



**NSW RURAL FIRE SERVICE**

# **RURAL BOUNDARY CLEARING CODE FOR NEW SOUTH WALES**

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Approved by the Minister for Police and Emergency Services, the Minister for Planning and Public Spaces, the Minister for Energy and Environment and the Minister for Agriculture and Western NSW. Gazetted in accordance with section 100RA(7) of the *Rural Fires Act 1997*.

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# 1 Introduction

The Rural Boundary Clearing Code allows landowners to clear certain vegetation along the boundary of their landholding to reduce the potential for the spread of bush fires.

This Code was introduced to simplify and empower vegetation management for rural land holders and addresses the intent of Recommendation 28 of the NSW Bushfire Inquiry, which was commissioned following the devastating 2019/20 NSW bush fires which cost the lives of 26 people and destroyed 2,476 homes across NSW.

The inquiry recommended:

*28. That Government, acknowledging that a strategic approach to planning for bush fire will take time, and in order to protect, prepare and build resilience into existing communities better, should immediately:*

- review vegetation clearing policies to ensure that the processes are clear and easy to navigate for the community, and that they enable appropriate bush fire risk management by individual landowners without undue cost or complexity.*

The 'Rural Boundary Clearing Code for New South Wales (Rural Boundary Clearing Code)' has been prepared in accordance with Section 100RA(5) of the [Rural Fires Act 1997](#).

The objective of the Rural Boundary Clearing Code is to simplify vegetation management for owners or occupiers of land for the purpose of bush fire hazard mitigation by allowing them to clear vegetation on their property within 25 metres of their property boundary. This should be undertaken with consideration of environmental impacts.

This will assist landowners in meeting their duty under Section 63(2) of the [Rural Fires Act 1997](#), to take any notified steps or any practicable steps to prevent the occurrence of bush fires on, and to minimise the spread of bush fires on or from, their land.

The Rural Boundary Clearing Code will assist land owners to limit the spread of fire and extend the existing exempt clearing provisions in NSW to provide for clearing, as fire-breaks, along property boundaries. The scheme is designed to facilitate bush fire hazard reduction works to limit fire spreading from or entering properties.

It is the responsibility of the owner of the land to maintain a copy of the Rural Boundary Clearing online tool search results from the day that the clearing is undertaken. Landowners are required to provide evidence of the online search tool results in the circumstance that a relevant regulatory authority seeks such evidence.

The Rural Boundary Clearing Code is available for download from the NSW Rural Fire Service website at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au).

## 2 Definitions

A definition within the [Rural Fires Act 1997](#) applies to this Rural Boundary Clearing Code, except where the terms defined in Division 9 of the [Rural Fires Act 1997](#) apply.

The following definitions apply to this Rural Boundary Clearing Code:

- **heavy plant:** includes graders, ploughs, bulldozers (or other types of heavy machinery that are designed to break the soil surface);
- **holding:** includes a parcel of land or several parcels of land (whether held under the same title, different titles or different kinds of titles) that constitute or are worked as a single property and that are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse;

The use of the term landowner or landholder in this Rural Boundary Clearing Code is taken to have the same meaning as the term 'owner of land' and 'occupier of land' as defined in the dictionary of the [Rural Fires Act 1997](#), as follows:

- **owner of land:**
  - a. in relation to Crown land, means the Crown and includes:
    - i. a lessee of land from the Crown; and
    - ii. a person to whom the Crown has lawfully contracted to sell the land but in respect of which the purchase price or other consideration for the sale has not been received by the Crown; and
  - b. in relation to land other than Crown land, includes:
    - i. every person who jointly or severally, whether at law or in equity, is entitled to the land for any estate of freehold in possession; and
    - ii. every such person who is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; and
    - iii. in the case of land that is the subject of a strata scheme under the [Strata Schemes \(Freehold Development\) Act 1973](#)
    - iv. or a leasehold strata scheme under the [Strata Schemes \(Leasehold Development\) Act 1986](#), the owners corporation under that scheme; and
    - v. in the case of land that is a community, precinct or neighbourhood parcel within the meaning of the [Community Land Development Act 1989](#), the association for the parcel; and
    - vi. every person who by this Act is taken to be the owner; and
  - c. in relation to land subject to a mining lease under the [Mining Act 1992](#), the holder of the lease.
- **occupier of land means:**
  - a. the person who has the management or beneficial use of the land (whether resident on the land or not), or
  - b. if the land is a public reserve or park—the trustees or any person having the care, control and management of the land.
- **Rural Boundary Clearing Code:** means a code under Section 100RA, as in force from time to time, allowing landholders in a **Rural Boundary clearing area** to clear vegetation on their property within 25 metres of their property boundary (25 metre rule);
- **Rural Boundary Clearing Area:** means land zoned RU1 Primary Production, RU2 Rural

Landscape, RU3 Forestry, RU4 Primary Production Small Lots, RU5 Village and RU6 Transition under a **Standard Instrument**.

- **Standard Instrument** means the standard local environmental planning instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#). I.e. the [Standard Instrument – Principal Local Environment Plan](#)
- **Tree:** a perennial woody plant that is three or more metres in height and that has one or more self-supporting trunks (at least one of which has a circumference at a height of 1.3 metres above ground of more than 0.3 metres) but it does not include a woody plant that is:
  - a. a shrub, which is a small, low growing, woody plant with multiple stems, or
  - b. a vine, which is a woody plant that depends on an erect substrate to grow on.

### 3 Application of land to the Rural Boundary Clearing Code

The Code will apply to any holding within a rural zone within the Boundary Clearing Code Vegetation Map (derived from bush fire prone land 2015 Guide for Bush Fire Prone Land Mapping) and within 25 meters of the holding's boundary with adjoining land.

Rural zone means the following zones under the Standard Instrument or a zone under another instrument that is equivalent to one of the following zones, however further provisions may apply to Sydney Councils:

- a. RU1 Primary Production
- b. RU2 Rural Landscape
- c. RU3 Forestry
- d. RU4 Primary Production Small Lots
- e. RU5 Village
- f. RU6 Transition

Where a holding has two or more zones either partially or wholly affecting it, vegetation clearing under the Rural Boundary Clearing Code is considered to be authorised clearing only for that portion of the holding zoned RU.

The allowable clearing applies to the boundary of the holding (i.e. several parcels of land (whether held under the same title, different titles or different kinds of titles) that constitute or are worked as a single property and that are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse. It is the responsibility of the landowner to confirm the boundary of their holding.

If a landholder wishes to undertake boundary clearing on any land other than rural zoned land the existing regulatory requirements will apply. No clearing can be undertaken under this Code within the non-RU zoned portions of the holding. Advice should be sought from your local Council regarding clearing of these other zones.

Vegetation clearing under this Rural Boundary Clearing Code may only be undertaken on parcels of land (cadastre lots) that are in the rural boundary clearing area as identified on the Rural Boundary Clearing online tool on the day of clearing.

The Rural Boundary Clearing Code will not apply to Blacktown City, Campbelltown City, Camden, Cumberland, Fairfield City, Georges River, Hawkesbury City, The Council of the Shire of Hornsby, The

Council of the Municipality of Hunters Hill, Ku-ring-Gai, Lane Cove Municipal, Liverpool City, Northern Beaches, City of Parramatta, Penrith City, Sutherland Shire and The Hills Shire Councils, unless the Council requests to have the Code apply to their local government area. Such requests must be made in writing to the Commissioner of the NSW Rural Fire Service. Where any of these Councils that have opted in will be clearly identified on the NSW Rural Fire Service website.

## **4 The Rural Boundary Clearing Code**

### **4.1 Compliance and enforcement**

Vegetation clearing that is carried out in accordance with this Rural Boundary Clearing Code is considered to be authorised clearing under NSW legislation.

Any activity that is not expressly provided for by the Rural Boundary Clearing Code is not authorised by the Rural Boundary Clearing Code, such as dumping or burning of vegetative waste not cleared as part of the Code. It is incumbent upon the landowner to determine whether such activities require approval under other legislative instruments.

In order to be afforded protection, any clearing must be on land in the rural boundary clearing area, and undertaken in accordance with the Rural Boundary Clearing Code, on the day that the clearing is undertaken.

*Note: The Rural Boundary Clearing Code does not provide an approval but rather a person is not guilty of an offence for clearing vegetation in accordance with the Code. This means that clearing that is not carried out in accordance with this Rural Boundary Clearing Code may, for example, constitute an offence under another Act or instrument and may be subject to enforcement by the relevant authority under the offended Act or instrument.*

State laws cannot override Commonwealth laws. Clearing in accordance with the Rural Boundary Clearing Code does not constitute an approval (or exemption) under Commonwealth laws, such as the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

*It is important to be aware that dumping of waste vegetation (or other materials and substances) is illegal, including dumping on adjoining land.*

### **4.2 Determining if land is mapped as a rural boundary clearing area**

An online assessment tool is available on the NSW RFS website at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and allows landowners to conduct a self-assessment as to whether their land falls within the rural boundary clearing area, for the purpose of the Rural Boundary Clearing Code.

Clearing in accordance with the Rural Boundary Clearing Code may only be undertaken if the land parcel is mapped in the Rural Boundary Clearing online tool as a rural boundary clearing area on the day that the clearing is undertaken. It is the responsibility of the owner or occupier of the land to confirm that the land parcel is in the rural boundary clearing area in the online tool on the day that the clearing is undertaken.

### 4.3 Landowners consent

The clearing of vegetation under this Rural Boundary Clearing Code can only be conducted with the consent of the landowner. It is not permissible to clear any land without the landowner's consent. Such consent must be obtained in writing prior to any clearing commencing. The landowner is the owner at the time the vegetation is removed.

For leased land, the authority to clear in accordance with this or any other instrument should be outlined in the lease.

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

*Note: the responsibility for the felling and removal of any such tree is a matter for agreement between the affected landowners, and should be articulated in any written agreement.*

## 5 Boundary of Holding

This Rural Boundary Clearing Code applies to vegetation within 25 metres of the property boundary (within the rural boundary clearing area) that form the boundary of the holding.

## 6 Vegetation clearing provisions

### 6.1 Clearing distance

The Rural Boundary Clearing Code provides for vegetation clearing work on land within a holding that is:

1. within the rural zone,
2. within Boundary Clearing Code Vegetation Map; and
3. within 25 metres of the holding's boundary with adjoining land.

This provides for the removal, destruction or pruning of any vegetation (including trees) by landholders on their own property within 25 metres of the boundary of their holding. The clearing of vegetation provided for under this scheme is for bush fire hazard reduction and clearing should only be done to the minimum extent necessary for that purpose. As such, a landholder is not required to clear the entire 25 metres in order for the clearing to be considered lawful.

The allowable distances apply to vegetation located on the owner's land. However, a tree may be removed if the trunk occurs across the boundary of one or more adjoining holdings, if the adjoining landowner/s agree/s in writing to its removal. The adjoining property/ies must also be in the rural boundary clearing area.

*Note: the responsibility for the removal of any felled tree is a matter for agreement between the affected landowners, and should be articulated in any written agreement.*

### 6.2 The type of vegetation that cannot be cleared, including the types of trees

The types of vegetation that cannot be cleared are separated into three categories based on the availability and accuracy of maps. The online tool is informed by maps, including the Biodiversity Values Map, provided to the NSW RFS by the relevant Government authority. In the event that a mapped layer



held by the relevant authority is different to that on the NSW RFS online tool, it is the version on the online tool that applies to the Rural Boundary Clearing Code.

The types of vegetation that cannot be removed include:

1. Parcels of the following vegetation which are within areas mapped in the Rural Boundary Clearing online tool may not be cleared under the Rural Boundary Clearing Code. The onus is on the owner or occupier of the land to demonstrate that they did not clear any vegetation that constitutes any of the following types of vegetation:
  - a. SEPP Coastal Management - Coastal Wetlands (not including the proximity area) as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment;
  - b. Wetlands in the [Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005](#) as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment;
  - c. Wetlands in the [Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River \(No 2 – 1997\)](#) as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment;
  - d. SEPP Coastal Management – Littoral Rainforests (not including the proximity area) as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment;
  - e. Core Koala habitat identified at Attachment 'A' as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment;
  - f. Ramsar Wetlands;
  - g. vegetation within 100 metres of the coastline or estuaries of NSW;
  - h. any vegetation on Lord Howe Island;
  - i. Land mapped as Declared Area of Outstanding Biodiversity Value (as listed in Attachment A – Vegetation Types) as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment;
  - j. Critically Endangered Ecological Communities (as listed in Attachment A – Vegetation Types) as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment;
  - k. 'Land avoided for strategic biodiversity' and 'strategic conservation area' (as listed in Attachment A – Vegetation Types), whether exhibited as part of the draft Cumberland Plain Conservation Plan (CPCP) or the approved CPCP, and as mapped and provided by the Department of Planning, Industry and Environment.
2. Vegetation on land parcels (cadastre lots) which are within areas mapped in the Rural Boundary Clearing online tool as identified below are excluded from the Rural Boundary Clearing Code and may not be cleared.

The protected categories are:

- a. World Heritage as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment,
- b. Vegetation of high environmental significance identified as part of the bio-certification of the [Sydney Region Growth Centres](#) as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment.

However, land parcels that do not contain any of these legal protection measures (despite being mapped as one of those categories) are not excluded from the Rural Boundary Clearing Code. This situation may occur due to inaccuracies with the mapping that may result in your land parcel being wrongfully identified.

The onus is on the owner or occupier of the land to demonstrate that their land parcel does not contain

the identified legal protection measure. Advice as to how to determine whether your land contains the legal protection measure is provided in the online tool search results.

3. The vegetation identified below is not mapped in the Rural Boundary Clearing online tool and may not be cleared under the Rural Boundary Clearing Code:
  - a. Mangroves and saltmarsh may not be cleared. Mangroves and coastal saltmarsh are as described in [NSW Department of Primary Industries Primefact 746 May 2008 – Mangroves](#), and [Primefact 1256 March 2013 – Coastal saltmarsh](#).

### **Temporary exemptions for bush fire affected holdings**

A holding affected by bush fire between 1 July 2019 and 31 March 2020, as mapped in the NSW Rural Fire Service fire scar map displayed on NSW RFS website, is exempt from section 6.2 – 1 of this Code, except for mapped areas of:

- New England Peppermint (*Eucalyptus nova-anglica*) Woodland on Basalts and Sediments in the New England Tableland Bioregion;
- Marsh Club-rush sedgeland in the Darling Riverina Plains Bioregion;
- Robertson Basalt Tall Open-forest in the Sydney Basin and South Eastern Highlands Bioregions (Wingecarribee);
- Shale Sandstone Transition Forest in the Sydney Basin Bioregion;
- Sydney Turpentine Ironbark Forest in the Sydney Basin Bioregion;
- Cumberland Plain Woodland in the Sydney Basin Bioregion;
- Ramsar wetlands;
- Coastal wetlands and littoral rainforest as mapped in the *State Environment Planning Policy (Coastal Management) 2018*;
- Core koala habitat that has been identified in a koala plan of management under the *State Environment Planning Policy (Koala Habitat Protection) 2020* as listed in Attachment A.

This exemption ceases to be in effect on 25 November 2022.

## **6.3 Use of herbicides**

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

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

## 6.4 Use of fire

The burning of standing vegetation (including felled vegetation not in piles) may not be undertaken in areas subject to Part 1 or Part 2 of Schedule 8 of the Protection of the Environment Operations (Clean Air) Regulation 2010.

The burning of vegetation in piles may not be undertaken in areas that are subject to Part 1 of Schedule 8 of the Protection of the Environment Operations (Clean Air) Regulation 2010.

The burning of vegetation in piles may be undertaken in areas subject to Part 2 of Schedule 8 of the Protection of the Environment Operations (Clean Air) Regulation 2010, if such pile burning is in accordance with the *NSW Rural Fire Service Standards for Pile Burning*.

The burning of standing vegetation (including felled vegetation not in piles) must be conducted in accordance with the *NSW Rural Fire Service Standards for Low Intensity Bush Fire Hazard Reduction Burning*.

Nothing in this Code operates to exempt a person from their legal obligation to comply with:

1. fire permit requirements under section 87 or section 88 of the *Rural Fires Act 1997*,
2. notification requirements under section 86 of the *Rural Fires Act 1997*, and clause 33 of the *Rural Fires Regulation 2013*,
3. Total Fire Ban declarations by the NSW RFS under section 99 of the *Rural Fires Act 1997*, or
4. No Burn Notices declared by the Environment Protection Authority under section 133 of the *Protection of the Environment Operations Act 1997*,
5. any requirements relating to road (or rail) safety and traffic management.

## 6.5 Managing soil erosion and landslip risks

Landowners have a duty of care in the appropriate management of land degradation, including soil erosion, landslip risks (whether soil or rock fall), rising water tables or increase in salinity when clearing trees and vegetation under the Rural Boundary Clearing Code. Landowners who clear trees and vegetation under the Rural Boundary Clearing Code are not exempt from liability. For example, action may be pursued by a party that suffers as a result of a landslip due to actions taken on your land.

It is the responsibility of landowners to seek expert advice in relation to these matters.

The conditions below have been put in place to assist landowners in the management of vegetation but operating in accordance with these conditions does not absolve the landowners from their responsibility for landslip and erosion issues.

To manage soil erosion and landslip risks:

1. the clearing of native vegetation that is authorised by the Rural Boundary Clearing Code authorises only clearing that achieves the purpose of the clearing in a manner that minimises the risk of soil erosion and landslip, and
2. the landscape profile may not be altered.

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.

Methods of clearing that are not allowable under this Code include the use of chains (such as those used between two separate machines).

## **6.6 Protection of riparian buffer zones**

1. Any areas mapped as protected riparian land in the Biodiversity Values Map are excluded from the Rural Boundary Clearing Code.
2. The clearing must not cause stream bank instability and any process that results in declining water quality for any lakes or rivers.

**‘lake’** includes:

1. a lake, a wetland, a lagoon, a saltmarsh and any collection of still water, whether perennial or intermittent and whether natural or a natural body of water artificially modified, and whether or not it also forms part of a river or estuary.

**‘river’** includes:

1. any watercourse, whether perennial or intermittent and whether comprising a natural channel or a natural channel artificially modified, and
2. any tributary, branch or other watercourse into or from which a watercourse referred to in paragraph (a) flows, and whether or not it also forms part of a lake or estuary.

## **6.7 Protection of Aboriginal modified trees and other cultural heritage**

The types of vegetation that cannot be cleared are separated into three categories based on the availability and accuracy of maps. The online tool is informed by maps provided to the NSW RFS by the relevant Government authority. In the event that a mapped layer held by the relevant authority is different to that on the online tool, it is the version on the online tool that applies to the Rural Boundary Clearing Code.

The types of vegetation that cannot be removed include:

1. Vegetation on land parcels (cadastre lots) which are within areas mapped in the Rural Boundary Clearing online tool as identified below are excluded from the Rural Boundary Clearing Code and may not be cleared:
  - a. an Aboriginal Place as mapped and provided to the NSW RFS by Heritage NSW.
2. Vegetation on land parcels (cadastre lots) which are within areas mapped in the Rural Boundary Clearing online tool as identified below have clearing restrictions under the Rural Boundary Clearing Code. No clearing may be undertaken of vegetation that is protected by the relevant heritage listing. The landowner must consult with the authority responsible for the heritage listing to determine whether any or all of the proposed vegetation to be cleared is protected by the heritage listing.

However, land parcels that do not contain any of the legal protection measures below (despite being mapped as one of those categories) are not excluded from the Rural Boundary Clearing Code. This situation may occur due to inaccuracies with the mapping that may result in your land parcel being wrongfully identified. The onus is on the owner of land to demonstrate that their land parcel does not contain the identified legal protection measure

Advice as to how to determine whether your land contains the legal protection measure is provided in the online tool search results.

*Note: For example:*

- *if a parcel of land is identified as being local heritage but is not local heritage, then clearing is not excluded for that reason under the Rural Boundary Clearing Code; or*
- *if a land parcel is affected by a local heritage listing then clearing restrictions under the Rural Boundary Clearing Code apply to the vegetation affected.*

The protected categories are:

- a. NSW State heritage as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment; and
  - b. local heritage as mapped by councils and provided to the NSW RFS by the Department of Planning, Industry and Environment.
3. The vegetation identified below is mapped in the Rural Boundary Clearing online tool and may not be cleared under the Rural Boundary Clearing Code:
- a. Aboriginal heritage: culturally modified trees (also known as 'Aboriginal scarred trees'), as mapped and provided to the NSW RFS by the Department of Planning, Industry and Environment.

Landowners who are informed by the online tool that their land parcel may contain an Aboriginal scarred tree are required to determine if the tree/s they wish to clear meet the criteria of an Aboriginal scarred tree as described in the Department of Planning, Industry and Environment's [field manual for Aboriginal scarred trees in New South Wales](#). An Aboriginal scarred tree may not be cleared.

## **6.8 Protection of Aboriginal heritage (other than modified trees)**

Landowners have a duty of care to avoid harm to Aboriginal heritage when clearing vegetation in accordance with the Rural Boundary Clearing Code. It is important that landowners are aware that use of machinery (particularly heavy plant) to undertake clearing of trees and vegetation under the Rural Boundary Clearing Code can result in harm to Aboriginal heritage.

Landowners who clear trees and vegetation under the Rural Boundary Clearing Code are not exempt from prosecution under the [National Parks and Wildlife Act 1974](#) for harm to Aboriginal heritage. Operating in accordance with the Rural Boundary Clearing Code does not absolve the landowners from their responsibility for avoiding harm to Aboriginal heritage. Note: 'Aboriginal heritage' is as defined in the [National Parks and Wildlife Act 1974](#). Landowners may avail themselves of relevant 'defence' provisions under the [National Parks and Wildlife Act 1974](#).

## **6.9 Protection of vegetation to which a legal obligation exists**

Clearing under this Code cannot be inconsistent with any of the following:

- a. a conservation agreement entered into under Division 3 of Part 5 of the Biodiversity Conservation Act (this includes agreements entered under previous acts that are now taken to be conservation agreements under the Biodiversity Conservation Act)
- b. a Trust Agreement entered into under Part 3 of the [Nature Conservation Trust Act 2001](#);
- c. a 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
- d. a Property Vegetation Plan agreement entered into under Part 4 of the [Native Vegetation Act 2003](#) and saved under clause 60 of the Biodiversity Conservation (Savings and Transitional Regulation 2017);

- e. a Biodiversity Stewardship Agreement entered into under Division 2 Part 5 of the Biodiversity Conservation Act (this includes agreements entered into under previous acts that are taken to be biodiversity stewarded agreements under the BC Act)
- f. a condition of development consent or approval under *the [Environmental Planning and Assessment Act 1979](#)* that identifies and requires the retention and management of vegetation for conservation purposes.
- g. an instrument under Section 88B of the *[Conveyancing Act 1919](#)* that identifies and requires the retention and management of vegetation for conservation purposes
- h. an order under the following Acts:
  - i. *[Criminal Appeal Act 1912](#)*
  - ii. *[District Court Act 1973](#)*
  - iii. *[Land and Environment Court Act 1979](#)*
  - iv. *[Local Court Act 2007](#)*
  - v. *[Supreme Court Act 1970](#)*, or
  - vi. an order by a Court constituted under any of the above Acts.
- i. a Stop Work Order, Interim Protection Order or Remediation Direction under Part 6A of the *[National Parks and Wildlife Act 1974](#)*.
- j. a Stop Work Order under section 37 or Directions for Remedial Work under Section 38 of the *[Native Vegetation Act 2003](#)*, noting that stop work orders under the Native Vegetation Act continue under clause 54(2) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017.
- k. a stop work order, interim protection order, remediation order, Biodiversity offsets enforcement order or direction relating to protected animals and threatened species of animals issued under Part 11 of the Biodiversity Conservation Act.
- l. land subject to a conservation measure pursuant to an Order for Biodiversity Certification.
- m. An area that is set aside described under section 60ZC of the Local Land Services Act and registered on the public register.

## 6.10 Harm to native and introduced animals

Landowners have a duty of care to avoid cruelty and harm to native, introduced or domestic animals when clearing trees and vegetation in accordance with the Rural Boundary Clearing Code. It is important that landowners are aware that clearing of trees and vegetation under the Rural Boundary Clearing Code can result in harm to native animals and loss of their natural habitat.

Landowners who clear trees and vegetation under the Rural Boundary Clearing Code are not exempt from prosecution under the *[Biodiversity Conservation Act 2016](#)* for harm to a protected animal, or for deliberate cruelty to animals under the *[Prevention of Cruelty to Animals Act 1979](#)*. Operating in accordance with the Rural Boundary Clearing Code does not absolve the owner of land from their responsibility for avoiding harm to a protected animal or deliberate cruelty to animals.



## Attachment A – Vegetation Types

### ***Critically Endangered Ecological Communities:***

- i. Agnes Bank Woodland in the Sydney Basin Bioregion;
- ii. Artesian springs ecological community in the Great Artesian Basin;
- iii. Blue Gum High Forest in the Sydney Basin Bioregion (EPBC);
- iv. Cumberland Plain Woodland in the Sydney Basin Bioregion (EPBC);
- v. Hunter Valley Weeping Myall Woodland in the Sydney Basin Bioregion;
- vi. Mallee and Mallee-Broombrush dominated woodland and shrubland, lacking Triodia, in the NSW South Western Slopes Bioregion;
- vii. Marsh Club-rush sedgeland in the Darling Riverina Plains Bioregion;
- viii. New England Peppermint (*Eucalyptus nova-anglica*) Woodland on Basalts and Sediments in the New England Tablelands Bioregion;
- ix. Porcupine Grass – Red Mallee – Gum Coolabah hummock grassland/low sparse woodland in the Brocken Hill Complex Bioregion;
- x. Robertson Basalt Tall Open-forest in the Sydney Basin and South Eastern Highlands Bioregions (Wingecarribee);
- xi. Shale Sandstone Transition Forest in the Sydney Basin Bioregion (EPBC)
- xii. Sun Valley Cabbage Gum Forest in the Sydney Basin Bioregion;
- xiii. Sydney Turpentine Ironbark Forest in the Sydney Basin Bioregion.

### ***Declared Areas of Outstanding Biodiversity Value***

*Nil.*

*Noting 4 Critical Habitat currently listed, 3 on NPWS Reserve, and 1 at North Head Sydney, none of which fall within rural zoned land.*

### ***Mapped Koala Plans of Management:***

- i. Ballina Shire Council Comprehensive Koala Plan of Management;
- ii. Bellingen Shire Council Comprehensive Koala Plan of Management;
- iii. Byron Coast Comprehensive Koala Plan of Management;
- iv. Campbelltown City Council Comprehensive Koala Plan of Management;
- v. Coffs Harbour City Council Comprehensive Koala Plan of Management;
- vi. Kempsey Shire Council Comprehensive Koala Plan of Management;
- vii. Lismore City Council Comprehensive Koala Plan of Management;
- viii. Port Stephens Council Comprehensive Koala Plan of Management;
- ix. Tweed Coast Comprehensive Koala Plan of Management.

## Attachment B – Links

The following Acts, Instruments or other documents are relevant to this Rural Boundary Clearing Code:

1. [\*Biodiversity Conservation Act 2016\*](#)
2. [\*Bushfire Management and National Environment Law\*](#) (Commonwealth Fact Sheet)
3. [\*Community Land Development Act 1989\*](#)
4. [\*Conveyancing Act 1919\*](#)
5. [\*Criminal Appeal Act 1912\*](#)
6. [\*District Court Act 1973\*](#)
7. [\*Environment Protection and Biodiversity Act 1999 \(Cwlth\)\*](#)
8. [\*Education Act 1990\*](#)
9. [\*Environmental Planning and Assessment Act 1979\*](#)
10. [\*Field manual for Aboriginal scarred trees in New South Wales\*](#)
11. [\*Fisheries Management Act 1994\*](#)
12. [\*Land and Environment Court Act 1979\*](#)
13. [\*Local Court Act 2007\*](#)
14. [\*Local Government Act 1993\*](#)
15. *Local Land Services Act 2013*
16. [\*Mining Act 1992\*](#)
17. [\*National Parks and Wildlife Act 1974\*](#)
18. [\*Native Vegetation Act 2003\*](#)
19. [\*Nature Conservation Trust Act 2001\*](#)
20. [\*NSW Department of Primary Industries Primefact 746 May 2008 – Mangroves\*](#)
21. [\*Pesticide and Veterinary Medicines Authority\*](#)
22. [\*Prevention of Cruelty to Animals Act 1979\*](#)
23. [\*Pesticides Act 1999\*](#)
24. [\*Primefact 1256 March 2013 – Coastal saltmarsh\*](#)
25. [\*Road Transport Act 2013\*](#)
26. [\*Rural Fires Act 1997\*](#)
27. [\*Supreme Court Act 1970\*](#)
28. [\*Sydney Region Growth Centres\*](#)
29. [\*Sydney Regional Environmental Plan \(Sydney Harbour Catchment\) 2005\*](#)
30. [\*Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River \(No 2 – 1997\)\*](#)
31. [\*Standard Instrument – Principal Local Environment Plan\*](#)
32. *State Environmental Planning Policy (Coastal Management) 2018*
33. [\*State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008\*](#)
34. *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
35. [\*Strata Schemes \(Freehold Development\) Act 1973\*](#)
36. [\*Strata Schemes \(Leasehold Development\) Act 1986\*](#)
37. [\*Threatened Species Conservation Act 1995\*](#)
38. [\*Threatened Species Conservation \(Biodiversity Banking\) Regulation 2008\*](#)
39. <https://www.heritage.nsw.gov.au/about-our-heritage/aboriginal-cultural-heritage/>
40. <https://www.heritage.nsw.gov.au/assets/Uploads/files/Due-Diligence-Code-of-Practice-for-the-Protection-of-Aboriginal-Objects-in-New-South-Wales.pdf>