

## 21 REPORTS FROM OFFICERS - INFRASTRUCTURE SERVICES DIRECTOR

### 21.1 10/50 CODE OF PRACTICE - VEGETATION CLEARING ENTITLEMENT

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**CITY STRATEGY LINK:** 2.1.2 - COMMUNITY VALUES ENVIRONMENT

**MEETING DATE:** 8 SEPTEMBER 2014

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#### **Purpose of Report**

To clarify the impacts of the Rural Fire Services - 10/50 Code of Practice for vegetation clearance entitlements on the Willoughby City Council area, to submit a request to the Rural Fire Services for the Willoughby City Council Area to be exempt from the 10/50 Code of Practice.

#### **Background**

Council at its meeting of 25 August 2014 requested a report on the impact of the Rural Fire Service (RFS) Code of Practice for Vegetation Clearance entitlements – known as the 10/50 Code of Practice.

On 1<sup>st</sup> August 2014 the NSW Rural Fire Service 10/50 Vegetation Clearing Code of Practice for New South Wales came into effect. The Code was developed to allow vegetation clearing work to be carried out in designated entitlement areas near residential accommodation or high-risk facilities to reduce the risk of bushfires.

It allows landowners in the entitlement areas to clear, on their own land, trees within 10 metres and shrubs within 50 metres adjacent to an external wall of a habitable building without the need for a permit.

#### **Impacts on Council**

The 10/50 vegetation clearing entitlement areas are based on the Council Bushfire Prone Land Map; however the clearance area is 350 metres from the bushland vegetation beyond the boundary of the bushfire prone land area. The effect of the Code is that in the Willoughby Council area approximately 50.5% of properties (i.e. 9,221 properties) are entitled to clear trees / understorey under the 10/50 Code (excluding retail, units, roads and railways). The majority of these properties are far removed from bushland areas and therefore have minimal if any risk from bushfires. The Bushfire Prone Land maps were certified by the RFS for the purpose of identifying lands where special requirements might be imposed on structures and houses to ready them for bushfire not for removal of vegetation.

There is great concern about the negative ramifications that this Code, and notably the vegetation clearing entitlement areas, will have on the visual and ecological amenity of the Willoughby Local Government Area. The extent of the entitlement areas is considered extreme and not appropriate to a metropolitan council area where bushland reserves are notably smaller and more linear in shape than rural Council areas.

The application of the 350 metre entitlement area allowing tree and vegetation removal does nothing to improve the bushfire risk preparedness of existing houses in those areas.

The Code undermines the Council's existing planning provisions, including:

- Tree & Vegetation Preservation Clause 5.9(2) in the Willoughby LEP 2012
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Any conditions of development consent for the retention of trees
- Heritage conservation areas
- the protection of environmentally sensitive land
- NSW State legislation protecting urban bushland - State Environmental Planning Policy (SEPP) 19- Urban Bushland, and Threatened Species Act 1995
- Urban Bushland Plan of Management 2014
- the protection of the City's remnant Sydney Blue Gum High Forest

Council is already aware that the Code is being used for real estate development advantage (especially improving views) rather than it being applied in the manner for which it was intended. This is expected to escalate and there is no way to properly assess the cumulative effect of the use of the Code. Trees that pose no bushfire threat to properties are now being / can be removed if they are located within the entitlement area. Previous Council refusals (not citing bushfire threat) to remove these trees can now be ignored due to the 10/ 50 Code.

## Conclusion

The 10/50 Vegetation Clearing Code of Practice raises serious concerns for the ecological and visual amenity of the Willoughby LGA. The Code undermines Council's planning instruments and State legislation in regard to the protection of urban bushland. The zoning of the vegetation clearing entitlement areas is excessive and is not appropriate to a metropolitan council area where approximately 50% of the Willoughby LGA is within the vegetation clearance entitlement areas.

The RFS planning staff are currently inspecting metropolitan urban councils to gain an understanding of the impact of the 10/50 Code. An inspection of the Northbridge, Castlecrag and Middle Cove entitlement areas was undertaken with the RFS staff on Monday 1<sup>st</sup> September 2014. They understand that Council will be applying for an exemption to the 10/50 Code.

## OFFICER'S RECOMMENDATION

That:

1. **Council write to the Commissioner of the Rural Fire Service requesting that Willoughby City Council be granted immediate exemption from the 10/50 Code of Practice.**

2. Council write to the Premier and Local Member seeking their support for immediate suspension and review of the legislation as it applies to metropolitan areas having regard to the unforeseen consequences of the Code's application in those areas and lack of proper consultation about the Codes introduction.