

State-wide Bushfire Hazards Overlay Code Amendment

Introduction

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.

The Purpose of the Code Amendment

The State Planning Commission is undertaking the State-wide Bushfire Hazards Overlay Code Amendment to update the current bushfire mapping and policies in the Planning and Design Code (Code). Mapping updates are based on new and improved evidence-based spatial data and more current vegetation (2015) data.

The draft Code Amendment seeks to update the current policy framework and existing spatial layers for the six bushfire hazard overlays in the Code to allow new development in South Australia to be more resilient to the impacts of bushfire, while providing greater certainty in the development assessment process for development designed within the planning rules.

The bushfire hazard overlays are spatially defined within the South Australian Property and Planning Atlas (SAPPA) and these overlays are used to identify which planning policies and rules will be used to guide development in areas that may be at risk of bushfire.

The draft Code Amendment proposes to streamline the assessment process by providing a Deemed-to-Satisfy Assessment Pathway for particular classes of development. This will include habitable buildings located outside of High Bushfire Hazard Areas that meet specific Deemed-to-Satisfy requirements that will facilitate development that is designed and located to reduce the impact of potential bushfire risk.

The draft Code Amendment will seek to better align the Code with State Planning Policy 15: Natural Hazards by '*building the resilience of communities, development and infrastructure from the adverse impacts of natural hazards*'.

The new bushfire hazard mapping was prepared as part of the National Disaster Resilience Program, a State and Commonwealth initiative with funding assistance from the National Disaster Resilience Grant Scheme 2015-18. This mapping and data has been used to inform the new bushfire hazard overlays proposed in the draft Code Amendment.

To complement the draft Code Amendment, a review of the Ministerial Building Standard 008 – designated bushfire prone areas – additional requirements (MBS 008) is underway and will be consulted on in early 2024.

What is a Code Amendment?

The Planning and Design Code contains the planning rules and policies that guide development in South Australia. Planning authorities use these planning rules to assess development proposals.

A Code Amendment is a proposal to change the policies, rules or mapping within the Code, which can change the way that future developments are assessed. Code Amendments must be prepared according to statutory processes set out in the *Planning, Development and Infrastructure Act 2016* and associated regulations.

This Code Amendment has been prepared for consultation by the State Planning Commission.

Background

South Australia is one of the most bushfire prone areas in the world. While fire is a natural and integral part of the Australian landscape and environment, severe fire weather events can enable bushfires to escalate to pose a serious threat to life and property, native species and ecosystems.

The 2019-20 'Black Summer' bushfire events had far-reaching impacts on Australia's economies, communities, and the natural environment. In South Australia, the event triggered an independent review into our State's 2019-20 bushfire season, identifying the need for key reforms to bushfire management and planning to help save lives, increase resilience and ensure appropriate preparedness to reduce bushfire risks and impacts.

In May 2022, the South Australian Government declared a climate emergency. Climate change is expected to result in more frequent and intense extreme weather events. Severe bushfires will occur more often and, without action, will have devastating impacts on our communities. It is essential therefore that our planning system is updated to reflect the available data and the Code is able to more accurately identify areas of potential bushfire hazard to minimise impacts on people, property, infrastructure, and environment.

These proposed changes to the Code aim to better reflect bushfire risk across the State and introduce new rules to help save lives and build more climate-resilient communities. The Code's policies aim to site new development away from unacceptable bushfire risk in a High Bushfire Hazard Area and seek suitable design responses in other areas.

Bushfire hazard policies are contained within Part 3 – Overlays section of the Code. The overlays in the Code contain planning policies that are specific to an issue and are relevant only to the particular area they are spatially applied to. The spatial extent of all Code overlays is contained within the South Australian Property and Planning Atlas (SAPPA) sappa.plan.sa.gov.au.

This draft Code Amendment seeks to update existing bushfire hazard mapping throughout the State and provide new bushfire hazard mapping in areas that were previously unmapped. The proposed bushfire hazard mapping has been prepared using an updated mapping methodology to provide a more contemporary and accurate representation of the bushfire risk throughout the entire State.

What changes are being proposed to the bushfire mapping?

The new bushfire mapping has been generated from new and improved evidence-based spatial data, including:

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

Use of these datasets enables the hazard overlays in the Code to accurately reflect bushfire risk. Previously defined 'Fireline Intensity' categories have not been used to determine general/medium/high hazard, but rather the vegetation extent as a whole has been used.

The Medium Bushfire Hazard Area will now be applied to areas that are at risk of grassfire. This change in methodology has resulted in the Medium Bushfire Hazard Area being applied to land that is currently defined as having a general level of bushfire risk.

View the proposed bushfire hazard mapping at: plus.geodata.sa.gov.au/bushfire/index.html.

What changes are proposed to the bushfire policy in the Code?

The Planning and Design Code currently utilises six bushfire hazard overlays to represent the different categories of bush hazard throughout the State. This includes the Hazards (Bushfire – Regional) Overlay, which is currently applied where bushfire hazard mapping has not been undertaken and therefore the level of bushfire risk is unknown.

The new bushfire hazard mapping has been undertaken for the entire State and, as such, the Hazards (Bushfire – Regional) Overlay is no longer required. The draft Code Amendment, therefore, seeks to remove this overlay and apply the relevant hazard level to these areas based on the updated mapping methodology.

The Hazards (Bushfire – Outback) Overlay and Hazards (Bushfire – Urban Interface) Overlay will be retained as separate overlays in the Code.

While it is important for the mapping to clearly identify the level of risk that exists in a particular area, there is currently a high degree of repetition of policies in the Hazards (Bushfire – High Risk) Overlay, Hazards (Bushfire – Medium Risk) Overlay and Hazards (Bushfire – General Risk) Overlay.

To avoid the duplication of policies, the Code Amendment is proposing to remove the Hazards (Bushfire – High Risk) Overlay, Hazards (Bushfire – Medium Risk) Overlay and Hazards (Bushfire – General Risk) Overlay and replace them with a single Hazards (Bushfire) Overlay.

The Code Amendment is proposing to use different mapping values to spatially define high, medium and general hazard areas within the single Hazards (Bushfire) Overlay.

Key proposed policy changes in the new Hazards (Bushfire) Overlay include:

- The introduction of new Deemed-to-Satisfy criteria to enable Deemed-to-Satisfy pathways for habitable buildings located outside of the High Bushfire Hazard Area. This includes the opportunity to use a Certified Bushfire Attack Level (BAL) Declaration that supports the proposed siting arrangement, to achieve a Deemed-to-Satisfy pathway for habitable buildings that are designed/sited in accordance with a BAL certification.

The Deemed-to-Satisfy pathway provides a faster more streamlined assessment pathway and greater certainty of achieving planning consent when all necessary criteria have been met.

- The provision of new Performance Outcome Policies and Designated Performance Features to provide greater guidance for the assessment of development in bushfire prone areas.
- The improvement of the policies used to determine the minimum requirements for onsite water supply, including the minimum area needed to accommodate the minimum water tank size required in the Ministerial Building Standard MBS 008.
- The provision of new Performance Outcome and Deemed-to-Satisfy /Designated Performance Features policies for verandahs, carports and other open structures to enable a Deemed-to-Satisfy pathway where they are located within 6 metres of a habitable building.
- Updating the Procedural Matter (PM) – Referrals section of the Overlay to include ‘campground’ as a class of development that requires a referral to the CFS.

The draft Code Amendment is proposing to introduce a definition for ‘at risk communities’ in Part 7 of the Code (Land Use Definitions) to ensure the terminology in the Code aligns with the terminology that appears in the policies and guidelines used by the Country Fire Service of South Australia (CFS). The policies being proposed in the Code Amendment have been drafted to refer to ‘buildings for at risk communities’ rather than ‘buildings for vulnerable people’.

Which areas have been mapped High Bushfire Hazard Area and why?

Development in the High Bushfire Hazard Area needs to be sited and designed to minimise the threat and impact of bushfires on life and property through considerations like:

- setbacks from vegetation (asset protection zones)
- designing buildings to prevent trapped debris
- siting buildings on flatter land
- locating sheds, carports etc away from dwellings
- designing roads and driveways to accommodate fire trucks

- locating pre-schools, educational establishments, hospitals, retirement and supported accommodation and other buildings for at risk communities away from areas of unacceptable bushfire risk.

A referral to the CFS will still be required where the development application includes a building for at risk communities, a habitable building or other forms of accommodation and the site is located within the High Bushfire Hazard Area.

Under the Building Code of Australia, dwellings in the High Bushfire Hazard Area require construction to a standard as per the requirements for the assessed BAL rating under *AS 3959 - Construction of buildings in bushfire-prone areas*. The minimum on-site water supply requirements, which are needed to enable a firefighting response for development in the High Bushfire Hazard Area, are dependent on the assessed BAL rating and specified in the *Ministerial Building Standard 008 Designated bushfire prone areas – additional requirements* (MBS 008).

Which areas have been mapped Medium Bushfire Hazard Area and why?

Development in the Medium Bushfire Hazard Area needs to be sited and designed to minimise the threat and impact of bushfires on life and property through considerations like:

- setbacks from vegetation (asset protection zones)
- designing buildings to prevent trapped debris
- siting buildings on flatter land
- locating sheds, carports etc away from dwellings
- designing roads and driveways to accommodate fire trucks.

Under the Building Code, dwellings in the Medium Bushfire Hazard Area require construction to a standard as per the requirements under *AS: 3959* for the designated BAL rating of BAL12.5. The minimum on-site water supply requirements, which are needed to enable a firefighting response, are dependent on the size of the allotment and whether the allotment is connected to mains water, as specified in MBS 008.

Which areas have been mapped General Bushfire Hazard Area and why?

Development in General Bushfire Hazard Areas needs to be sited and designed to minimise the threat and impact of bushfires on life and property through considerations like:

- setbacks from vegetation (asset protection zones)
- designing buildings to prevent trapped debris
- siting buildings on flatter land
- locating sheds, carports etc away from dwellings
- designing roads and driveways to accommodate fire trucks.

Under MBS 008, areas identified as General Bushfire Hazard Areas are rated as BAL-Low. Under AS: 3959, additional construction requirements are not applied for this BAL rating. The minimum water supply requirements to enable a firefighting response is 2000 litres with domestic fittings where it is connected to mains and 5000 litres with domestic fittings if it is not connected to mains, as per MBS 008.

Which areas have been mapped as Hazards (Bushfire – Urban Interface) Overlay and why?

The Hazards (Bushfire - Urban Interface) Overlay policies seek to guide the assessment of development in urban areas near areas of bushfire risk. The policies seek to ensure that development is designed to provide access through to bushfire risk areas and facilitate evacuation to areas that are safe from bushfire danger. Buildings located within 100 metres of a High Bushfire Hazard Area need to be designed and sited to protect life and property from the threat of bushfire and the dangers posed by ember attack.

In accordance with MBS 008, specific classes of buildings located within 100 metres of a High Bushfire Hazard Area require a site assessment to determine the BAL rating and corresponding construction and water requirements. Urban interface areas that are within 100 metres to 500 metres of a High Bushfire Hazard Area are rated at BAL-Low and do not have additional construction requirements.

Where development is located more than 100 metres from a High Bushfire Hazard Area, the minimum on-site water supply requirements for firefighting in MBS 008 are 2000 litres with domestic fittings where it is connected to mains and 5000 litres with domestic fittings if it is not connected to mains. Habitable buildings located within 100 metres of a High Bushfire Hazard Area require site assessment carried out in accordance with AS:3959 to identify the relevant BAL for the site. The BAL assessment will form part of the building consent application and will determine the on-site water supply requirements and the need to construct the building to a minimum standard.

Currently a BAL assessment is required within 100 metres of a High Bushfire Hazard Area. The SMEC Project proposed to update MBS 008 to ensure that the minimum BAL in these areas is not less than BAL12.5.

Which areas have been mapped Hazards (Bushfire – Outback) Overlay and why?

The Hazards (Bushfire – Outback) Overlay applies to the more remote outback areas and townships in the northern parts of the State. This includes land not located within a council area.

The Hazards (Bushfire – Outback) Overlay policies seek to minimise the threat, impact and potential exposure to bushfires on life and property for residential/tourist accommodation, habitable buildings and buildings for at risk communities. The policies within the Hazards (Bushfire – Outback) Overlay relate primarily to setbacks from vegetation through the provision of asset protection zones, on-site water supply and the need to design and construct roads and driveways to facilitate safe and effective access in the case of bushfire.

No requirements currently apply under the Building Code of Australia for these areas, but the SMEC Project proposed to update the MBS 008 to apply a minimum BAL of BAL12.5 to require minimum construction standards for specific classes of building, which would include the need to provide an on-site water supply for firefighting purposes.

How do the proposed overlays affect my property?

Development within bushfire prone areas may need to be constructed to a higher standard to help protect people and property from the potential impacts of bushfire. The additional requirements will vary based on the type of development, the size and location of the land and the level of bushfire risk that exists in that area.

Development applications are assessed against the relevant policies within the bushfire hazard overlays (in addition to other relevant Code policies) to ensure development is designed and sited to respond to the level of bushfire risk that exists in that area.

In addition to this, development located within the proposed Hazards (Bushfire) Overlay and High Bushfire Hazard Area may need to be referred to the CFS, as the State's Hazard Leader, for expert assessment and direction, including an assessment of the BAL.

What are some of the other changes being proposed to the Planning and Design Code?

The draft Code Amendment proposes to update Part 1 of the Planning and Design Code to allow for the spatial application of the bushfire hazard overlays in the Code (including the three bushfire hazard areas within the proposed Hazards (Bushfire) Overlay) to be more readily updated and maintained under section 71(e) of the *Planning, Development and Infrastructure Act 2016*.

This mechanism allows for bushfire hazard mapping to be updated by the Minister for Planning and would apply to mapping changes that are consistent with the criteria outlined in Part 1 of the Planning and Design Code, including a bushfire mapping methodology, which would be published on the PlanSA Portal by the Chief Executive of Planning and Land Use Services.

Will new Standard Conditions be introduced for development approvals in bushfire prone areas?

The draft Code Amendment proposes to update **Part 5 – Conditions specified by practice direction** of Practice Direction 12, to introduce new standard conditions, which will be applied to development approvals in bushfire prone areas.

The new Standard Conditions relate to access, vegetation management and on-site water supply requirements and are necessary to ensure the approved development is maintained in accordance with the approved plans.

What changes are proposed to Ministerial Building Standard (MBS 008) – Designated bushfire prone areas – additional requirements?

While part of the Building Rules, potential amendments to MBS 008 are required to ensure the standard continues to operate in alignment with the Code, including the new bushfire hazard overlay structure being proposed in this Code Amendment. Further changes to the MBS 008 are also being proposed to improve construction standards in bushfire prone areas and help to increase the resilience of communities, development and infrastructure from the adverse impacts of bushfire hazards. The proposed changes being considered for MBS 008 include:

- Expanding the scope of Ministerial Building Standard MBS008 to include Certain Class 9 buildings, such as health-care buildings, early childcare centres, schools and residential care buildings, to ensure they have minimum supply of water for fire-fighting purposes.
- Introducing a requirement that certain Class 9 buildings located in a designated bushfire prone area, must either be provided with or have access to an on-site water supply and fire-fighting equipment.
- Greater clarity regarding the ability of water tanks to withstand radiant heat.
- Updating the meanings and terms in Appendix A to improve clarity.
- Introduce a provision in MBS 008 to assign a designated BAL rating of BAL12.5 for the Hazards (Bushfire - Outback) Overlay. This will provide a basic level of protection in areas that are located outside of the areas that can be effectively serviced by the by CFS emergency service (more than 50 kilometres from a CFS station/base)
- Introduce a provision in MBS 008 to assign a designated BAL rating of BAL12.5 for the Hazards (Bushfire - General) Overlay. This will provide a basic level of protection in regional areas that may be affected by bushfire at certain times of the year or due to localised vegetation.
- Amend the requirements in MBS 008 to stipulate a minimum BAL rating of BAL12.5 for the Hazards (Bushfire – High Risk) Overlay, to cover rare instances where a BAL site assessment may indicate a BAL level of less than BAL12.5.
- Maintain the MBS 008 requirement for site assessment to determine the BAL when proposing development within the Hazards (Bushfire – Urban Interface) Overlay and 100 metres of a High Bushfire Hazard Area and introduce a new provision that stipulates a minimum BAL rating of BAL12.5 for these areas, to cover rare instances where a BAL site assessment may indicate a BAL rating of less than BAL12.5.

Any changes to the MBS 008 will require consideration of the State Planning Commission and approval from the Minister for Planning.

Draft amendments to MBS 008 are being prepared to align with the Code Amendment and recent updates to the National Construction Code. Community will be invited to provide their feedback on these proposed MBS changes in early 2024.

How do I get a BAL rating?

A BAL rating can currently be obtained via a referral to the CFS if the property is in within a High Bushfire Hazard Area. The draft Code Amendment, however, proposes to amend Schedule 8 to require an application seeking planning consent for new buildings or structures or extensions to existing buildings in a High Bushfire Hazard Area within the Hazards (Bushfire) Overlay, to include a BAL Assessment, completed by the CFS or a person authorised by the CFS within 3 months of the application being lodged.

Requiring a BAL Assessment to be undertaken prior to lodgement and included as part of the application will help improve the referral process and ensure that the impacts of bushfire hazard in High Bushfire Hazard Areas is considered early in the application process.

BAL ratings for the purposes of Schedule 8 of the regulations will need to be completed by either the CFS or a person authorised by the CFS. However, in all other circumstances, a BAL Assessment can be obtained from a suitably qualified professional.

Draft amendments to the regulations are being prepared and the community will be invited to provide their feedback on these proposed changes in early 2024.

In addition to this, Planning and Land Use Services is engaging with the CFS to investigate the possibility of establishing a mechanism for people to receive accreditation from the CFS to act as an independent technical expert under Schedule 8 of the Regulations to complete a BAL Assessment for development in high bushfire risk areas.

How do I know if my property is affected by this Code Amendment?

The proposed bushfire hazard mapping can be viewed online. You can zoom into the map or search for an address to see which overlays apply to your allotment.

View the map at: plus.geodata.sa.gov.au/bushfire/index.html.

Where can I get more information?

More information about the existing bushfire hazard overlays and policies in the Planning and Design Code and the changes proposed in the draft Code Amendment can be found on the:

- YourSAy website at yoursay.sa.gov.au/state-wide-bushfire-hazards-code-amendment
- PlanSA Portal at plan.sa.gov.au/en/ca/statewide-bushfire-hazards-overlay

Early in 2024, the Planning and Land Use Services team will host a series of in-person and online community information sessions about the Code Amendment. These sessions are your opportunity to meet the Code Amendment team and ask questions. Details will be published on the YourSAy website.

Have your say

The draft Code Amendment will be on public consultation from 23 November 2023, until 8 March 2024.

We invite the community to view the proposed changes and provide feedback. Feedback can help shape how this Code Amendment is finalised and implemented, if approved.

Written feedback can be submitted until 5 pm on Friday, 8 March 2024.

All feedback is encouraged to be submitted via the YourSAy website at yoursay.sa.gov.au/state-wide-bushfire-hazards-code-amendment

However, feedback can also be provided via:

- the online submission form: plan.sa.gov.au/have_your_say/code-amendments/public_feedback_on_initiated_code_amendment
- email: plansasubmissions@sa.gov.au (subject: Submission – State-wide Bushfire Hazards Overlay Code Amendment)
- post: Attention:

Submission – State-wide Bushfire Hazards Overlay Code Amendment
Planning and Design Code Amendment Team
Planning and Land Use Services Division
Department for Trade and Investment
GPO Box 1815
ADELAIDE, SA 5001

All written public submissions received will be made publicly available on the PlanSA portal when the Engagement Report is released following the conclusion of the consultation period. Names and organisations may be included with published submissions but addresses, email addresses and phone numbers will be redacted.

What are the next steps?

- The State Planning Commission undertakes the consultation process in accordance with the Engagement Plan.
- Submissions received during consultation are reviewed to determine if changes to the draft Code Amendment are required.
- A final version of the Code Amendment and an Engagement Report will be prepared for the Commission, in accordance with Section 73 of the Act.
- The final version of the Code Amendment and Engagement Report will be presented to the Commission for a decision.
- If approved the Code Amendment will be presented to the Minister for Planning to make a determination.

- If the Code Amendment is approved by the Minister, the final Engagement Report and Code Amendment Report will be published on the PlanSA website within 5 business days of the Minister's determination.
- If approved, the Code Amendment will, within 28 days of it coming into effect, be referred to the Environment Resources and Development Committee of Parliament for scrutiny.

Where can I get more information?

For more information about the draft Code Amendment and how to have your say, visit the YourSAy website at yoursay.sa.gov.au/state-wide-bushfire-hazards-code-amendment.

Alternatively, you can contact the PlanSA Service Desk on:

- Telephone: 1800 752 664
- Email: plansa@sa.gov.au