

Draft Bush Fire Prone Land package

- frequently asked questions

The NSW Government is consulting on a draft Bush Fire Prone Land package (the package) to help ensure bush fire risk is considered in strategic land use planning in NSW. The package includes:

- a draft Bush Fire Policy for Land Use Planning (the Policy)
- a draft (updated) local planning direction 4.3, Planning for Bushfire Protection (the Direction)
- a draft (updated) bush fire planning system circular (the Circular).

The draft package has been developed based on feedback and consultation with both state and local government, experts and industry.

The draft package will be supported by amended content within the strategic planning chapter (Chapter 4) of the NSW Rural Fire Services (RFS) document, *Planning for Bush Fire Protection* (PBP). The revised Chapter 4 will clarify how bush fire risk should be considered in strategic land use planning, and include methodologies, benchmarks, and guidance to successfully integrate risk, climate change and evacuation considerations for bush fire in strategic planning. The chapter re-write will also include reference to the Policy and Direction. This process is currently being prepared in partnership between the department and RFS and the draft document is anticipated to be finalised in mid-2024.

Why consider bush fire risk in strategic land use planning?

Recommendation 27 of the 2019/2020 Independent Bushfire Inquiry noted that the current approach to planning for bush fires focuses on site-based decisions, and that there are benefits from moving to a more strategic, risk-based approach. Such an approach can help our communities' needs current and future needs are well-planned and resilient to the effects of bush fire risk, and that bush fire related land use planning decisions consider the impacts of climate change.

Does the draft package change development assessment processes?

No. The draft package makes no change to how development assessment processes are administered.

Why do we need a bush fire policy?

The draft Policy aims to help ensure that bush fire risk is considered up-front in planning matters. It includes strategic planning principles and objectives to support consideration of the impact of bush fires on people's lives and their properties. The draft Policy will build greater community resilience, decrease the costs of recovery and rebuilding, and improve our ability to respond to climate change.

What changes have been made to the planning system circular?

Planning system circulars are not statutory documents and are published when additional information about a matter may help planning authorities, landholders or industry. The Circular has been updated to:

- provide background to Recommendation 27 of the Inquiry and provide supporting information in relation to the draft Policy and Direction
- clarify the department, RFS and council's roles and responsibilities in bush fire planning.

What changes have been made to Local Planning Direction 4.3?

The key changes to the Direction include:

- aligning with the draft Policy and Direction
- clarifying the Direction's application to bush fire prone land and its surrounds
- inserting a reference to Chapter 4 of Planning for Bushfire (PBP) to ensure it is considered when a planning proposal is being prepared and reviewed by a planning authority
- replacing the requirement to seek the RFS Commissioner's written advice to progress a planning proposal that does not conform with the Policy and chapter 4 of PBP to the Planning Secretary
- requirement to consult with the RFS Commissioner prior to a gateway determination.

Clarity on the proximity to Bush Fire Prone Land

The application of the Direction has been amended to capture bush fire prone land and any surrounding land within 700 metre proximity of the boundary of a subject planning proposal. The

inclusion of the definition for 'proximity to' makes clear the extent of the interface to be examined for bush fire strategic studies, in order to best inform and justify strategic planning activities.

This numeric change is based on observations from the Victorian Bushfires Royal Commission, the 2020 Royal Commission into National Natural Disaster Arrangements, and the 2020 NSW Bush Fire Inquiry report. These reports noted that the impact of bush fire hazard and risk extends beyond the 100-150 metre buffer applied for current development assessment purposes, with property and dwelling loss occurring within circa 700 metre of the bushland interface in urban contexts.

Capturing surrounding land within 700 metre proximity for the purposes of a strategic bush fire assessment supports the transition to a 'landscape' scale assessment which requires an expanded consideration to be able to best consider fire behaviour and climate change.

Removal of site-based considerations

Local Planning Direction 1.4(2) states a planning proposal must not contain or refer to drawings that show details of the proposed development. There are elements of the current Direction that conflict with Direction 1.4(2) and refer to site-based bush fire protection measures, such as asset protection zones. These site-based considerations do not adequately measure or inform broader strategic land use decisions for bush fire affected land (i.e. zoning, growth and density, provision of services, settlement patterns) and have been removed from the Direction.

Consultation with the RFS for a gateway determination and removal of requirement to seek written approval from the Commissioner for non-conforming planning proposals

Current practice seeks consultation with the Commissioner of the RFS after a gateway determination has been made. The amendment to seek early consultation with the Commissioner of the RFS prior to gateway determination ensures bush fire related matters are identified and deliberated upfront to guide the preparation of a planning proposal. If necessary, the department officer can offer flexibility by conditioning the gateway determination on further consultation if it is not complete by gateway.

The consistency section of the Direction has also been amended to remove the requirement to seek written advice from the Commissioner of RFS if the planning proposal does not conform with PBP. This change has been made to align the consistency process for non-conforming planning proposals with similar directions. The RFS do not have a role in determining consistency given they are not the planning authority per the Direction. Any inconsistency with PBP will be captured pre gateway determination through early consultation with the RFS. These amendments will minimise duplication and will help reduce development review timeframes for the RFS.

Why are changes being made to Chapter 4 of Planning for Bush Fire Protection (PBP) 2019 when it already addresses strategic planning?

Chapter 4 of PBP introduced the need for strategic planning activities to include consideration of bush fire, however it does not provide sufficient guidance to stakeholders in undertaking strategic planning activities on bush fire prone land.

A revised Chapter 4 will provide detailed guidance to consider bush fire risk in strategic planning and implement the Policy and revised Direction. This will create better alignment across the NSW planning system, linking the strategic planning system process and activities to Chapter 4 of PBP.

The revised Chapter 4 is expected to be drafted by mid 2024.

What happens next?

The draft package will be supported by amended content within Chapter 4 of PBP, which is currently being prepared. The updated content will build upon the current bush fire strategic study content of Chapter 4 and will be supplemented by detailed guidance methodologies to help government and industry to improve how to assess bush fire risk in strategic planning. It will also offer links to the upcoming State Disaster Management Plan and local Disaster Adaptation Plans.