

Item Number	10.3
Report Title	State-wide Bushfire Hazards Overlay Code Amendment
Report Author	Alex Mackenzie, Alexa Carr
Manager / General Manager	Craig Harrison
Location	Council Wide

PURPOSE

To provide an overview of the State-wide Bushfire Hazards Overlay Code Amendment and seek councils' approval to make a submission to the State Planning Commission on the Amendment. While staff have delegation to prepare a submission, given the extent of change and the broad implications on land use and development assessment, it was considered important the information and decision to proceed to a submission be made clear to the community through the public council agenda.

REASON THIS IS BEING PRESENTED TO COUNCIL

Staff have delegation but have elected not to use it

Time Sensitive	No
Funding Required	
Rate Impact (%)	
Consultant Used	
Legal Used	
Cumulative Consultant Used	
Cumulative Legal Used	

Attachments:

Attachment A - Draft Submission - Bushfire Overlay

STRATEGIC OBJECTIVES

Goal 1 - Accessible, Healthy & Connected Community

Theme 1.2 Health & Wellbeing: We build capacity for people to be active, healthy and connected, and provide inclusive and safe environments for all.

Goal 2 - Sustainable City

Theme 2.1 Climate Change Mitigation & Resilience: We limit our impact on the climate, and are prepared and adaptable to the impacts of climate change.

Theme 2.3 Natural Environment: We protect and enhance the environment and its biodiversity across natural landscapes, waterways, open spaces and across our suburbs.

RECOMMENDATION - ITEM 10.3.

Option 1

That Council:

1. Resolves to endorse the draft submission on the draft Statewide Bushfire Hazards Code Amendment contained in Attachment A accompanying this report and that in making this submission notes the in particular the following points.
2. The importance of current, accurate and contemporary data and mapping, and the importance of that data being reviewed and updated by the State (with input from affected local governments) at least every 3 to 5 years, to ensure the safety of our community, and the protection of life and property, in areas at risk of bushfire.
3. The potential for new operational, resourcing and timing implications for affected local governments following the implementation of this Code Amendment in its current form, and the need to review those impacts in an ongoing way.
4. The impacts of this Code Amendment will likely only become known and experienced by property owners at the time a development application is lodged, and as such, significant educational and post code amendment implementation resources should be dedicated to ensuring broad community awareness of the changes, but specifically for those affected residents moving into a new high risk overlay.

Option 2

1. That Council resolves to endorse the draft submission on the draft Statewide Bushfire Hazards Code Amendment (Attachment A), subject to the following changes and inclusions being made, with such amendments and inclusions to be delegated to (and to the satisfaction of) the General Manager Development Services and Community Safety:
 - Council to list

That in making this submission Council notes in particular the following:

1. The importance of current, accurate and contemporary data and mapping, and the importance of that data being reviewed and updated by the State (with input from affected local governments) at least every 3 to 5 years, to ensure the safety of our community, and the protection of life and property, in areas at risk of bushfire.

2. The potential for new operational, resourcing and timing implications for affected local governments following the implementation of this Code Amendment in its current form, and the need to review those impacts in an ongoing way.
3. The impacts of this Code Amendment will likely only become known and experience by property owners at the time a development application is lodged, and as such, significant educational and post code amendment implementation resources should be dedicated to ensuring broad community awareness of the changes, but specifically for those affected residents moving into a new high risk overlay.

Option 3

That Council resolves not to endorse the draft submission on the draft Statewide Bushfire Hazards Code Amendment (Attachment A)

BACKGROUND

It is noted much of the information in this report is reproduced from the PlanSA website and Code Amendment fact sheets to ensure consistency between this report and the information being made available by PlanSA to the broader community. Details and issues raised regarding the Code Amendment are set out in the draft submission attached for councils' consideration and endorsement, prior to sending.

The draft Code Amendment seeks to:

- update existing bushfire hazard mapping and apply new bushfire hazard mapping where the level of bushfire hazard has not previously been mapped. The new and updated mapping will identify "high", "medium" and "general" bushfire risk areas.
- make changes to the policy framework; and
- review the policy contained in each of the overlays

The aim of the draft Code Amendment is to:

- ensure that bushfire hazard mapping contained in the Planning & Design Code reflects contemporary methodologies and modelling and is applied in a consistent manner across the State; and
- make policy changes to enable more effective assessment of development proposals in areas of bushfire hazard risk and to minimise bushfire risk to people, property, infrastructure, the environment and economy.

Fact sheets and other relevant publicly available information relating to the code amendment can be found on the Plan SA website via the following link.

- [Statewide_Bushfire_Hazards_Overlay_Code_Amendment](#).

Practical Impact of the Code Amendment

The overall increase in properties now a bushfire related overlay in the City of Mitcham post the Code Amendment is approximately **867** (current total 14,134 and new total 15,001). This is mainly due to additional properties included in the Urban Interface Overlay (+654) but also some properties being added into the high and medium risk level (+213). Due to the volume shift between high and medium risk it is not possible to precisely determined changes to individual properties without doing manual analysis, but from general review of the overall mapping the majority of the 5000+ properties being removed from medium risk are moving to a high risk classification.

LGA	High Current	High Proposed	Medium Current	Medium Proposed	Interface Current	Interface Proposed	TOTAL Current	TOTAL Proposed
MITCHAM	4822	10199	5798	634	3514	4168	14134	15001

It is important to note the real-world impact of the Code Amendment (notwithstanding commentary below regarding some significant changes with a large number of properties now escalated into a High Bushfire Risk category) only come into play when a development application for a habitable development is lodged for assessment. In short, while many more properties will now be in a higher risk classification in the Planning and Design Code than currently, most properties are already developed and occupied by a dwelling. The Amendment will have no impact on existing development.

In terms of land owners who do lodge an application for e.g. a new dwelling or dwelling addition, the process implications are largely limited to a referral to the CFS for assessment, as well as the need for additional inspections by council's building team through the construction process, to meet councils inspection policy of 100% of all new habitable development in a High Bushfire Risk Area.

In terms of landowner impacts, there are a range of service provision consequences such as additional water storage for firefighting, metal pipework, compliant hose connections to ensure CFS accessibility to firefighting infrastructure and resources. The details of these measures are set out in the discussion section of this report below.

Lastly, it is important to note that the Code Amendment is fundamentally a measure to ensure safety and access to firefighting resources and equipment in areas at high risk of bushfire. The Code Amendment is not seeking feedback on the appropriateness or otherwise of e.g. land division and increased housing (and therefore population) in these areas.

That is a different policy question, and not one being explored by this Code Amendment. Should Council Members seek to express such views in our submission, this is possible, however staff would also recommend an alternative approach to the Government on this issue outside of this Code Amendment Process.

Key Issues and Recommendations in Submission

The key areas of our feedback in relation to the Code Amendment include have been structured to principally address three key topics, including mapping, resource implications and operational and procedural impacts of the change, including:

- Longevity and age of the data being used to ascertain bushfire risk, and therefore proposed changes to mapped risk areas.
- Ease of identifying level of risk, and applicable planning policies for each risk category, by all users of the planning system (notably the public).
- Responsibility / accountability for ongoing mapping reviews and updates.
- Consideration of the technical criteria for third parties to be authorised to undertake BAL assessments, and how this would be regulated and audited.
- Investigate opportunities for State support for additional resource demands placed on councils affected by the Code Amendment, namely any significant inspection or compliance challenges.
- Consideration of policy implications in respect to changes to the Planning and Design Code, specifically:
 - Amending design policy regarding habitable buildings to include reference to construction materials.

- Consideration of the fire tank location in terms of impacts on visual amenity or streetscape character
- Continuous review and refinement of policies and their application to development to make sure potential risks from bushfire are managed and mitigated.
- Consider regulations that ensure water tanks located forward of the building line are not excluded from the definition of development.
- Continue to refine policies, practices and legislation to simplify the relationship between native vegetation, bushfire and development matters.

Council Led Bushfire Initiatives of Relevance

City of Mitcham is in receipt of a commitment of \$675,000 by the Australian Government with the aim at reducing the risk to, and improving the resilience of communities against natural hazards within the City of Mitcham, specifically bushfires, through the following key objectives:

- Develop bushfire modelling to better understand the movement and impacts of bushfire on our communities and understand the bushfire risk and how we can better reduce the impacts by understanding where and how bushfires spread, how they impact communities and the environment and measuring how effective our actions are in reducing these impacts.
- Assess and manage fuel loads (through fuel mapping, profiling, and modelling) on public and private land with the aim of fuel load reduction within the City of Mitcham via a strategic fuel management strategy that can assist protecting human settlement, property and key assets.
- Develop a more extensive program for the management of invasive woody weed, such as olives, on public and private land and provide private property owners the ability to be able to manage woody weed fuel loads.
- Building and developing a stronger and more resilient Community, assisting our communities to become more resilient and prepared for future emergencies, including bushfires through community engagement and education.
- Increasing the community's ability to mitigate, avoid and withstand the increasing effects of a natural hazard such as bushfire through activities targeting and delivering resilience in several areas

Staff will continue to work closely with the Government following this conclusion of this work, and seek support for its utilisation to assist in ongoing reviews of available data and mapping of bushfire risk areas in the planning system.

DISCUSSION

Context and Purpose of 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 neighbourhoods, businesses, production and ecosystems.

Several more recent fires in South Australia, at Sampson Flat, Wangary, Pinery, Cudlee Creek and Kangaroo Island, have 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 State Planning Commission is undertaking the State-wide Bushfire Hazards Overlay Code Amendment to u

update current bushfire mapping and policies in the Planning and Design Code. Mapping updates are based on spatial data vegetation (2015) data produced by the Department of Environment and Water.

The draft Code Amendment seeks to update the current policy framework and existing spatial layers for 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 mapped 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 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 have 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 also underway and will be consulted on soon. At that time, further information and advice will be provided to council.

What changes are being proposed to the bushfire mapping?

The new bushfire mapping has been generated from newly utilised (although much of the data itself is not new) 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 Areas with fuel load variation data, which is now based on farming cropping, grazing and potential grass fuels.
- 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.

The State Planning Commission is of the view that these datasets enable 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. This overlay is not relevant to the City of Mitcham; however the information is included in this report to ensure a complete picture of the changes.

The draft Code Amendment seeks to remove this overlay and apply a hazard level to these areas based on the updated mapping methodology described above. 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 all three of these overlays and replace them with a single Hazards (Bushfire) Overlay.

The Code Amendment will 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 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 new definition for ‘at risk communities’ 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’.

Development in HIGH Bushfire Risk Areas

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).

Some 5000 more properties in the City of Mitcham will now be captured by the High Risk overlay, and as such will be required to meet these policy changes as part of the development assessment process for habitable development in these locations.

Development in MEDIUM Bushfire Risk Areas

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 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.

Development in GENERAL Bushfire Risk Areas

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.

Development in URBAN INTERFACE Areas

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.

Impact on Tree Planting Operations (Council and other Agencies)

- High Risk mapping increasing may eliminate more space to plant larger trees around power lines and make it harder to increase canopy in the City of Mitcham.
- Currently council can plant trees to 6m height below exposed power lines in some areas. Many of those areas are now moving into a High Risk category.
- This amendment is likely to require agencies to update reference to these areas. The *Electricity (Principles of Vegetation Clearance) Regulations*, states that within bushfire prone areas we can only plant trees below exposed power lines that achieve a mature height of 3m.
- Many of the species listed in those regulations are untested in City of Mitcham and not commercially available in nurseries.
- SA Power Networks would also likely be required to increase vegetation clearance envelopes in new High Risk locations to meet regulations, meaning more large trees will be pruned more than they have been in the past.

DISCUSSION OF OPTIONS FOR COUNCIL'S CONSIDERATION

There are three options proposed for Council's consideration in regards to making a submission on the draft Statewide Bushfire Hazards Overlay Code Amendment. These

include endorsement of the submission as prepared by staff; endorsement of the submission with amendments and/or additions; or not making a submission.

COMMUNITY ENGAGEMENT AND IMPLICATIONS

The Government released the draft Code Amendment for feedback on 23 November 2023 for a period of 15 weeks (a longer than usual period to accommodate the Christmas/New Year holiday season). Submissions originally closed at 5pm on 8 March 2024. This timeframe was recently extended to 5 April 2024. Prior to the new timeframe being announced, staff sought an extension to align with the council meeting cycle, given the nature of the Code Amendment and its potential impacts. Agreement has been reached with PlanSA to receive Council's submission by close of business on Friday, 22 March 2024, being the Friday immediately following the March council meeting.

As part of the engagement process, PlanSA established a dedicated webpage, which included a range of information about the proposed Code Amendment. The webpage contained fact sheets, frequently asked questions, a technical guide for practitioners, links to consultation documents and links to proposed mapping. Plan SA posted online Community Information Sessions and Community Drop-In Sessions were also held.

Council has made efforts to support the State Government's engagement programme to ensure that our community is aware of the draft Code Amendment and has the opportunity to participate in the process. This has been achieved by including information and links on Council's website, posting information on social media platforms, advertising on electronic noticeboards and directly notifying registered YourSay customers.

ENVIRONMENTAL / HERITAGE IMPLICATIONS

Natural disasters, including bushfires, can have significant and often long-lasting impacts on communities. These impacts can be managed, in part, by understanding the risk and, where appropriate, controlling future development to mitigate that risk. The overarching aim of the draft Code Amendment is to minimise bushfire risk to people, property, infrastructure, the environment and economy.

COST SHIFTING / LEGISLATIVE COST IMPLICATIONS

There are no cost shifting or legislative cost implications arising from the preparation of Council's submission on the draft Code Amendment. It is noted, however, that the draft Code Amendment contains a number of proposed changes that will likely have a resourcing impact on the Country Fire Service and affected councils.

If the draft Code Amendment is adopted as is, consideration by affected parties will need to be given as to how best manage these additional pressures. If these pressures are unable to be managed, it will likely result in development assessment timeframes being compromised.

BUDGET IMPLICATIONS (INCLUDING LIFECYCLE COSTING)

There are no budget implications arising from the preparation of Council's submission on the draft Code Amendment. The submission has been prepared entirely 'in-house' by planning staff, in consultation with staff from across the organisation.

Depending on the final outcome of the Code Amendment there may be resourcing implications surrounding its operationalisation. For example, the Development Services Building Team currently inspect 100% of all new habitable development in a high bushfire risk

area. A position proposed by Development Services and endorsed by council in the interest of keeping the community safe. With the substantial areas proposed to be amended from medium risk to high risk, this will impact inspection workloads.

RISK MANAGEMENT / WHS ASSESSMENT

N/A

LEGAL / POLICY IMPLICATIONS

The Code Amendment in and of itself has development policy implications that will affect a significant proportion of our community. However, it should be noted that the new policy is only applied when a development proposal is lodged for assessment.

CONCLUSION

Consultation on the draft Statewide Bushfire Hazards Overlay Code Amendment represents an opportunity for Council to contribute to and influence proposed policy changes that will affect our community and the organisation. As such, it is recommended that Council endorse the draft submission presented with this report.

STATEWIDE BUSHFIRE HAZARDS OVERLAY CODE AMENDMENT

SUBMISSION BY CITY OF MITCHAM

Table of Contents

MAPPING	1
Methodology	1
Spatial Application (SAPPA)	1
Updates to Mapping	2
RESOURCE IMPLICATIONS	3
CFS – BAL Assessments & Certification Services	3
Building Rules Assessments	4
Operational Services	4
POLICY	5
Hazards (Bushfire) Overlay	5
Siting / Land Use	5
Land Division	5
PROCEDURAL	6
Land Use Definitions	6
Child Care Facility v Pre School	6
Buildings Used for At Risk Communities	6
Referrals	7
ASSOCIATED CHANGES	7
Planning Development & Infrastructure Regulations	7
Sch 4 – Exclusions from the Definition of Development – Sundry Minor Operations	7
Sch 4 – Exclusions from the Definition of Development – Removal of trees in certain cases	8
Sch 8 – Plans for applications seeking planning consent for new buildings, structures or extensions to existing buildings	8
Sch 8 – Additional requirements for bushfire prone areas	8
Ministerial Building Standard MBS 008	8
Practice Direction 12 – Standard Conditions	9

The feedback contained in this submission is limited to the aspects of the Code Amendment which are considered directly relevant to the City of Mitcham. We have not considered issues of a broader regional scale for the purpose of this submission.

MAPPING

Methodology

The application of a consistent mapping methodology to determine the risk level of bushfire across the State is supported.

It is noted, however, that vegetation data provided by Department for Environment and Water that has been critical in determining the proposed hazard levels was produced between 2010 and 2015 – more than 10 years ago. Various events have occurred in South Australia in this time that have impacted vegetation levels including significant bushfires, tree and other native vegetation removal and increased development. Therefore, it is queried whether this data set is sufficiently contemporary to be a key determining factor when assigning hazard levels.

It is acknowledged that updating such mapping would be a significant undertaking, however, it is also important to recognise the significance of the proposed changes underpinned by the mapping, particularly where transitioning to a higher risk area, including appropriateness (or otherwise) of development proposals, increased insurance premiums (and possibly reduced insurance cover availability) and additional costs of construction.

It is important to have reliable and contemporary data to inform the currently proposed changes and any future changes that may occur, particularly if the proposed amendment to Part 1 of the Code is adopted. It is therefore suggested that data updates are programmed to ensure the mapping remains contemporary. Updates could be staged based on level of risk or development activity.

Suggested Action:-

- Programme regular data updates – suggest 3-5 yearly – to ensure mapping remains contemporary
- Stage data updates based on risk level and/or development activity levels
- Consider other data sources that may assist in modelling and mapping – eg Green Adelaide LIDAR, relevant council data available

Spatial Application (SAPPA)

The proposed consolidation of four of the six existing bushfire hazard overlays into a single bushfire hazard overlay is, in principle, supported.

The mechanism to differentiate the separate layers (high, medium, general) within the Overlay and easily identify which Overlay policies are therefore relevant is, however, unclear.

It will be critical that all users of the system (irrespective of experience or knowledge) are able to easily identify the relevant policies that affect their development proposal, to ensure progressive certainty. The Code Amendment documentation does not detail whether the relevant policies will automatically be called-up in a portal query, or whether an applicant/assessing officer will be required to refer to SAPPA, determine their risk level, and then identify which policies in the Overlay are relevant. Arguably the latter is fraught with risk of misinterpretation or misapplication of relevant policies.

There is also a risk that if the policies are not automatically called-up in a portal query that verification timeframes may be impacted, given the additional information that will be required to be examined by a relevant authority.

Irrespective of the mechanism, it will need to be very clear to applicants what level of risk applies to their property, and which Overlay policies apply, to ensure certainty and avoid misinterpretation.

Suggested Action:-

- Ensure relevant policies for development proposals are easily identifiable to all system users
- Ensure that hazard risk levels are clearly identifiable to all system users

Updates to Mapping

The proposal to amend Part 1 of the Planning & Design Code to enable bushfire hazard mapping to be updated by the Minister without the need for a Code Amendment (including public engagement) is supported. It is recognised that ensuring that hazard mapping in the Planning & Design Code is contemporary and accurate will assist council's ongoing efforts to manage and mitigate possible impacts to our community from bushfire events.

The importance of being able quickly respond to identified changes in hazards (such as bushfire risk) by reflecting changes to spatial overlays is acknowledged. It is also recognised that the Code Amendment process can substantially prolong the process of making spatial changes to overlays in the Code.

However, it is important that property owners and key stakeholders who are directly affected by such changes (particularly when transitioning to a higher risk classification) are engaged at the appropriate level. A key principle of the Community Engagement Charter is that the community should be engaged about development policy changes that affect them. Such engagement should be "fit for purpose" and seek to ensure that people are clear about the proposed change and how it would affect them. This is not to say that the traditional Code Amendment form of "public consultation" is required but that, on the spectrum of community engagement, it is reasonable to expect that directly affected property owners and other stakeholders (such as councils) would be informed of such proposed changes. Community education is a key aspect of minimising risk to property and life in the event of a bushfire.

It is suggested that consideration should be given as to how Part 1 of the Code can be amended to facilitate more efficient changes to spatial overlays and engage with affected property owners and key stakeholders at the appropriate level.

Consideration should also be given to whose responsibility it is for the ongoing review of the spatial mapping, identifying any changes and ensuring that the spatial mapping reflects the actual risk level. Arguably, the State Government, is best placed to procure data to ensure consistency of methodology and mapping across the state, given it informs a state-wide planning instrument. As indicated in "Methodology" above, regular updates (perhaps 3 to 5 yearly) are required to ensure the information remains contemporary.

Suggested Action:-

- Ensure that hazard mapping in the Planning & Design Code is contemporary
- Consider how "fit for purpose" engagement can be undertaken without the need for a full Code Amendment process that will ensure that directly affected stakeholders are informed about proposed changes
- Identify responsibilities / accountabilities within State Government to ensure regular (3-5 yearly) ongoing spatial mapping review and updates

RESOURCE IMPLICATIONS

If the proposed mapping is adopted, the City of Mitcham (as well as other areas across the State) will experience a significant increase in the number of properties affected by the “high risk” classification. This is by virtue of a substantial portion of the existing “medium risk” transitioning to a “high risk” classification and by the boundary of the “high risk” area extending further into the foothills. This has the knock-on effect of extending the “Urban Interface” overlay further into the more urbanised areas of the council area.

CFS – BAL Assessments & Certification Services

The increase in the number of properties located within “high risk” areas, together with other proposed changes, will result in substantially more demands on the SA Country Fire Service (CFS) for assessments and certification.

Anecdotally, the CFS is already stretched in terms of resourcing and its ability to respond to pre-lodgement requests and development application referrals. It is suggested that additional resources for the CFS will be required to fulfil its obligations that will result from the proposed changes. The lack of such additional resources will likely result in bottlenecks through the development assessment process.

One solution to this is to allow third parties to provide the same BAL assessment and certification services that the CFS does, in a similar way to private certifiers for planning and building assessment purposes under the Accredited Professionals Scheme, as implied in the Code Amendment.

It is noted that there is already provision in the Code to allow for Relevant Certificates to be prepared “by, or on behalf of, the SA Country Fire Service”, although, anecdotally, this option is infrequently used by applicants. The definition does not provide guidance about who might act on behalf of the CFS in such matters. The Code Amendment proposes inclusion of a definition for Certified BAL Declarations that can be assessed by the CFS or by “a person authorised by the Country Fire Service of South Australia”. Investigations have revealed only one company in South Australia that offers BAL assessments, but we understand that it is not “authorised” by the CFS.

It is anticipated that by virtue of the number of properties transitioning to high bushfire risk classification, together with changes to Schedule 8 requiring provision of a BAL assessment by an applicant at lodgement, there will be a reliance on third parties to provide these services.

Given the critical nature of undertaking assessments and certification of bushfire-related matters, it is suggested there would be benefit in establishing an accreditation scheme or registration process for third parties to act on behalf of, or in place of, the CFS, with continuous professional development ideally being a requirement of providers. Accreditation within a regulated system would ensure a level of confidence in the assessments and certification provided and uphold the accountability of providers.

Suggested Action:-

- Establish professional/technical criteria for third parties to be authorised
- Agree a process with the CFS for third parties to be authorised
- Consider establishing an accreditation scheme or registration process for authorised third parties with continuing professional development requirements

Building Rules Assessments

If third parties are not required to be accredited or operate in a regulated system, there are considerable risks in terms of risk management and accountability. It will also likely result in increased workloads for Council's building assessment officers, if needing to closely review certification provided by unauthorised/unaccredited third parties. It may also result in increased risk to councils if accepting certificates issued incorrectly.

It is suggested that an accreditation scheme or similar would reduce the risk of incorrect certification being issued.

Suggested Action:-

- As per suggested actions for BAL Assessment & Certification Services

Operational Services

Council provides a range of bushfire-related services to residents in bushfire risk areas. Such services include such things as bushfire season preparation slashing, residential bushfire inspections and advice on asset protection zones. In some cases, the level of bushfire risk affects the resources required to undertake tasks (eg, building inspections in "high risk" areas are more resource intensive than in "urban interface" areas).

Council's Building & Swimming Pool Inspection Policy requires council officers to inspect 100% of notified final inspections of Class 1 buildings located within designated bushfire prone areas. This policy aims to ensure developments comply with the required bushfire protection system installations to reduce risk to life and property.

The proportion of "medium risk" areas proposed to be classified as "high risk" as a result of the Code Amendment is significant. Together with the increase in the overall number of properties affected by a bushfire hazard overlay (including Urban Interface), this will create significant additional demands on Council services resulting in resourcing implications.

It is also noted that the proposed changes may impact on Council's ability to increase tree canopy cover.

Currently council can plant trees that have a mature height of 6 metres below exposed powerlines in some areas. Many of those areas are now transitioning to a higher risk category, which will likely require agencies to update references to these areas. The *Electricity (Principles of Vegetation Clearance) Regulations* state that within bushfire prone areas, trees planted below exposed powerlines must have a mature height of no more than 3 metres. Many of the species listed in those regulations are untested in the City of Mitcham and are not commercially available in nurseries.

SA Power Networks would also likely be required to increase vegetation clearance envelopes in new High Risk areas to meet regulations, meaning that more large trees with substantial canopies will be pruned more heavily than they have previously been.

Suggested Action:-

- Investigate opportunities for State Government support for additional resource demands placed on councils affected by the Code Amendment, particularly where high levels of development activity are experienced
- Engage with SAPN and other relevant agencies to seek to minimise impacts on existing and future tree canopies as a result of the proposed changes

POLICY

Hazards (Bushfire) Overlay

Siting / Land Use

Proposed PO 1.1 reflects existing policy which seeks that development that could increase the potential for fire outbreak is not located in areas of unacceptable bushfire risk.

It is suggested that design guidelines (such as the best practice guideline developed by the CSIRO with University of Melbourne and the Victorian Country Fire Authority) could be developed that provide applicants and development assessment officers with an understanding of the principles of design that help to reduce bushfire risk. It would also be of benefit to understand what “areas of unacceptable bushfire risk” constitutes.

It is noted that there is no similar provision relating to siting for medium or general risk areas proposed in the Code Amendment. It is suggested that existing PO 1.1 in the Medium and General Risk Overlays could reasonably be replicated in the proposed Code Amendment.

Proposed PO 2.1 reflects existing policy which seeks that development is sited and constructed of materials that minimise the threat of fire spread to habitable buildings, however the proposed policy applies only to non-habitable buildings, whereas current policy is applicable to both habitable and non-habitable buildings. While habitable buildings are subject to similar policy, there is no reference to construction materials. It is suggested that policy for habitable buildings should also include reference to construction materials.

The application of policies to “Buildings for At Risk Communities” is supported.

The allowance to vary from minimum DTS/DPF criteria with the provision of a Certified BAL Declaration supporting such variation may result in additional resourcing pressures on the CFS and council. Such resourcing challenges are addressed at page 2 of this submission.

PO 3.3 is appropriate in that it requires an applicant to ensure that provision of dedicated water supply is considered and allowed for at the outset, rather than being an afterthought. However, the policy does not enable an assessing officer to further consider any potential visual amenity impacts or detriment to the streetscape character of the resulting water tank. Anecdotally, in the City of Mitcham, there have been occasions where this has become a considerable challenge.

Suggested Action:-

- Consider replicating existing PO 1.1 in the Medium and General Risk Overlays (location of buildings & structures) in the new Bushfire Hazards Overlay
- Consider amending policy regarding habitable buildings to include reference to construction materials
- Include policy in the Overlay to enable consideration of the proposed fire tank location in terms of potential impacts on visual amenity or streetscape character

Land Division

The Code Amendment contains revised POs and DTS/DPF relating to land division that restricts creation of new allotments where the division is for residential-type purposes or would be used for at risk communities.

The intent of this is understood and, in the main, supported. However, within parts of Blackwood (primarily around the main shopping precinct), existing zoning anticipates and encourages development and growth. This zoning policy may be limited in some parts of these areas which are proposed to be classified as “high risk” areas where the new overlay policy discourages growth.

Council undertook in-depth consultation with the CFS prior to and during the Growth Precincts DPA (2020), which included Blackwood as an identified growth precinct. Concerns raised by the CFS during this time were responded to (including increasing minimum allotment sizes) and ultimately the CFS supported the proposed zoning, with its intention to increase residential density in and around the main street precinct of Blackwood.

This raises the question about how best to balance the tension between CFS sanctioned growth, with the proposed bushfire overlay and its accompanying limitations.

Suggested Action:-

- Ensure the continuous review and refinement of policies in the Planning & Design Code and their appropriate application to development proposals to make sure that potential risks from bushfire are managed and mitigated.

PROCEDURAL

Land Use Definitions

Child Care Facility v Pre School

Where “Child Care Facility” is currently referred to in relation to policies and procedures relating to bushfire hazards, the term “Pre School” will be used instead.

“Child care facility” is a defined use in Part 7 of the Code, and includes the land uses and activities of child care centre, early learning centre, kindergarten, nursery, and preschool. “Pre School” is not a defined use in Part 7 in and of itself. It is suggested that the proposed use of the term “pre school” rather than “child care facility” may have a number of unintended consequences and fails to capture a number of land uses and activities that should be considered in this policy context.

Suggested Action:-

- Use the defined term “child care facility” in place of undefined term “pre-school” throughout
- Ensure consistency of terminology and intent of policy

Buildings Used for At Risk Communities

The explanatory material for the Code Amendment (pg 14 of the draft Code Amendment document) refers to “child care” as being a use that would be considered at risk communities.

The new land use definition for At Risk Communities, however, includes the term “Pre Schools” rather than child care facility. The concerns outlined above are also relevant to this land use definition.

Suggested Action:-

- Use the defined term “child care facility” in place of undefined term “pre-school” throughout
- Ensure consistency of terminology and intent of policy

Referrals

An increased number of referrals to the CFS is likely as a result of the significant increase in the number of properties located in high risk area, and within 100m of a high risk area in the case of land divisions. This will be exacerbated by increased pre-lodgement requests due to changes to policy to allow exemptions if a Certified BAL Declaration supporting the proposal is provided, and a requirement for particular development proposals to provide a BAL Assessment at lodgement. Challenges relating to resource implications are outlined on page 2 of this submission.

It is also noted that the land use term “pre-school” is listed in the referral table, rather than “childcare facility”. As per comments elsewhere in this submission, there is concern that the term pre-school is limiting the nature of referrals, while the term childcare facility is broader and appropriately captures a greater range of land use activities.

Suggested Action:-

- Use the defined term “child care facility” in place of undefined term “pre-school” throughout
- Ensure consistency of terminology and intent of policy

ASSOCIATED CHANGES

Planning Development & Infrastructure Regulations

Sch 4 – Exclusions from the Definition of Development – Sundry Minor Operations

It is noted that the Schedule 4(1)(g)(ii)(A) is proposed to reflect changes to the overlay framework, which is supported.

This provision excludes a tank in a bushfire risk area which does not exceed a floor area of 15 square metres and has a volume not exceeding 60,000L.

There has historically been a point of some contention between assessing officers, CFS and applicants regarding tanks for firefighting purposes. Generally speaking, minimum tank requirements under MBS-008 are within the parameters to exclude them from the definition of development. There is a tension therefore, between:-

- exclusion from the definition of development under the PDI Regulations means that the tank cannot be assessed as part of the development proposal; while
- MBS-008 requires the provision of a tank for firefighting purposes and stipulates tank access requirements, sometimes resulting in the tank being located forward of the dwelling.

Assessing officers are being asked by MBS-008 to consider an element of a proposal which, strictly speaking, is not development and should not be assessed.

Furthermore, tanks of a substantial size located forward of the dwelling tend to affect the overall appearance of the development proposal and can have a negative impact on streetscape character. In such circumstances, assessing officers have little, if any, ability to influence proposals to achieve a more desirable streetscape outcome.

Suggested Action:-

- Consider amending regulations such that where an aboveground dedicated firefighting water tank is located forward of the building line, that it is not excluded from the definition of development
- Include policy in the Overlay to enable consideration of the proposed fire tank location in terms of potential impacts on visual amenity or streetscape character

Sch 4 – Exclusions from the Definition of Development – Removal of trees in certain cases

The proposed change to Schedule 4(18)(1)(b) to exempt removal of trees from the definition of development from 20 metres to 10 metres is supported.

It is noted that this change aligns the regulations with existing Native Vegetation legislation and will help to ease confusion that currently exists.

Suggested Action:-

- Continue to review and refine policies, practices and legislation to simplify the relationship between native vegetation, bushfire and development matters

Sch 8 – Plans for applications seeking planning consent for new buildings, structures or extensions to existing buildings

Requiring the provision of a BAL Assessment completed by the CFS or an authorised person with plans for lodgement of a development application is supported. It is anticipated that this will prevent situations occurring where a development proposal is able to gain planning consent but is unable to gain building consent based on bushfire related concerns.

However, concerns remain regarding the resourcing implications this change will likely have for CFS and council staff – please refer to comments made on this matter on page 2 of this submission.

Suggested Action:-

- Establish professional/technical criteria for third parties to be authorised
- Agree a process with the CFS for third parties to be authorised
- Consider establishing an accreditation scheme or registration process for authorised third parties with continuing professional development requirements

Sch 8 – Additional requirements for bushfire prone areas

It is noted that the Schedule 4(1)(g)(ii)(A) is proposed to reflect changes to the overlay framework, which is supported.

Ministerial Building Standard MBS 008

It is understood that MBS 008 has been reviewed and it has been recognised that amendments are required to ensure that it aligns with the proposed changes resulting from this Code Amendment.

While an overview of proposed changes to MBS 008 is included in the Code Amendment, a separate public consultation process is required, during which details of the proposed changes will be disclosed.

At the time of preparing this submission, proposed amendment to MBS 008 has not been released for public consultation. It is considered important that these consultations occur concurrently, given the relationship of the statutory documents and implications of changes proposed.

Based on the brief overview of proposed changes provided, the amendment is supported in-principle, however it is noted that the terminology “early childcare centre” is used. Concerns outlined previously in this submission in relation to the inference of childcare facility as opposed to pre-school remain. It is suggested that “childcare facility” is an appropriate term to include given the breadth of activities included in the definition.

Suggested Action:-

- Use the defined term “child care facility” in place of undefined term “pre-school” throughout
- Ensure consistency of terminology and intent of policy across associated documents

Practice Direction 12 – Standard Conditions

A suite of standard conditions relating to development in bushfire prone areas is proposed. It is understood that these conditions have been developed in conjunction with the CFS and are supported.

It is suggested that the first standard condition regarding vehicle access (roads, driveways and firetracks) should also be applied to development proposals affected by the Hazards (Bushfire – Urban Interface) Overlay given policy relating to this topic is repeated in each of the overlays.

Suggested Action:-

- Amend the Practice Direction to also apply the first standard condition regarding vehicle access (roads, driveways & firetracks) to development proposals affected by the Urban Interface Overlay