

# ENVIRONMENTAL PROTECTION AMENDMENT (Clearing for Fire Risk Reduction) BILL 2017

## Second reading speech

Madam President,

The risk of bushfire is ever present in most of Western Australia, and in particular the South West land division which has most of the state forest in Western Australia. In May this year the Department of Fire and Emergency Services published the 2017 state map of bushfire prone areas, which again highlighted the risks faced by residents of regional areas in particular.

These risks have been highlighted by major fire events in recent years, including those that resulted in significant reviews of the delivery of fire management services. The Ferguson review of the 2016 Waroona bushfire followed the Keelty enquiry into the 2011 Margaret River and Perth Hills bushfires. All of these fires resulted in major loss of property including homes, and in some cases also resulted in the loss of life. The reports consistently recommended better fire preparedness as a part of the solution to the loss of life and property.

The presence of flammable material adjacent to buildings is one of the greatest indicator of risk of fire damage. This is highlighted by the “Fire Wise” program being delivered in the Perth Hills and South West, which focuses strongly on implementing vegetation exclusion zones around homes.

Yet there is no automatic right available for landowners to have such an exclusion zone.

The Environmental Protection Act 1986 provides for exemptions for the need for a permit to clear land of native vegetation for a range of other purposes. Schedule 6 of the Act read in conjunction with the concurrent Bush Fires Act suggests Schedule 6 allows back burning and the creation of fire breaks by burning during a fire event, but does not allow a land owner to clear an area around their home to create a new fire break in preparation for future emergency events.

For example Clause 11 of Schedule 6 states allows for a permit exemption for back burning during a fire event as defined in Clause 34 of the Fire Brigades Act 1942 which is “for the purposes of extinguishing or controlling a fire”.

Clause 12 of Schedule 6 allows a similar exemption under the Fire and Emergency Services Act 1998 section 3.

The same outcome results under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* regulations where clause 5 (15) allows re-clearing of previously cleared (within ten years) and interestingly clause 5(3) allows for clearing by burning but not to prevent future fires.

The purpose of this Bill is to remove the requirement for a landowner to seek a clearing permit to clear native vegetation within twenty five metres of a private dwelling-house for the purpose of fire risk reduction to be prepared for future fire events.

Clearing of native vegetation in Western Australia is regulated under Division 2 of the *Environmental Protection Act 1986* (henceforth referred to as “the Act”), specifically under Section 51 of the Act.

Section 51C of the Act regulates the clearing of native vegetation by requiring landowners to apply for a permit to clear unless it is of a kind set out in Schedule 6 of the Act, or is of a kind prescribed for the purposes of that section and is not done in an environmentally sensitive area. It is set out in the Act as -

*51C. Unauthorised clearing of native vegetation*

*A person who causes or allows clearing commits an offence unless the clearing —*

*(a) is done in accordance with a clearing permit; or*

*(b) is of a kind set out in Schedule 6; or*

*(c) is of a kind prescribed for the purposes of this section and is not done in an environmentally sensitive area.*

Schedule 6 of the Act – **Clearing for which a permit is not required** - outlines the circumstances in which the landowner may clear without a permit. However the fourteen existing clauses of this schedule contain no specific exemption for clearing to protect residential dwellings from fire.

This shortcoming of the means that landowners who do not meet the existing clearing exemption categories are required to go through the process of applying for a clearing permit to protect their homes and families from fire emergencies.

A number of large scale fire events in Western Australia and worldwide in recent years has identified that homes without an adequate fire break are far more likely to be damaged or destroyed in a major fire event. People sheltering in these houses are of significant risk of injury or death. The need for the law to provide a simple and straightforward mechanism to protect residential dwellings from fire is paramount. The urgent need to protect lives and homes should not be impinged by legislation that prevents clearing of native vegetation.

The amendment proposed in the Bill would apply to residential dwellings only, allowing land owners the full and unfettered capacity to clear the immediate vicinity around their homes for fire risk reduction.

Other jurisdictions have made similar legislative changes in response to major fire events.

The Black Saturday bushfires of February 2009 were the worst in the history of the state of Victoria and undoubtedly the worst in Australia’s history. Over 2,000 homes were destroyed and 173 people lost their lives.

As a result of this and other fires the Victorian Government established the Victorian Bushfire Royal Commission, and following this report the Victorian Government in 2011 introduced permanent planning controls which simplified residents entitlement to clear native vegetation around their property.

These changes allow all regional homeowners to clear without a permit any vegetation including trees to a distance of ten metres from their house, and any vegetation except for trees (meaning undergrowth and smaller plants) to a distance of thirty metres.

In bushfire prone areas of Victoria, identified by that state as “within the Bushfire Management Overlay”, the distance the homeowner can clear any vegetation except for trees is extended to fifty metres.

These rules are known as the Victorian 10/30 and 10/50 rules.

In the Blue Mountains of New South Wales a series of major bushfires in October 2013 destroyed 250 buildings and resulted in the deaths of two people. As a result of the subsequent review of the events conducted by the New South Wales Government legislation was passed in June 2014 to establish the existing 10/50 vegetation clearing scheme.

This scheme removes the need for landowners close to the bush to apply for a permit to clear native vegetation on their property.

Specifically the scheme allows people in a designated 10/50 Vegetation Clearing Entitlement Area to:

- Clear trees on their property within 10 meters of a home, without seeking approval; and
- Clear underlying vegetation such as shrubs (but not trees) on their property within 50 meters of a home, without seeking approval.

The Bill I now propose for Western Australia does not distinguish between trees and other vegetation types, so that a homeowner will have the opportunity to remove all flammable material from the immediate vicinity of their home. However the distance proposed in this Bill is a compromise between both types.

The longer term intended consequence of the changes proposed in this Bill is to reinforce personal responsibility for bushfire preparedness.

Discussions with the insurance industry have indicated that the proposed changes would be welcomed as a risk minimisation measure that may in the future positively impact on homeowners risk assessment, leading to cost and risk coverage advantages.

I commend the Bill to the House.