Planning Instruments and Policies

This Practice Note provides direction for local government and agencies responsible for the creation and implementation of local area policy and provisions for development in bush fire prone areas. It will assist in interpreting and addressing the requirements for a planning proposal and in structuring written instruments relating to development on bush fire prone land.

It can be expected that the RFS, in its assessment of planning proposals and written instruments through the Gateway process, will consider this Practice Note.

The planning process

*Planning for Bush Fire Protection 2006 (PBP)* provides guidelines for use once an area has been identified and zoned for development. Its primary purpose is to assist with the development of bush fire prone land. Instruments and policies that guide planning and land use control allow for a more strategic approach to planning and developing in bush fire prone areas.

Within NSW Environmental Planning Instruments (EPIs) regulate land use and development and are legislated through the *Environmental Planning and Assessment Act 1979* (EP&A Act). They include State Environmental Planning Policies (SEPPs) and Local Environmental Plans (LEPs).

Local Environmental Plans (LEPs) guide planning decisions at the local government area and are a useful mechanism for managing bush fire risk. Through land use zoning and development standards, LEPs allow local government and other consent authorities to manage the ways in which land is used.

On 31 March 2006, the NSW Government gazetted a standard instrument for preparing principal LEPs (the LEP template). Although the standard instrument does not specifically refer to bush fire, Councils are able to include localised planning objectives and provisions specific to their area, which can include bush fire provisions.

The Minister for Planning, under section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) issues directions that relevant planning authorities (such as local councils) must follow when preparing planning proposals for new LEPs. Direction 4.4 Planning for Bushfire Protection identifies matters for consideration for planning proposals that will affect, or are in proximity to land mapped as bush fire prone. This Practice Note outlines the RFS expectations in meeting this Direction.
The LEP process

The ‘Gateway’ process was introduced by the NSW Department of Planning in 2009 to streamline the process of making LEPs so they can be prepared, considered and approved in a much shorter timeframe. It allows a planning proposal to be reviewed at an early stage and a decision made on whether to proceed further.

Bush fire planning in LEPs

LEPs can ensure bush fire management principles are considered at all stages of the planning and development process. This applies to both principal LEPs and amending LEPs (e.g. site specific, rezoning). Early on in the strategic planning process (e.g. when considering land use zoning for an area) consideration is to be given to limiting or excluding incompatible development in bush fire affected areas commensurate with the level of risk. A key principle should be to ensure that future development is capable of complying with (PBP).

It may be appropriate to apply zones that limit or exclude incompatible development in bush fire affected areas where:

- development is likely to be difficult to evacuate during a bush fire,
- development is likely to create control difficulties during a bush fire,
- development will adversely affect other bush fire protection strategies or place existing development at increased risk,
- development is likely to result in a substantially increased requirement for government spending on bush fire mitigation measures, infrastructure or services,
- environmental constraints to the site cannot be overcome,
- required bush fire protection measures would incur significant environmental costs.

To achieve this it will be necessary to undertake a risk assessment of the area in respect to bush fire to identify potential bush fire risks to individual sites, localities and proposed forms of development. A constraint assessment will identify elements which may restrict development or that will be impacted upon by development such as water supply, access and evacuation.

Planning Proposals

A planning proposal explains the intended effect of a proposed LEP. It is the first step in preparing a LEP and is comprised of four parts:

- Part 1 - A statement of the Objectives or Intended Outcomes of the proposed LEP;
Part 2 - An Explanation of the Provisions that are to be included in the proposed LEP;

Part 3 - The Justification for those objectives, outcomes and provisions and the process for their implementation;

Part 4 - Details of the Community Consultation that is to be undertaken on the planning proposal.

Detailed below is information to support a planning proposal on bush fire prone land or adjoining land and addresses the first three requirements indentified above:

Part 1 – Objectives or Intended Outcomes

When preparing a planning proposal relating to bush fire prone land, the primary objectives should be to:

a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
b) encourage sound management of bush fire prone areas.

Part 2 – Explanation of the Provisions

The objectives identified in Part 1 can be achieved by ensuring that new controls imposed on development must:

a) not increase the risk to life from bush fire
b) not introduce controls that place inappropriate developments in areas exposed to unacceptable bush fire hazard
c) ensure that appropriate bush fire protection measures can be afforded to property at risk of bush fire
d) minimise negative impacts on the surrounding environment,
e) ensure that provision is made for adequate evacuation/shelter options for the community, and
f) ensure that development is capable of complying with Planning for Bush Fire Protection 2006.

An example local provision for bush fire prone land is included in Appendix 2 of this Practice Note and may be utilised. The acceptance of such a provision would be determined through the Gateway process.

Part 3 – Justification

The level of justification should be proportionate to the impact that the planning proposal will have. Information provided in Appendix 1 may assist in explaining land use and zoning decisions or the inclusion of a local provision.
Bush fire planning in Development Control Plans

Development Control Plans (DCP) are prepared by Council under the EP&A Act and associated Regulation. They provide guidelines for development standards contained within an LEP and are generally site or land use zone specific. They provide a flexible means of identifying additional development controls and standards.

The following are matters that may be addressed through a DCP:

a) the proposed intensity of a site commensurate with the level of risk,

b) provisions that give effect to and are consistent with Planning for Bush Fire Protection 2006, and in particular
   i. specify minimum residential lot depths to accommodate asset protection zones
   ii. contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,
   iii. contain provisions for adequate water supply for fire fighting purposes,

c) whether development will result in an increase demand for emergency services,

d) whether bush fire protection measures will adversely affect the environment,

e) minimising the perimeter of the area of land interfacing the hazard which may be developed,

f) whether proposed revegetation of a site will result in the introduction or increase of a bush fire hazard.

Bush fire prone land mapping

It is recommended that the bush fire prone land map (required under Section 146 of the EP&A Act) for an area affected by a LEP, DCP or local provision be reviewed, and amended where necessary. Maps are to reflect any changes to the designation of bush fire prone areas that may result from changes in vegetation (e.g. where development has resulted in the clearing of vegetation or where revegetation has introduced a new bush fire hazard to an area).
Appendix 1: Information relating to various forms of development in bush fire prone areas

Detailed below is information that can be included to justify objectives, outcomes and provisions that may be included in a planning proposal. These examples address some common issues that are raised in bush fire prone areas.

1. High-Rise Construction in Bush Fire Prone Areas

Construction of high-rise buildings in bush fire prone areas poses unique issues over and above those associated with other types of buildings. High-rise buildings, for the purposes of PBP are defined as buildings exceeding three (3) stories in height. Such structures have increased external façade surface areas that can be expected to be exposed to greater amounts of radiant heat and also ember attack. Their height can also result in exposure to convective heat which otherwise would not be significant for lower height buildings. Additionally, high-rise buildings are associated with higher populations that make egress from the building(s) more of an issue and also place a higher load on road infrastructure during evacuations due to the potential for higher density populations. External balconies can easily trap embers which can ignite combustible materials.

Because of the challenges that high-rise buildings pose when located in bush fire prone areas, they require special consideration.

This includes consideration of the following:

- **Location** – high-rise buildings should not be located along ridges or along slopes with significant fire runs;
- **Existing infrastructure** – when high-rise developments are proposed their impact during potential bush fire emergencies needs to be considered, particularly in terms of evacuating occupants along the road network and the availability of water supplies available for high-rise fire fighting;
- **External facades** – external facades may result in increased exposure to radiant heat and also convection columns. Specialised modelling may be needed and APZs may need to be increased over and above those specified to account for this;
- **Potential for entrapment** - the risk associated with occupant egress is higher in high-rise buildings than for lower-rise structures and therefore the potential for entrapment during a bush fire emergency should be addressed.

Such developments should only be considered on bush fire prone land if an engineering analysis can demonstrate that the above issues do not pose an unacceptable risk.
2. High Density Development in Bush Fire Prone Areas

High density development in bush fire prone areas may present unique challenges in relation to proposed developments and the existing infrastructure. High density development would include dual occupancies, multi dwelling housing and residential flat buildings. It may also include higher than normal density of Special Fire Protection Purpose development in a precinct.

High density developments often result in an increased demand on existing services and may result in an increased risk to occupants and the existing community. They may also expose increased numbers of occupants to bush fire risk and therefore require special consideration. This includes consideration of the following:

- Location – high density developments should not be located along ridges or along slopes with significant fire runs;

- Existing infrastructure – when high density developments are proposed their impact during potential bush fire emergencies needs to be considered, particularly in terms of evacuating occupants along the road network and the availability of water supplies available for fire fighting;

- Potential for entrapment -the risk associated with occupant egress is higher in high density developments than for lower density developments and therefore the potential for entrapment during a bush fire emergency should be addressed.

Such developments should only be considered on bush fire prone land if an engineering analysis can demonstrate that the above issues do not pose an unacceptable risk. It should be noted that in some situations new development may not be feasible due to existing or proposed high densities and the increased risk associated with the proposal.
Appendix 2: Example Principal LEP Bush Fire Provision

Explanation of Provisions

The LEP will include the following additional local provision and applies to land identified as being within a bush fire prone area.

Development within bush fire prone areas

(1) The objectives of this clause are as follows:

b) to minimise the bush fire risk to life, property, heritage values and the natural environment associated with the use of land consistent with the principles of ecologically sustainable development, and

c) to allow development on land that is compatible with the land’s bush fire risk, and

d) to ensure ongoing maintenance of bush fire protection measures will be feasible, and

e) to avoid significant environmental and visual impacts of the clearing of vegetation for hazard reduction activities related to the development, and

f) to avoid significant adverse impacts on the ability of emergency services to effectively control major bush fires, and

(2) This clause applies to land identified as bush fire prone land (*see note).

(3) Development consent must not be granted to development on land, to which this clause applies unless, in the opinion of the consent authority the development:

a) does not result in the location of increased development or infrastructure in areas exposed to unreasonable bush fire risk, or require an increase in measures to manage bush fire risk by other land owners/managers, and

b) will achieve an appropriate balance between the conservation of the natural environment and the provision of appropriate bush fire protection measures, taking into account the significance of the vegetation and biodiversity corridors, and

a) to prohibit development that is likely to cause a significant increased risk to the lives of residents, visitors or emergency services personnel as a result of the development.

b) to minimise the bush fire risk to life, property, heritage values and the natural environment associated with the use of land consistent with the principles of ecologically sustainable development, and

c) will include adequate measures to enable the safe evacuation of people from the locality during a bush fire, and
d) will enable adequate access to that locality by emergency services, during a bush fire including the provision of fire trails where necessary, and

e) is unlikely to result in unsustainable social and economic costs to the community as a consequence of managing bush fire risk, and

f) will ensure ongoing provision and maintenance of the full suite of bush fire protection measures without unreasonable cost to the community, and neighbouring properties, and


g) will ensure the ongoing maintenance of the suite of bush fire protection measures to be carried out, and

h) conforms with the aims and objectives set out in the document entitled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in cooperation with the Department of Planning, dated December 2006, or any document/s that supersedes this.

* Note: The land to which this clause applies can be extended to include land that is not mapped as bush fire prone on a bush fire prone land but has the potential to be affected by the impacts of bush fire (e.g. over 100m from vegetation but evacuation is problematic).

The RFS acknowledges Sutherland Shire Council and Wyong Shire Council for their assistance in preparing this Practice Note.

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