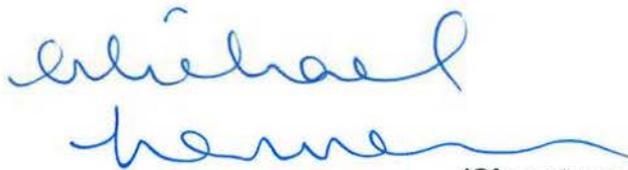


**PROPOSAL TO INITIATE AND AMENDMENT TO
THE PLANNING & DESIGN CODE**

**State-wide Bushfire Hazards Overlay Code
Amendment**

By the State Planning Commission



(Signature Required)

CHAIR, STATE PLANNING COMMISSION

Date: 4.2.21

This Proposal to Initiate document forms the basis for the preparation of a proposed amendment to the Planning and Design Code for the purpose of section 73(2)(a) of the *Planning, Development and Infrastructure Act 2016*.

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- A Chronology of previous bushfire policy amendments and fire events
- B Example of current and new mapping (Kangaroo Island)
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1. INTRODUCTION

The State Planning Commission (the Commission) is an independent body providing advice and leadership on all aspects of planning and development in South Australia. A key role is to ensure the Planning and Design Code (the Code) is maintained, reflects contemporary values relevant to planning and is responsive to emerging trends and issues.

The Proponent (the Commission) is proposing to initiate an amendment to the Code (the Code Amendment) as it relates to the whole of South Australia, excluding coastal waters (the Affected Area).

The Commission seeks to amend the Code pursuant to section 73(2)(a) of the *Planning, Development and Infrastructure Act 2016* (the Act). This 'Proposal to Initiate' details the scope, relevant strategic and policy considerations, nature of investigations to be carried out and information to be collected for the Code Amendment. It also details the timeframes to be followed in undertaking the Code Amendment.

The Commission in this case, the 'designated entity' responsible for conducting this Code Amendment process and is required to undertake consultation in accordance with the Community Engagement Charter and make final recommendations to the Minister for Planning and Local Government prior to consideration whether to approve, amend or refuse the Code Amendment.

1.1. Designated Entity for Undertaking the Code Amendment

In accordance with section 73(2)(a) of the Act, the Commission will be the Designated Entity responsible for undertaking the Code Amendment process. As a result:

- 1.1.1. The Commission acknowledges that it will be responsible for undertaking the Code Amendment in accordance with the requirements Act.
- 1.1.2. The Commission intends to undertake the Code Amendment by:
 - a) Engaging with relevant State Government agencies and local governments, including the South Australian Country Fire Service and the Department for Environment and Water to provide the professional services required to undertake the Code Amendment; and
 - b) utilising professional expertise of employees of the Department including:
 - professional planning staff
 - communications staff
 - mapping and spatial data expert staff
 - ePlanning staff responsible for the management and operation of the Planning and Design Code.

1.2. Rationale for the Code Amendment

Bushfires occur throughout many parts of South Australia. While in some circumstances they can be beneficial to the survival of some plant and animal species, they can also be

devastating to communities through loss of property and life and impacts on businesses, rural production and ecosystems.

A number of more recent fires in South Australia, in particular at Sampson Flat, Wangary, Pinery, Cudlee Creek and Kangaroo Island, have again highlighted the need to continually review and monitor the interaction of potential development activity with bushfire across the state. It has also demonstrated the importance of updating modelling in response to improved understanding of bushfire behaviour and risk profiles. A chronology of previous policy amendments and significant bushfire events is provided in **Attachment A**.

Currently, the suite six of Hazard (Bushfire Risk) Overlays contained in the Code Framework, are:

- Hazards (Bushfire - High Risk) Overlay
- Hazards (Bushfire – Medium Risk) Overlay
- Hazards (Bushfire – General Risk) Overlay
- Hazards (Bushfire – Regional) Overlay
- Hazards (Bushfire – Outback) Overlay
- Hazards (Bushfire – Urban Interface) Overlay

The Hazards (Bushfire – High Risk) Overlay enables referral to the SA Country Fire Service (as the State's Hazard Leader) for the assessment of certain types of development, including the assessment of Bushfire Attack Levels (BAL ratings) under the Building Code.

These Overlays apply policy to enable the assessment of development to mitigate varying degrees of potential impacts from bushfire hazard, with the Hazards (Bushfire – High Risk) Overlay being area of potential high bushfire hazard impacts.

Land Use/Planning context

The application of policy to mitigate bushfire hazard impacts, provides for a '*point in time*' assessment of a proposed development. Within the Code Framework, the application of this policy is two-fold:

- To ensure those areas identified and potentially new areas, as being a potential bushfire impact hazard are relevant and accurate in terms of reflecting the likelihood of hazard impacts.
- To ensure policies used in the assessment of development, as contained in the suite Hazard (Bushfire Risk) Overlays, are effective and contemporary in mitigating bushfire hazard impacts.

The proposed Code Amendment aims to review the current policy framework (spatial layers and policy content) of the six Hazard (Bushfire Risk) Overlays as well as explore, other planning instruments and mechanisms to assist in mitigating bushfire hazard impacts, in a 'holistic' planning context.

Momentum for this review, stems from the mapping outputs provided through the mapping project; recent National and State led inquiries and recognition, of an opportunity to further refine the policy framework in relation to Hazard (Bushfire Risk) Overlays in contained in the Code. This is to ensure mapped areas of bushfire hazard are contemporary and effective in delivering policy frameworks to adequately assess future development proposals.

Additionally, recognition of the importance of understanding hazard risk in South Australia, the Commonwealth National Disaster Resilience Grant Scheme 2015-18, a joint initiative by the State and Commonwealth, through the State Strategic Plan (SSP) and the National Strategy for Disaster Resilience, provided part funding to revise the Bushfire Protection Area spatial mapping framework for South Australia.

This funding has been used to refine bushfire risk spatial data by utilising new and improved evidence-based spatial data:

- Incorporating more current vegetation (2015) data into the hazard modelling;
- Using more recent Grassfire fuel modelling to that used in creating the previous Bushfire Protection Area spatial layers with fuel load variation data now based on farming cropping, grazing and potential grass fuel; and
- Amending forest modelling to identify small scale spatial data including patch sizes, patch shape and contiguous/disparate vegetation to allow for a more accurate reflection of the bushfire hazard.

An example of the mapping output from this project in relation to Kangaroo Island is provided in **Attachment B**.

The purpose of this Code Amendment is therefore to:

- Review the policy framework of the six Hazard (Bushfire Risk) Overlays.
- Review policy content contained in each of the Overlays.
- Consider updates to the spatial layers (the Overlays) as informed by the mapping project for the purpose of development assessment.
- Consider, other instruments under the Act, referral mechanisms, guides, reference layers within SAPPa that may also assist identifying and mitigating bushfire hazard impacts, providing a holistic approach to mitigate bushfire hazard impacts.

[Note: Where reference is made to Bushfire Protection Areas (terminology introduced through Development Plan Amendments under the Development Act, 1993) this taken as relating to Bushfire Prone Areas, in a both a planning and building assessment context. Currently, both the *Planning, Development and Infrastructure Act 2016* and the *Planning, Development and Infrastructure (General) Regulations 2017* (Division 4 – General, Regulation 98) explain that for the purpose of the application of the building rules, a designated bushfire prone area may be defined in a Ministerial building standard or identified in the Planning and Design Code.

Ministerial Standard MBS 008 details *‘a building is in a designated bushfire prone area if it is in an area identified in a bushfire hazard overlay to the Planning and Design Code as a high, medium or general risk; or an area within an urban interface area that is within 500m of a high bushfire risk area.’* Further, PART 5 ‘Designated Areas’ of the Code refers to this Ministerial Standard to assist in the interpretation of areas identified as ‘designated bushfire prone areas’.

For the purpose of this Code Amendment, references to Bushfire Protection Areas and Bushfire Prone Areas, are considered to be interchangeable from a historical context, with ‘designated bushfire prone areas’ currently, recognised within Ministerial Standard MBS 008 and having transitioned into the Code as part of the delineation of Hazard (Bushfire Risk) Overlays i.e. general, medium, high bushfire risk or, an area within an urban interface area that is within 500m of a high bushfire risk.]

2. SCOPE OF THE CODE AMENDMENT

2.1. Affected Area

The proposal seeks to amend the Code for the whole of South Australia (as the Affected Area) as shown in the map in **Attachment C**.

2.2. Scope of Proposed Code Amendment

Site 1 – State-wide Code Amendment

Current Policy¹	<ul style="list-style-type: none"> • Hazards (Bushfire High Risk) Overlay • Hazards (Bushfire Medium Risk) Overlay • Hazards (Bushfire General Risk) Overlay • Hazards (Urban Interface) Overlay • Hazards (Bushfire Regional) Overlay • Hazards (Bushfire Outback) Overlay
Amendment Outline	Amendment to the suite of Hazard (Bushfire) Overlays.
Intended Policy	<p>Subject to investigations, the Code Amendment is anticipated to propose:</p> <ul style="list-style-type: none"> • Updates (as required) to associated policy contained in each of the Overlays, this may include (but not limited to): <ul style="list-style-type: none"> · some refinement of the referral of development types contained in the Hazards (Bushfire - High Risk) Overlay · introducing more refined policy in relation to the assessment of development in high and medium bushfire hazard impacts to correlate with changes in spatial application of the Overlays – further addressing elements such as distance from vegetation, slope, proximity to adjacent hazard risk · updates to policy contained in the Hazard (Bushfire – Urban Interface) Overlay to ensure policy to mitigate against bushfire hazard impact is provided for · changes to Deemed-to-satisfy development pathways for more minor forms of development. • Updates to the spatial application of the Hazard (Bushfire) Overlays in particular the boundaries of high, medium, general and

¹ Note: for sites within the Phase 3 (Urban Areas) Code the Current Policy is draft and is subject to change until the Phase 3 Code is implemented.

	<p>urban interface areas, as part of an updated spatial layer.</p> <p>In addition, investigations associated with this Code Amendment will explore the following:</p> <ul style="list-style-type: none"> • Other mechanisms and guides to assist in identifying and migrating bushfire hazard impacts, including: <ul style="list-style-type: none"> · links to non-statutory, reference layers with more refined detail on bushfire hazard impacts, potentially for use where assessments relating Bushfire Attack Levels (BAL ratings) are required under the Building Code; · review of the development types and referral mechanisms to the Country Fire Service for development in areas identified as of 'high' bushfire hazard risk & potentially, alternate ways for BAL assessments to be undertaken outside of a referral process (i.e. external, accredited certification at the development application stage through to use of LIDAR data to assist in undertaking BAL assessments); · guidance material (non-statutory) in the form of Practice Guidelines and/or Information Sheets to assist in the interpretation of hazard bushfire policy · updates (as required) to Ministerial Standard MBS 008.
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3. STRATEGIC ALIGNMENT

Proposed Code Amendments occur within a state, regional and local strategic setting, which includes:

- State Planning Policies (SPPs)
- Regional Plans
- Other relevant strategic documents.

3.1. Alignment with State Planning Policies

The State Planning Policies (SPPs) set out the State's overarching goals and requirements for the planning system. Under section 66(3)(f) of the Act, the Code must comply with any principle prescribed by a SPP.

The Code Amendment should be initiated because it aligns with or seeks to implement the following SPPs:

State Planning Policy (SPP)	Code Amendment Alignment with SPPs
<p>SPP 15: Natural Hazards Objective <i>To build the resilience of communities, development and infrastructure from the adverse impacts of natural hazards.</i></p>	<p>This Proposal seeks to update the spatial delineation of high, medium and general bushfire protection areas, as transitioned into the Code as Overlays. The primary intent is to ensure planning policy and its application reflects known bushfire hazard risk, providing mitigation policies to address such risk in the assessment of future development.</p>
<p>SPP 5: Climate Change Objective <i>Provide for development that is climate ready so that our economy, communities and environment will be resilient to climate change impacts.</i></p>	<p>A consideration of this Proposal is climate change impact and the potential increase in bushfire frequency and intensity. The intent is to be cognisant of climate change and a growing body of climate-related knowledge and data that may further inform the spatial delineation of Hazard Overlays, either as part of this Code Amendment and/or future hazard related proposals to update the Code.</p>

3.2. Alignment with Regional Plans

As with the SPPs, the directions set out in Regional Plans provide the long term vision as well as setting the spatial patterns for future development in a region. This includes consideration of land use integration, transport infrastructure and the public realm.

As a State-wide Code Amendment, all Regional Plans (identified as volumes of the South Australian Planning Strategy prepared under the *Development Act 1993*, and applicable until such time as the new Regional Plans are prepared and adopted under the Act) are relevant for consideration as part of this Code Amendment:

- The 30-Year Plan for Greater Adelaide (2017 Update) + The 30-Year Plan for Greater Adelaide - 2017 Update, Implementation Plan 2017/2018
- The Eyre and Western Region Plan (April 2012)
- Far North Region Plan (July 2010)
- Kangaroo Island Plan (January 2011) + addendum Kangaroo Island Sustainable Futures (January 2014)
- Limestone Coast Region Plan (May 2011)
- Mid North Region Plan (May 2011)
- Murray and Mallee Region Plan (January 2011) + addendum special character of the Barossa Valley and McLaren Vale (December 2013)
- Yorke Peninsula Regional Land Use Framework (December 2007)
- Port Augusta Structure Plan (July 2010)
- Greater Mount Gambier Master Plan (February 2008)
- Andamooka Structure Plan (July 2013).

Regional Plan Identified Priorities or Targets	Code Amendment Alignment with Regional Plan
<p>Priorities and targets relating to:</p> <ul style="list-style-type: none"> • hazard management (bushfire) • protection of key infrastructure assets • proximity of bushfire protection areas to townships/urban areas • climate change • tourism development protection of habitats and areas of native vegetation. 	<p>Broadly, key goals and strategies contained in Regional Plans as relating to climate change, hazard management (bushfire), protection of key infrastructure assets, tourism development and consideration of habitats and areas of native vegetation will be given due consideration in the preparation of this Code Amendment.</p>

3.3. Alignment with Other Relevant Documents

Additional documents may relate to the broader land use intent within the scope of this proposed Code Amendment (or directly to the affected area) and therefore are identified for consideration in the preparation of the Code Amendment.

The following table identifies other documents relevant to the proposed Code Amendment:

Other Relevant Documents	Code Amendment Alignment with Other Relevant Documents
National Strategy for Disaster Resilience (February 2011)	Provides a national context and delivered approach to dealing with disasters. Will be referenced to provide a national perspective and uniform base for dealing with disaster and promoting resilience in the Australian community.
National Disaster Risk Reduction Framework (2018)	Provides a national context and contemporary reference to reducing impacts from disaster i.e. disaster risk reduction.
Royal Commission into National Natural Disaster Arrangements Report (20 October 2020)	Opportunity to consider the most recent recommendations in relation to both operational and preventative measures to dealing with bushfire hazards – context most recently impacting 2019-20 bushfire season.
Final Report of the NSW Bushfire Inquiry (2020)	Contains a number of recommendations and discussion on how land use planning needs to better respond to increased impacts from extreme bushfire events.
State Emergency Management Plan	Provides a state context to dealing with disaster management (more so an operational context).

5 South Australian Hazard Plans (Animal and Plant Disease (2019); Extreme Weather (2018); Human Disease (2018); Flood (2017); Rural Fire (2014))	Similarly, provides a state context to dealing with 'rural fire hazard' as part of one of five State Hazard Plans.
11 Zone Emergency Management Plans (Adelaide Hills, Fleurieu and Kangaroo Island; Barossa; Eastern Adelaide; Eyre and Western; Far North; Limestone Coast; Murray and Mallee; Northern Adelaide; Southern Adelaide; Western Adelaide; York and Mid North)	Consideration will be given to the operational, preventive and recovery elements detailed in Zone Emergency Management Plans across the state.
State Emergency Management Committee's Strategic Plan (2017- 2022)	Provides a high level, state strategic context to dealing with disaster management to set the imperative to dealing with bushfire hazard risk.
Stronger Together, South Australia's Disaster Resilience Strategy (2019-24)	South Australia's most recently prepared cross-government strategy to deal with disaster and promote disaster resilience – delivers on the National context at a state level.
State Bushfire Management Plan 2010 (under review)	Currently under review, however, the current State Bushfire Management Plan is a critical reference to ensure key requirements in dealing with potential impacts from bushfire hazard are uniformly considered in a planning context.
9 Bushfire Management Area Plans (Adelaide and Mount Lofty Ranges; Fleurieu; Flinders, Mid North and Yorke Peninsula; Kangaroo Island; Limestone Coast; Lower Eyre Peninsula; Murray Mallee; Outback; Upper Eyre Peninsula)	As per the State Bushfire Management Plan 2010, the nine Bushfire Management Area Plans (BMAPs) are critical documents to consider, particularly, to ensure local and regional matters are considered and in terms of direct consultation with those who at an operational level maintain and monitor local areas for potential bushfire risk (i.e. Country Fire Services).
Independent Review into SA's 2019-20 Bushfire Season (June 2020) (Keelty Review)	Key recommendations were presented through this review (prior to the release of the Royal Commission findings) and they provide a State context for changes and improvements to dealing with bushfire hazard risk, particularly in response to the extreme events of the 2019-20 bushfire season.
South Australian Government Climate Change Action Plan 2021-2025	Containing key, across-government actions with a focus on ' <i>practical measures to address climate change and create jobs and growth, protect the environment and support community wellbeing.</i> '

	The Action Plan contains seven focus areas with key objectives, for consideration in the context of potential risk of significant bushfire hazard events and mitigation needed in preparation to such events.
Directions for a Climate Smart South Australia	Broader content to consider climate change and the potential impacts of extreme weather events both in terms of increases in frequency and intensity. To be considered as part of the broader discussion.
Climate Change Science and Knowledge Plan (2020)	Provides a platform to utilise and consider potential climate modelling/science in the context of determining future hazard impacts – bushfire hazard.
Towards a resilient State, the SA Government's Climate Change Adaptation Plan & various Regional Climate Change Adaptation Plans (2016) – see 11 Regional Climate Partnership across SA (e.g. Adapting Northern Adelaide, AdaptWest, Barossa, Eyre Peninsula, Far North, Limestone Coast, Murraylands & Riverland, Northern and Yorke, Resilient East, Resilient Hills & Coasts, Resilient South)	A general reference to consider the current set of Climate Change Adaptation Plans and any learnings available that may apply in a planning context i.e. mitigation measures in dealing with bushfire hazard risk as part of development assessment.
Landscape Boards (8 new regional boards, along with Green Adelaide) + Managing South Australia's Landscapes Policy Overview (DEW publication)	From 1 July 2020 <i>Landscape South Australia Act 2019</i> replaced the <i>Natural Resources Management Act 2004</i> , as the key framework for managing the state's land, water, pest plants and animals, and biodiversity across the state. Department for Environment and Water now works in partnership with the eight new regional Landscape South Australia boards, for administering the new Act. This new legislation and key policy approach to managing landscapes, in particular aims to achieve resilient communities and ensuring healthy ecosystems prevail, is a consideration in the preparation of this proposed Code Amendment.
Local Government Emergency Management Framework (2019) + Emergency Management Planning Guide for SA Councils (2019)	Reference material and important local measure to be cognisant, again noting any learnings or approaches that may be considered in a planning context.

4. INVESTIGATIONS AND ENGAGEMENT

4.1. Investigations Already Undertaken

The table below identifies what investigations have already been undertaken in support of the proposed Code Amendment.

Investigation Undertaken	Summary of Scope of Investigations	Summary of Outcome of Recommendations
<p>Commonwealth National Disaster Resilience Grant Scheme 2015-18, a joint initiative by the State and Commonwealth through the State Strategic Plan (SSP) and the National Strategy for Disaster Resilience.</p>	<p>This funding has been used to refine bushfire risk spatial data by utilising new and improved evidence based spatial data:</p> <ul style="list-style-type: none"> • Incorporating more current vegetation (2015) data into the hazard modelling. • Using more recent Grassfire modelling to that used in creating the previous Bushfire Protection Area spatial layers with fuel load variation data now based on farming cropping, grazing and potential grass fuel (Department for Environment and Water + PIRSA inputs). • Amending the Forest modelling to identify small scale spatial data including patch sizes, patch shape and contiguous/ disparate vegetation to allow for a more accurate reflection of the bushfire hazard. 	<p>As the spatial data of the mapping project does not follow zoning or cadastre delineations consideration will need to be given to the most appropriate business mapping rules and methodology to apply. Accordingly:</p> <ul style="list-style-type: none"> • Due to the change in rules for the spatial application of bushfire policy, a review of the spatial application will need to be undertaken and amendments made (attention will be required to address possible 'gaps' in the application of the Urban Interface Overlay as a result of transitioning these areas from Development Plans). • Exploration of updates to the spatial application of the Hazard (Bushfire) Overlays in particular the boundaries of high, medium, general and urban interface areas, as part of an updated spatial layer. And, where mapping is disputed through

		<p>consultation, ground-truthing to confirm or alter the data at specific locations may be required.</p> <ul style="list-style-type: none"> • The option, if required, to consider changes or additions to the suite of Hazard (Bushfire Risk) Overlays, in the context of the Code Framework will be considered. <p>Also, consider the policy framework of updated Hazard (Bushfire Risk) Overlays in the context of the Native Vegetation Overlays and achieving preservation of native habitat in areas of high bushfire risk.</p> <p>Also, consider the policy framework of updated Hazard (Bushfire Risk) Overlays in the context of the Building Code & Bushfire Attack Levels (BAL) and Ministerial Building Standard MBS 008 (formerly Ministerial Specification SA 78) published in July 2020.</p>
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4.2. Further Investigations Proposed

In addition to the investigations already undertaken and identified above, the table below outlines what additional investigations that will be undertaken to support the Code Amendment.

Further Investigations Proposed	Explanation of how the further investigations propose to address an identified issue or question
Holistic planning approach	To ensure, appropriate measures are in place to consider the potential impacts from bushfire hazards, a review into other

	<p>planning instruments and mechanisms under the Act is considered appropriate,. This review will consider but is not limited to:</p> <ul style="list-style-type: none"> • links to non-statutory, reference layers with more refined detail on bushfire hazard impacts, potentially for use where assessments relating Bushfire Attack Levels (BAL ratings) are required under the Building Code; • review of the development types and referral mechanisms to the Country Fire Service for development in areas identified as of 'high' bushfire hazard risk & potentially, alternate ways for BAL assessments to be undertaken outside of a referral process (i.e. external, accredited certification at the development application stage through to use of LIDAR data to assist in undertaking BAL assessments); • guidance material (non-statutory) in the form of Practice Guidelines and/or Information Sheets to assist in the interpretation of hazard bushfire policy • updates (as required) to Ministerial Standard MBS 008.
Impacts from Climate Change	<p>Consider climate change impact modelling to determine future hazard risk from the impacts of extreme weather event. This will involve accessing the latest climate change modelling data available through DEW* and potentially, applying further predictive modelling to determine which areas may, if any, be subject to potential increases in hazard risk due to extreme weather events (intensity and frequency). [*i.e. Climate Change Science and Knowledge Plan]</p>
Phase Two (Regional Areas) + Phase Three (Urban Areas) Section 73 Reports in response to issues raised through consultation	<p>Undertake a review of the issues and responses on the Hazard (Bushfire Risk) Overlays in the Phase Two (Rural Areas) & Phase Three (Urban Areas) Code Amendment Engagement Report (once released).</p> <p>(Refer to ATTACHMENT D for further information on the summary of consultation provided as an extract of the Section 73 Report on Phase Two (Rural Areas).</p>

4.3. Engagement Already Undertaken

To date, no public engagement / consultation has been undertaken in relation to this Proposal, in accordance with Practice Direction 2.

However, early consultation has been undertaken with a number of key stakeholders (Local Government Association, South Australian Country Fire Service and the Department for Environment and Water) in the process of undertaking the mapping project jointly funded by SAFECOM and other agencies. This early consultation was

non-statutory and related to the modelling and mapping outputs stemming from the project.

4.4. Further Engagement Proposed

Further pre-consultation will be undertaken in relation to the modelling and spatial outputs stemming from the project, in order to support the Code Amendment progressing to formal consultation.

Further <u>Pre-Consultation</u> on Modelling and Spatial Outputs	Explanation of how the further engagement proposes to address an identified issue or question
<p>Councils</p> <p>Country Fire Service (CFS)</p> <p>Metropolitan Fire Service (MFS)</p> <p>South Australian Police (SAPOL)</p> <p>South Australian Fire and Emergency Services Commission (SAFECOM)</p> <p>Local Government Association (LGA)</p> <p>State Emergency Management Committee (SEMC)</p> <p>Department for Infrastructure and Transport</p> <p>Department for Environment and Water</p> <p>PIRSA</p> <p>SA Power Networks</p> <p>Electranet Pty Ltd</p> <p>SA Water</p> <p>Environment Protection Authority</p>	<p>The mapping project provides for an update to spatial ‘hazard boundaries’ and to date, targeted input from local councils and key stakeholders has not been sought. Preliminary consultation is sought:</p> <ul style="list-style-type: none"> • To ensure, this spatial data is relevant and representative of potential bushfire hazard impacts, some ‘ground-truthing’ may be required. Local councils and key stakeholders, may assist in filling the gaps in local knowledge and experience in identifying and confirming area of bushfire hazard risk. • It will also be necessary to consider how the mapping outputs are utilised and represented as updates to the suite of Bushfire Hazard (Bushfire Risk) Overlays for the purpose of development assessment. • As part of this pre-consultation engagement, further opportunity to communicate / seek input into other planning mechanisms that may assist in mitigating bushfire hazard impacts, potentially could be explored. <p>Subsequent to this additional preliminary engagement it is recommended that formal community engagement be undertaken as part of an Engagement Plan.</p>

5. CODE AMENDMENT PROCESS

5.1. Engagement Plan

The Code Amendment process will occur in accordance with the Community Engagement Charter and Practice Direction 2 – Consultation on the Preparation or Amendment of a Designated Instrument.

The Designated Entity will prepare an Engagement Plan prior to the commencement of engagement on the proposed Code Amendment. The Engagement Plan will include the following mandatory consultation requirements (which may be in addition to the engagement outlined in this Proposal to Initiate):

- The Local Government Association must be notified in writing of the proposed Code Amendment;
- If the Code Amendment has a specific impact on one or more particular pieces of land in a particular zone or subzone (rather than more generally), the Designated Entity must take reasonable steps to give a notice in accordance with Regulation 20 of the *Planning, Development and Infrastructure (General) Regulations 2017*, to:
 - the owners or occupiers of the land; and
 - owners or occupiers of each piece of adjacent land;
- Consultation must also occur with any person or body specified by the State Planning Commission under section 73(6)(e) of the Act.

5.2. Engagement Report

Once engagement on the Code Amendment is complete, the Designated Entity will prepare an Engagement Report under section 73(7) of the Act.

The Designated Entity must ensure that a copy of the Engagement Report is furnished to the Minister and also published on the SA Planning Portal. This will occur in accordance with Practice Direction 2.

The Engagement Plan and the Engagement Report will also be considered by the State Planning Commission during the final stages of the Code Amendment process. The Commission will provide a report to the Environment, Resources and Development Committee of Parliament under section 74(3) of the Act. The Commission's report will provide information about the reason for the Code Amendment, the consultation undertaken on the Code Amendment and any other information considered relevant by the Commission.

5.3. Code Amendment Timetable

The Code Amendment is intended to be undertaken in line with the timeframe outlined **Attachment E**.

ATTACHMENT A

Chronology of previous bushfire policy amendments and fire events

Chronology

- **Key Bushfire Events**
- **Changes in Building requirements, summits/reviews/reports**
- **Changes to planning policy** (Supplementary Development Plans, Plan Amendment Reports, Development Plan Amendments & Code Amendments)

1980

- **16 February 1983 Ash Wednesday bushfires.**
- Construction requirements for buildings in bushfire prone areas (declared areas) were adopted under the Building Regulations 1973 in 1988, and later transitioned to a Minister's Specification referenced in the Building Code.
- Ministerial - Mt. Lofty Ranges - Bushfire Prone Area No. 2 – Approved 4 May 1989. This SDP primary sought to update planning policy to protect life and property and incorporated bushfire protection measures in relation to residential buildings, as well as introducing a Mount Lofty Ranges Bushfire Prone Area.
- AS 3959:1999 Construction of buildings in bushfire-prone areas.

2000

- Ministerial - Bushfire Management Plan Amendment – Approved 6 Sep 2001. This Plan Amendment Report (PAR) updated policies in relation bushfire to bushfire prone areas adjacent to Adelaide.
- South Australian Government Bushfire Summit (2003)
 - Intention of engaging the community and raising the level of awareness regarding bushfire preparedness.
 - A key outcome - a review of Development Plans in relation to land use and infrastructure and the extent of variation in bushfire hazard policy and to strengthen the role of the CFS in the development assessment process (at the time the Mount Lofty Ranges region was the only areas where there was a formalised referral system in place to the CFS).
- **January 2005 Wangary bushfire (Eyre Peninsula).**
- Three Ministerial Plan Amendment Reports (PARs) followed the Summit essentially seeing the designation of Bushfire Prone Areas in other parts of the state and updated mapping/policy content:
 - Ministerial - Bushfire Management (Part 1) - (South East, Kangaroo Island, Yorke Peninsula and Eyre Peninsula) Plan Amendment – Approved 9 November 2006.
 - Ministerial - Bushfire Management (Part 2) - (Mid North, Riverland, Northern Metropolitan/Outer Metropolitan and Murray Bridge) Plan Amendment – 14 December 2006.
 - Ministerial - Bushfire Management (Part 3) Plan Amendment – Approved 29 November 2007.
- **December 2007 Kangaroo Island bushfires.**
- **February 2009 Black Saturday bushfires Victoria.**
- AS 3959:2009 Construction of buildings in bushfire-prone areas.
- In March 2009, the South Australian Government established the Bushfire Task Force to analyse key issues arising from the 2009 Victorian Bushfire Royal Commission.

2010

- Ministerial - Bushfires (Miscellaneous Amendments) Development Plan Amendment – Approved 9 December 2010. This DPA sought to establish a better correlation between Development Plan policy and the Minister’s Code: Undertaking development in Bushfire Protection Areas (the Bushfire Code). [*Note this DPA sought to refer to Bushfire Protection Areas rather than Bushfire Prone Areas however, this change in terminology differs to that which continues to be used in a building context, where the Ministerial Standard 008 and regulations under the PDI Act, continues to refer to Bushfire Prone Areas.]
- In conjunction with the DPA, amendments were made at the time to the Development Regulations 2008, giving the Bushfire Codes stronger legislative grounding at the development assessment level.
- Since that time a small number of other council initiated DPAs have been approved such as the Kangaroo Island - Primary Production, Forestry and Bushfire Protection DPA - 26 April 2013.
- **2014 - seven major fire events in South Australia.**
- **January 2015 Sampson Flat bushfire.**
- **November 2015 Pinery bushfire.**
- AS 3959:2018 Construction of buildings in bushfire-prone areas.
- In 2018, funding was secured through the National Disaster Resilience Grant Scheme 2015-2018 and in collaboration with the South Australian Fire and Emergency Services Commission (SAFECOM) the commencement of the National Disaster Resilience Program – SEMC1718-27 Project, Planning – Bushfire Risk Area Mapping, commonly referred to as the *Bushfire Hazard Spatial Layer Mapping Project (the mapping project)*.
- **P&D CODE PHASE ONE: 1 February 2019 Operation of Phase One (Outback) Code Amendment (under the *Planning, Development and Infrastructure Act 2016*).**
- Under the new planning instruments of the *Planning, Development and Infrastructure Act 2016* higher order strategic, planning priorities are identified and become operational in May 2019 i.e. State Planning Policies (SPPs). Notably, SPP 15: Natural Hazards aims ‘*To build the resilience of communities, development and infrastructure from the adverse impacts of natural hazards*’.
- Consultation commences on Phase Two (Rural Areas) and Phase Three (Urban Areas) Code Amendment to implement the transition of bushfire mapping and policy (Bushfire Protection Areas*) into the Planning and Design Code as a suite of six Overlays i.e. Hazard (Bushfire Risk) Overlays.

[*Current Bushfire Prone (Protection) Areas are identified through a spatial layer used in planning / building with requirements under the Building Code and Australian Standard AS 3959 for the construction of dwellings in defined bushfire risk areas (also relates to Bushfire Attack Levels (BAL ratings)). Bushfire hazard ratings representing these layers were calculated using McArthur’s fire model, initially mapped in 2006 and progressively amended through DPAs in consultation periods 2000 – 2012. These are now consider to be become outdated and superseded by advances in the science and understanding of bushfire behaviour.]

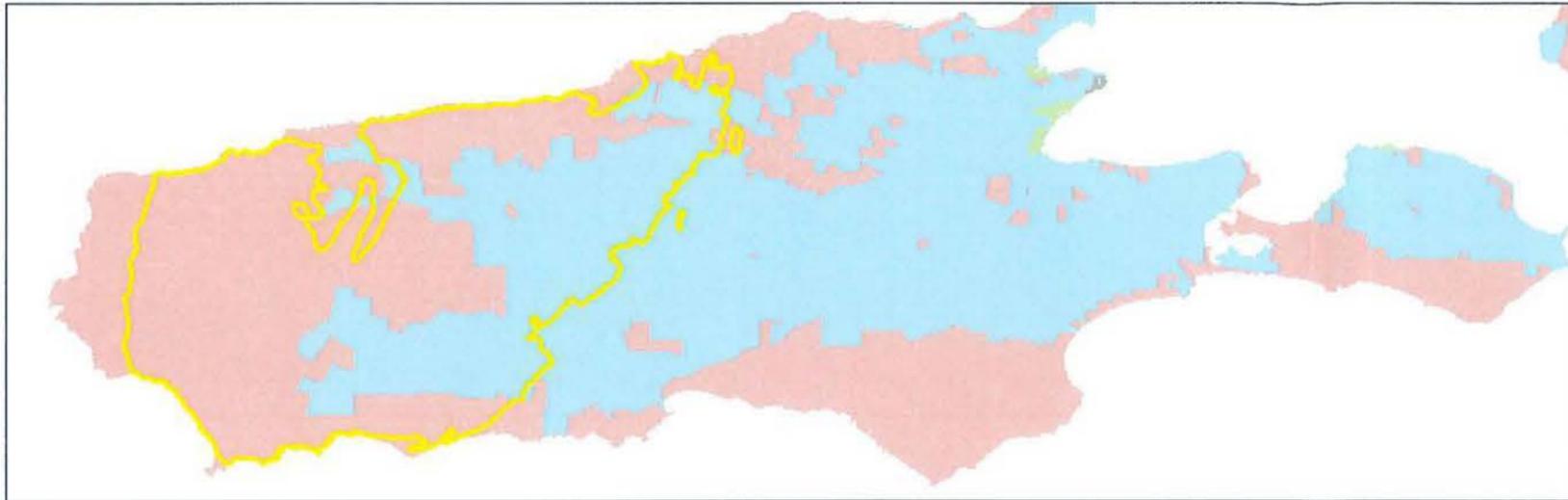
2020

- **2019-20 Kangaroo Island, Cudlee Creek, Keilira and Yorketown bushfires.**
- In response to 2019-20 Bushfire Season, a recovery initiative is implemented by DPTI – Bushfire Recovery Planning and Building Assessment Fact Sheet.
- 2 April (internal to government) completion of the **National Disaster Resilience Program – SEMC1718-27 Project Report (Draft) ‘Planning – Bushfire Risk Area Mapping’**.

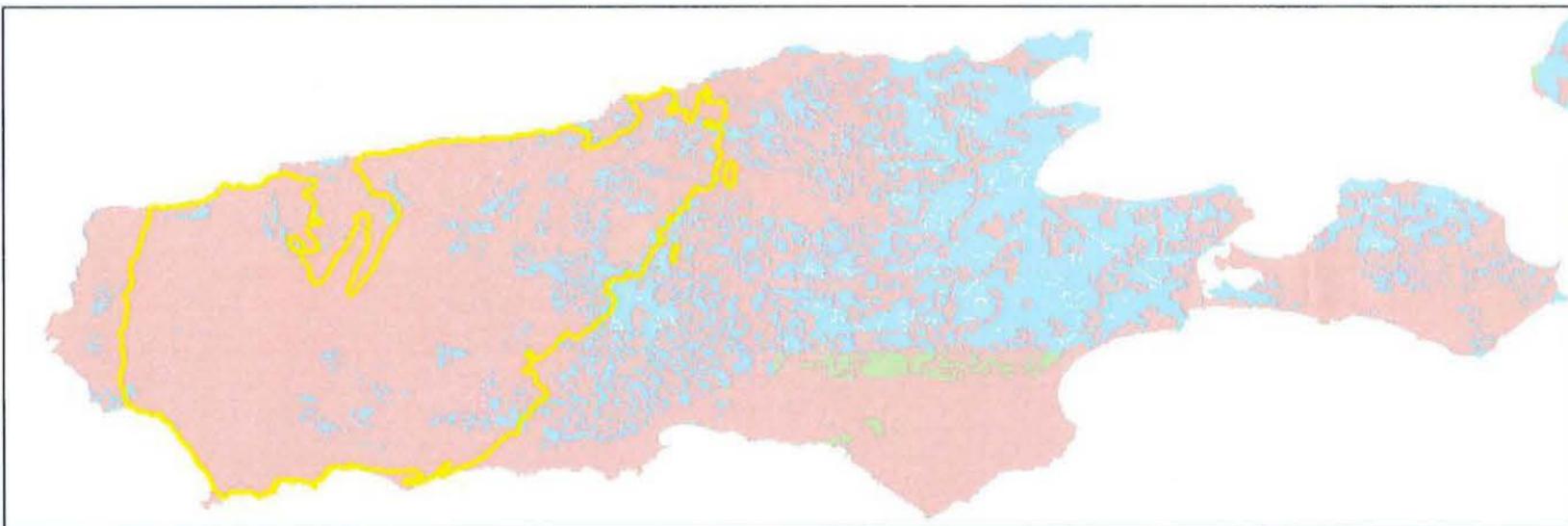
- Independent Review into South Australia's 2019-20 Bushfire Season (Keelty Review) June 2020, delivered to the State Government.
- P&D CODE PHASE TWO: 1 July 2020 Operation of Phase Two (Rural Areas) Code Amendment (under *Planning, Development and Infrastructure Act 2016*).
- Incorporation of the intent and some content of the Minister's Code into the suite of Hazard (Bushfire Risk) Overlays. [Note, the Minister's code was published under the *Development Regulations 2008* 'Undertaking development in Bushfire Protection Areas' (February 2009, as amended October 2012) designed to assist applicants seeking to undertake development in Bushfire Protection areas.]
- Royal Commission into National Natural Disaster Arrangements Report released by the Commonwealth Government (30 October 2020).
- Minister's Specification SA 78 is transitioned as a Ministerial Standard (MBS 2008) in July 2020 for adoption under the PDI Act. [The Minister's Specification (read in conjunction with Regulation 78 & SA78 'Additional requirements in designated bushfire prone areas' (May 2011) — has additional requirements relating to a Class 1, 2 or 3 building to be constructed in a designated bushfire prone area for the provision of bushfire protection systems for fire-fighting purposes.]
- P&D CODE PHASE THREE: November 2020 further consultation on Phase Three (Urban Areas) Code Amendment (ending 18 December 2020) containing updates and refinement to hazard policy in response to submissions received on both Phases Two and Three of the Code.
- Pending initiation of the State-wide Bushfire Hazards Overlay Code Amendment by the State Planning Commission.
- Pending update to the State Bushfire Management Plan by the State Bushfire Coordination Committee.

ATTACHMENT B Example of current and new mapping (Kangaroo Island)

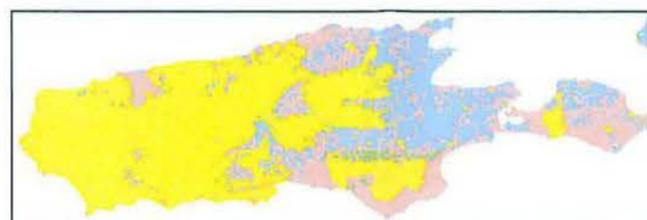
Current Bushfire Protection Areas / Bushfire Hazard Overlays



Revised Bushfire Protection Areas / Bushfire Hazard Overlays with application of the *mapping project*

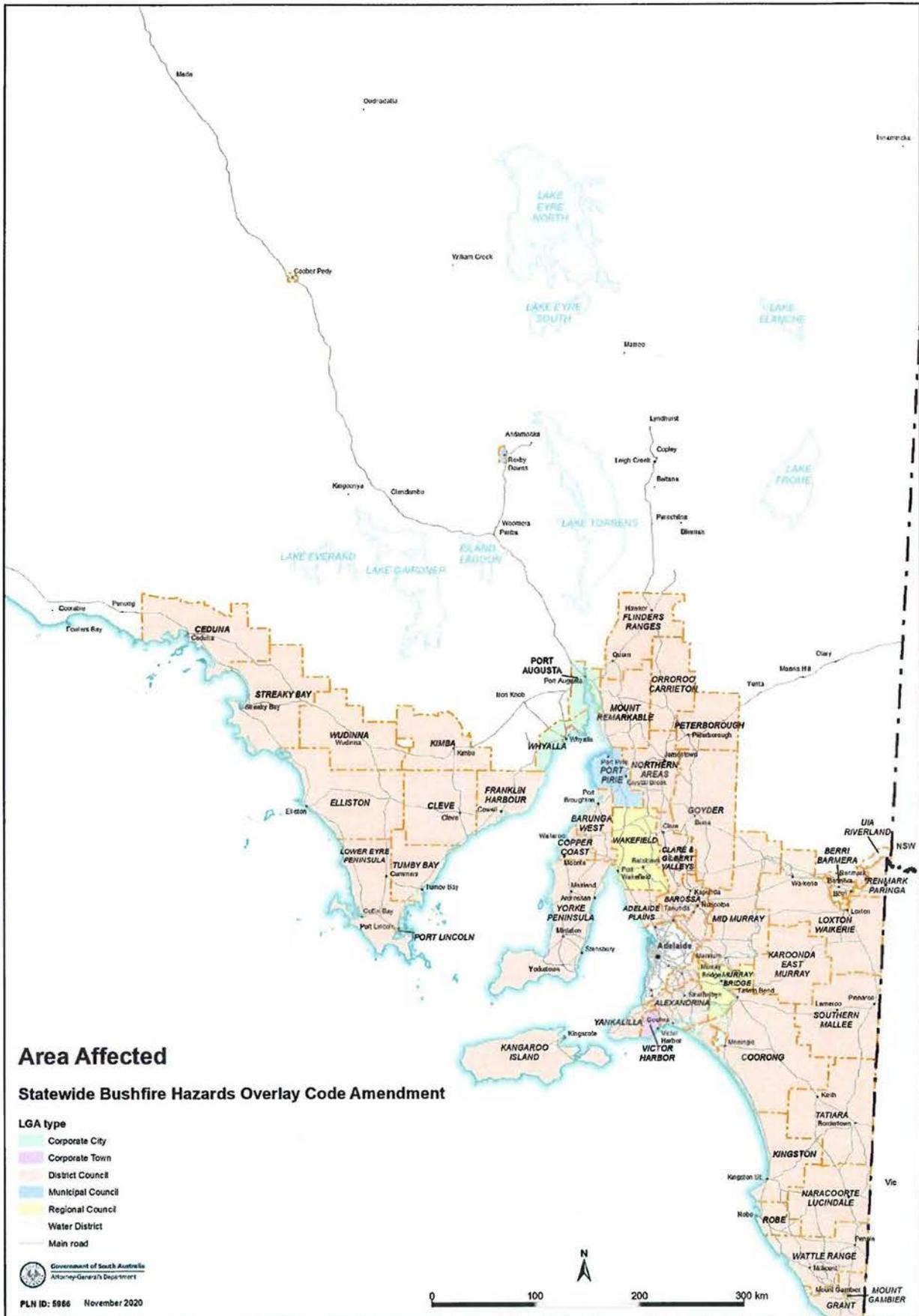


Fire scar history for Kangaroo Island over last 20 years



ATTACHMENT C

Map of Affected Area



ATTACHMENT D

(Page 88) Extract of the Planning and Design Code, Amendment for Phase Two (Rural Areas), Engagement Report, Pursuant to Section 73(7) of the *Planning, Development and Infrastructure Act 2016*.

Hazards (Bushfire) Overlays

- Changes to bushfire policy were generally supported but it was suggested that the Desired Outcomes (where relevant) need to include greater clarity around land division and its role in bushfire protection.
- Greater acknowledgement in the Desired Outcomes on how bushfire hazards will change as the climate changes.
- Clarity was also sought around what is meant by 'unacceptable bushfire risk'.
- Many councils considered that the Hazards (Bushfire – Regional) Overlay shouldn't be applied to established settlements.

Clarification:

When developing this overlay and to ensure a level of consistency with current Development Plan policy, it was proposed that townships be excluded from the overlay similar to those areas of the state that are currently mapped in terms of bushfire risk. Using the existing urban areas/township boundary data set was considered the most logical option for defining the excluded areas. As identified, this data layer hasn't necessarily kept pace with on ground development, meaning that some areas of the state that have experienced township growth haven't yet been captured in the data layer.

The Hazards (Bushfire – Regional) Overlay is a transitional policy measure that will eventually be replaced with formal bushfire risk mapping and urban interface areas as part of subsequent generational change to the Code. It is therefore recommended that the mapping for the Hazards (Bushfire – Regional) Overlay remain as is for Phase Two other than those smaller settlements mentioned above which should be captured by the overlay.

- There were suggestions around policy expression including those which speak of facilitating access for emergency service vehicles to protect assets and lives from bushfire danger. This was considered to be aspirational / unachievable in that fire crews can only 'assist', not 'protect'.
- There was also discussion in the submissions around native vegetation conservation and the conflict this has with protecting life and property when creating asset protection zones. It was suggested that the policy encouraging developing on clear land. There were queries raised as to why asset protection zone standards had increased from 20m to 50m (100m in the case of high risk areas).

Clarification:

Utilising existing cleared areas of land upon which to build is encouraged by the bushfire overlays. Specifically, they seek to minimise the clearance of native vegetation when establishing asset protection zones and the accompanying deemed-to-satisfy criteria requires the use of cleared areas that already exist.

Further, the new native vegetation overlays and the suite of bushfire overlays are provided to ensure matters relating to both the clearance of native vegetation and bushfire protection are considered at the time that a development proposal is assessed by the relevant authority. It is recognised that a future, practice guideline may assist with the interpretation of policies and assessment processes, sought through the application of these overlays

The application of a minimum asset protection zone width of 50m in bushfire overlay policy (100m in High Bushfire risk areas) has been applied based on advice of the CFS to include a minimum clearance level as a

base measure. It is anticipated, the minimum width requirements for asset protection zones be considered as part of future policy considerations once the Code is operational and that further guidance be provided in a practice guideline.

- General commentary around high, medium and general categorisation of bushfire hazard risk was also received, with cropping fire risk raised as a key gap in the current mapping methodology.

Deemed-to-Satisfy pathways for minor development

Inconsistencies have been identified in the Code regarding the application of bushfire overlays and their impact on accepted and Deemed-to-Satisfy pathways for minor forms of development such as carports, verandahs and outbuildings

Clarification:

Under the *Development Regulations* such activities (subject to meeting size and some locational requirements) are either exempt from development or do not require planning approval. Neither are affected by bushfire mapping or referral requirements. These arrangements have been 'grandfathered' over to the code for rural zones but not for neighbourhood / urban zones.

Commission's Recommendations:

- N.23** AMEND Desired Outcomes to clarify the role land division plays in bushfire protection, and to take into account climate change and its potential to increase the frequency and intensity of bushfires.
- N.24** In relation to the areas of the Hazards (Bushfire – Regional) Overlay, capture in the mapping smaller settlements that don't have sufficient urban buffer within the overlay. Larger settlements will remain as currently mapped.
- N.25** AMEND relevant zones to ensure minor forms of development such as carports, outbuildings and verandahs remain accepted and Deemed-to-Satisfy regardless of the application of bushfire overlays.

Note: this amendment maintains consistency with current provisions of the Development Regulations 2008.

Further note: Some of the matters raised in the Section 73 Engagement Report are proposed to be addressed as updates through the finalisation of the Phase Three (Urban Areas) Code Amendment. In summary changes proposed via Phase Three but as yet not endorsed by the Commission, include:

- Refinement of the overlays to ensure that policies are concisely written, and focussed towards single policy topics as per Code writing guidelines/principles.
- Inclusion of additional policy to address fire tracks in development proposals and that they shouldn't be relied upon as a means of evacuation/access.

- *Increase (from 30m to 60m) the minimum acceptable distance that the furthest point of a building can be from a public road before specific driveway requirements need to be met.*
- *Amend driveway policy to allow for the option of 'u' shaped drive-thru designs.*
- *Amend policies of the Urban Interface Overlay to limit (as a general rule) its application to land divisions creating 10 or more new allotments or public roads. Previously it was capturing all land divisions including boundary realignments which was not its intent.*
- *Amended policy to encourage evacuation to bushfire safer places.*
- *Inclusion of a note in the definitions for Asset Protection Zone and Bushfire Buffer Zone to explain that the terms are defined for use in the Code and that other organisations or legislation may use the same term(s) but with different meaning and for different purposes.*
- *Amendment to asset protection zone DTS policy to support CFS suggested increase from 50m to 100m but only in relation to distances to hazardous bushland vegetation. 50m to be retained in relation to unmanaged grasslands or for sites that have an average slope of less than 6 degrees (other than the High Overlay which is to stay at 100m).*
- *And again for noting, the earlier consultation version of the bushfire overlays sought to include policy aimed at minimising the clearance of native vegetation. On reflection this was taking on the role of the two native vegetation overlays, which is not the job of the bushfire overlays. Instead the bushfire overlays and native vegetation overlays should be able to do their job without influence on one another. They are to be considered together when a development proposal is assessed by a relevant authority. The same principle applies to regulated trees and the application of the Regulated and Significant Trees Overlay. Accordingly the bushfire overlays have been updated to focus on their primary role of protecting lives and property from loss.*

ATTACHMENT E

Timetable for Code Amendment by the State Planning Commission

Step	Responsibility	Timeframes
Approval of the Proposal to Initiate		
Review of Proposal to Initiate to confirm all mandatory requirements are met	AGD	<i>(timeframe will be put on hold if further information is required)</i>
Proposal to Initiate agreed to by the Commission	Commission	January 2021 (tbc)
Preliminary Engagement on mapping project outputs agreed to by the Commission	AGD on behalf of the Commission	<i>(timing of this stage is dependent on preliminary feedback and number of changes required to be processed from a spatial data processing perspective)</i>
Preparation of the Code Amendment		
Engagement Plan prepared Investigations conducted, Code Amendment Report prepared Amendment Instructions and Mapping prepared	AGD on behalf of the Commission	4-8 weeks <i>(estimate)</i>
Preparation of Materials for Engagement/Consultation	AGD on behalf of the Commission	1 week
Commission Endorsement of Engagement Plan & Materials	Commission	March / April 2021
Commission endorses Code Amendment for Consultation	Commission	June 2021
Engagement on the Code Amendment		
Code Amendment Report released for public consultation in accordance with the Community Engagement Charter and the prepared Community Engagement Plan	AGD on behalf of the Commission	To be informed by Engagement Plan
Consideration of Engagement and Finalisation of Amendments		
Submissions summarised; Code Amendment amended, preparation of an Engagement Report prepared	AGD on behalf of the Commission	Minimum 8 weeks <i>(depending on extent of mapping review work required and as above, amount of spatial data processing required)</i>
Assess the amendment and engagement Prepare Report to the Commission	AGD on behalf of the Commission	3 weeks <i>(Timeframe will be put on hold if further information is required, or if there are unresolved issues)</i>
Consideration of Advice	Commission	+ 3 weeks
Decision Process		
Minister considers the Commission's recommendation on the Code Amendment Report; the Engagement Report; and makes decision	Minister	3 weeks
Implementing the Amendment (operation of the Code Amendment)		
Go- Live- Publish on the PlanSA Portal	AGD	2-4 weeks
Parliamentary Scrutiny		
Referral of approved Code Amendment to ERDC	AGD	8 weeks