

The Chair/s  
 NSW Independent Inquiry into Bushfires

19 May 2020

Dear Chairpersons

**RE: NSW INDEPENDENT INQUIRY INTO THE 2019-20 BUSHFIRE SEASON**

We thank you for giving Friends of Ku-ring-gai Environment Inc (FOKE) the opportunity to send a submission to the Inquiry.

We wish to focus our response to the Inquiry in relation to our concerns regarding the Rural Fire Service (RFS) 10/50 Clearing Code. We wish to address our submission in relation Point 2 (current laws) and Point 5 (Preparation and planning for future bushfire threats and risks) which the Inquiry will be examining as part of the Terms of Reference.

**In the wider context** In light of Bushfire impact on Australia's fauna and flora, and the worldwide loss of forest, it is clear that the Independent Inquiry into Bushfires has a wider responsibility to consider. The historical loss of forest in Australia is well documented. Yet forest (urban and regional) has a crucial role to play in drawing down carbon from the atmosphere. Climate will closely impact survival of all species and the Inquiry has to consider this double dilemma. We have to cut our emissions, but also draw-down carbon through vegetation retention.

**Ku-ring-gai has a rich environmental history that needs protection for the future.** The extent of Ku-ring-gai's bushland and biodiversity is unique for an area situated so close to Sydney's CBD. Ku-ring-gai adjoins three National Parks, Ku-ring-gai Chase, Garigal and Lane Cove. Ku-ring-gai is also home to nationally significant ecological communities and an expansive catalogue of native and animal species. The area contains significant urban forest and bushland as well as visually significant tree canopy spanning bushland and urban areas.

Ku-ring-gai contains a diverse natural habitat regarded as the last remaining areas of biodiversity significance in the Sydney Metropolitan area, including nationally significant ecological communities of remnant critically endangered Blue Gum High Forest (BGHF) and Sydney Turpentine Ironbark Forest (STIF), both protected under the NSW Biodiversity Conservation Act 2016. The BGHF is also listed as critically endangered under the EPBC Act 1999. Within the Ku-ring-gai local area there are over 800 recorded native plant species and more than 400 species of native animals.

**Much of this environmental asset has been significantly eroded.** In particular re-zoning for development without appropriate assessment for cumulative impact and other key constraints (which are many) has resulted in loss of ecological assets. Ku-ring-gai's urban forest is a significant asset that is a fundamental part of a liveable, economically, ecologically sound community. Ku-ring-gai's

bushland is contiguous with National Parks, contributing to rare corridors for wildlife that is unique in an urban context. This must be balanced with development which is contributing to bushfire vulnerability. We must err on the side of caution as so much habitat has been lost in Australia.

The following concerns are raised with regard to the impacts of the RFS 10/50 Clearing Code which has been of significant impact to Ku-ring-gai and the BGHF and STIF ecological communities since being introduced.

1. The Code has allowed residents to remove hundreds of mature endemic 'protected' trees without the normal protection these trees would have under the Act. This has caused significant loss in particular to remnant indigenous trees which are important to enable these ecological communities and habitat to continue to survive.
2. One of the objectives in assisting the recoveries of these species is to protect habitat by minimising further clearing of the community. This requires recognition of the values of all remnants of the community. Another objective is to promote public involvement in restoration activities and to implement management regimes to prevent further loss or decline. The 10/50 Code disregards these important recovery objectives and creates challenges for regeneration.
3. We are concerned it is certain that should this Code be allowed to continue, the statutory protection of critically endangered species will be circumvented. This will continue to allow a further decline in the critically endangered ecological communities - the BGHF and STIF. There is less than 5% remaining of the BGHF.
4. Most of the endemic trees which we have observed to have been removed since the introduction of the 10/50 Code have had little to do with fire protection, but instead in allowing owners in getting around rules put in place by Council and government legislation to protect the trees and illegal removal. From our observation in Ku-ring-gai, residents in a number of cases have used the Code for the opportunity to remove trees that would normally be protected from removal. Self-assessment of this Code has allowed normal rules to be disregarded. Threatened species, habitat values and other environmental matters are not considered such as connectivity and biodiversity.
5. Currently the monitoring of tree clearance being allowed to be carried out under the 10/50 Code is not possible without having a comprehensive reporting process in place. This has led to unintended consequences and the removal of many trees which should not have been removed in Ku-ring-gai.
6. Moreover, the 10/50 mapping tool is inaccurate with buffer zones not aligning with borders of vegetation hazards. A number of Ku-ring-gai properties are caught in the entitlement areas that should not be included. The entitlement areas apply even if only one or two square metres of a property are within a buffer zone. This allows unnecessary tree removal.

**We support that the RFS NSW has a streamlined environmental approval** process in place that enables assessment of bush fire hazard reduction activities. The Bush Fire Environmental Assessment Code already provides for hazard management appropriate to individual sites and identifies vegetation management that does not need to involve removal of all vegetation.

The RFS we believe, must regain its role in providing onsite advice and approval for hazard reduction activities. Property owners in Ku-ring-gai living adjacent to bushland generally have confidence in RFS advice and follow it. Residents should be encouraged to ask for assistance from

existing qualified officers to help assess environmental and bush fire management matters, not rely on poorly informed self-assessment which is causing the unnecessary removal of critically endangered BGHF and STIF.

**Urgent and Overdue** The current practice of allowing the removal of all trees within 10 metres and all vegetation within 50 metres of a habitable dwelling is also inconsistent with many recommendations of the recently gazetted Planning for Bushfire Protection 2018 (PBP). PBP recommends clearing on the hazard side of a dwelling, the 10/50 Code permits it on all four sides of a dwelling.

Opportunities to reduce bushfire hazards that are legal and lawful we believe, are generally accepted. However, at a time when there is still ongoing removal of healthy and statutory protected trees under the 10/50 scheme for reasons that often have little to do with bushfire hazard protection, and where reversing the decline in tree canopy is a key objective of the Greater Sydney Commission and the North District Plan, a formal review of the RFS 10/50 Clearing Code should be undertaken, separate to this Bushfire Inquiry. We believe it is not only urgent but well overdue.

**In the wider context** In light of Bushfire impact on Australia's fauna and flora, and the worldwide loss of forest, it is clear that the Independent Inquiry into Bushfires has to consider Australia's last environmentally sensitive areas with extra care.

We hope the submission is helpful and that the determinations of the Inquiry include making a recommendation for a formal review to be undertaken of the RFS 10/50 Code.

Yours faithfully

Kathy Cowley  
PRESIDENT

cc Mayor, Councillors and General Manager Ku-ring-gai Council  
cc The Hon Jonathan O'Dea MP Member for Davidson  
cc Mr Alister Henskens SC MP Member for Ku-ring-gai  
cc The Hon Paul Fletcher MP Member for Bradfield