- Tourist and visitor accommodation
- Caravans installed or placed in caravan parks, and
- Manufactured homes installed in manufactured home estates

within the meaning of the *Standard Instrument – Principal Local Environment Plan*. Further information is located at Attachment A.

6.4 High-risk facility

For the purpose of this 10/50 Code a high-risk facility includes:

- Childcare centres
- Schools, and
- Hospitals

within the meaning of the *Standard Instrument – Principal Local Environment Plan*. Further information is located at Attachment A.

7 Vegetation clearing provisions

7.1 Clearing distance

A landowner may carry out the following vegetation clearing work on their own land:

- the removal, destruction (by means other than fire) or pruning of any vegetation (including trees) within 10 metres; and
- the removal, destruction (by means other than fire) or pruning of any vegetation, (except for 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.

It does not matter whether the residential accommodation or high-risk facility is located on the owner's land or adjoining land. The allowable distances apply irrespective of whose land the residential accommodation or high-risk facility occurs on.

Trees may only be removed where the trunk is within 10 metres of the residential accommodation or high-risk facility.

Note: a person may not clear adjoining land or any other land without the approval of the landowner.

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

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

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

Any vegetation within 50 metres (other than trees greater than 10 metres from the residence) may be pruned.

Irrespective of the location of the tree trunk, any branches within 10 metres of a residence may be pruned.

Note: the pruning of trees must be undertaken in accordance with AS 4373-2007 *Pruning of Amenity Trees*.

7.4 Use of herbicides

Herbicides may only be used in accordance with the following conditions:

- Only herbicides registered by the Australian Pesticide and Veterinary Medicines Authority (www.apvma.gov.au) may be used unless otherwise specified in a permit.
- Users must read the label on the herbicide each time before using.
- Users must not store, use or dispose of any herbicide that contravenes the instruction for that product.
- Users must adhere to instructions on the herbicide label, unless otherwise specified in a permit.
- Users must not, without a reasonable excuse, keep a herbicide in a container without an approved label attached to the container.
- Users must not use a herbicide in a manner which risks injury to any other person or the property of another person.
- Users must not use a herbicide in a manner which harms any non-target plant.
- Users must not dispose of herbicide waste in a manner that risks injury to the environment, including water bodies.
- Users must not allow herbicides to leak, spill or otherwise escape in a manner that risks injury to the environment including water bodies.

7.5 Managing soil erosion and landslip risks

To manage soil erosion and landslip risks:

- there is to be no disturbance of the soil profile
- all topsoil must remain on the soil surface, and
- the use of graders, ploughs and dozers to clear land under this 10/50 Code is not permitted.

In addition, tree removal is not permitted on slopes greater than 18 degrees except in accordance with conditions identified in a Geotechnical Engineer Assessment Report undertaken for that purpose.

Pruning of trees is only permitted on slopes greater than 18 degrees provided at least 75 per cent of the original canopy cover is retained, except in accordance with conditions identified in a Geotechnical Engineer Assessment Report undertaken for that purpose.

7.6 Protection of riparian buffer zones

The clearing of vegetation is not allowed within 10 metres of a Prescribed Stream as identified by the Office of Environment and Heritage.

The distance (metres) is measured from the highest bank or tidal limit if there is no defined high bank. This applies to either side of the Prescribed Stream.

7.7 Protection of Aboriginal and other cultural heritage

Clearing may not be carried out within areas identified by the Office of Environment and Heritage as containing Aboriginal or other cultural heritage, except in accordance with conditions provided by the Office of Environment and Heritage for that purpose.

7.8 Protection of vegetation to which a legal obligation exists to preserve that vegetation by agreement or otherwise

Clearing under this 10/50 Code cannot be inconsistent with any of the following land management agreements:

- any conservation agreement entered into under Division 12 of Part 4 of the [National Parks and Wildlife Act 1974](#),
- any Trust Agreement entered into under Part 3 of the [Nature Conservation Trust Act 2001](#),
- any property management plan approved by the Director-General of the NSW National Parks and Wildlife Service under section 113B of the [Threatened Species Conservation Act 1995](#), or
- any Property Vegetation Plan agreement entered into under Part 4 of the [Native Vegetation Act 2003](#), or
- any Biobanking Agreement entered into under Part 3 of the [Threatened Species Conservation \(Biodiversity Banking\) Regulation 2008](#).

ATTACHMENT A

Additional information regarding residential accommodation and high-risk facilities

The following information is provided to assist users of this 10/50 Code identify whether their particular building constitutes residential accommodation, tourist and visitor accommodation, caravan within a caravan park, manufactured home within a manufactured home estate, childcare centre, school, or a hospital.

It is taken from the Dictionary of the *Standard Instrument – Principal Local Environment Plan* and is current for 1 July 2014. It is provided as a guide only and users should refer to the Instrument at

http://www.austlii.edu.au/au/legis/nsw/consol_reg/silep531/ or

<http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+155a+2006+cd+0+N>

to ensure the information is the most current version.

This 10/50 Code applies to any building that contains habitable rooms within the following residential accommodation and high-risk facility types:

Residential accommodation includes:

1. Residential accommodation within the meaning of the *Standard Instrument – Principal Local Environment Plan* including:
 - attached dwellings
 - boarding houses
 - dual occupancies
 - dwelling houses
 - group homes
 - hostels
 - multi dwelling housing
 - residential flat buildings
 - rural worker's dwellings
 - secondary dwellings
 - semi-detached dwellings
 - seniors housing, and
 - shop-top housing.
2. Tourist and visitor accommodation within the meaning of the *Standard Instrument – Principal Local Environment Plan* including:
 - backpackers' accommodation
 - bed and breakfast accommodation
 - farm stay accommodation
 - hotel or motel accommodation, and
 - serviced apartments.
3. Caravans installed or placed in caravan parks within the meaning of the *Standard Instrument – Principal Local Environment Plan*.
4. Manufactured homes installed in manufactured home estates within the meaning of the *Local Government Act 1993* and defined as a self-contained dwelling (that is, a dwelling that includes

at least one kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:

- that comprises one or more major sections
- that is not a motor vehicle, trailer or other registrable vehicle within the meaning of the *Road Transport Act 2013*, and
- includes any associated structures that form part of the dwelling.

High-risk facility includes:

1. Childcare centres within the meaning of the *Standard Instrument – Principal Local Environment Plan*, are defined as a building or place used for the supervision and care of children that:

- provides long day care, pre-school care, occasional childcare or out-of-school-hours care, and
- does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include

- a building or place used for home-based childcare
- an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian
- a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned
- a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised
- a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility
- a service that is concerned primarily with the provision of:
 - lessons or coaching, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - private tutoring
- a school, or
- a service provided at exempt premises (within the meaning of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

1. Schools within the meaning of the *Standard Instrument – Principal Local Environment Plan*, are defined as a government school or non-government school within the meaning of the *Education Act 1990*.

2. Hospitals within the meaning of the *Standard Instrument – Principal Local Environment Plan* are defined as a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- day surgery, day procedures or health consulting rooms
- accommodation for nurses or other health care workers

- accommodation for persons receiving health care or for their visitors
- shops, kiosks, restaurants or cafes or take away food and drink premises
- patient transport facilities, including helipads, ambulance facilities and car parking
- educational purposes or any other health-related use
- research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes)
- chapels
- hospices, and
- mortuaries.