

**Submission  
No 75**

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS  
OF CLIMATE CHANGE ON THE ENVIRONMENT AND  
COMMUNITIES**

**Organisation:** Bushfire Protection Association of Australia

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**Bushfire  
Protection  
Association**

Bushfire Protection Association of Australia Ltd (BPA)

PO Box 70

Jamberoo, NSW, 2533

E: [info@bpa.org.au](mailto:info@bpa.org.au)

[www.bpa.org.au](http://www.bpa.org.au)

3 November 2023

Ms Sue Higgenson, MLC  
Chair of Portfolio Committee No 7 - Planning and Environment

Dear Madam,

**Re: Submission to Inquiry into the planning system and the impacts of climate change on the environment and communities**

We represent the Bushfire Protection Association (BPA). The BPA was established in 2021 to support bushfire professionals throughout Australia through lobbying, training, and collaboration with regulators. We aim to provide the highest standards of leadership, lobbying and ongoing professional development within the planning for the bushfire protection industry.

This submission acknowledges and responds to the Terms of Reference established by the Portfolio Committee 7, with specific regard to bushfires.

The bushfire industry is currently regulated by the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the *Rural Fires Act 1997 (RF Act 1997)*. Over time, the regulatory framework has been revised although associated systems and frameworks have not adequately supported or adopted these changes. This has led to overcomplicated and inconsistent processes, substantial monetary and resource inefficiencies and the dilution of risks to the community and environment caused by bushfires and other natural disasters.

This prompts an urgent need to enact significant reform within bushfire planning industry, namely the introduction of a sustainable, simplified and efficient planning framework that meets the needs of an expanding population and protects the natural and built environment from climate change and natural disasters; including bushfires.

To deliver such a framework, we recommend the following reforms:

1. The impacts of climate change need to be considered within the Strategic Planning Process, prompting the review and further update of industry standards.
2. Amend Section 4.15 of the EP&A Act to recognise natural hazards and this be a matter of consideration for all development applications including bushfires.
3. Amend Section 4.13 of the EP&A Act to include State Significant Development (SSD) and the requirement to obtain a Bush Fire Safety Authority (BFSA)
4. Amend Section 10.3 of EP & A Act to allow Bushfire Prone Land maps and associated processes to be readily updated.

5. Update Section 4.14 of the EP&A Act to reflect the existence of a professional planning body.

The above recommendations are discussed in greater detail below.

1. Climate Change Impacts

Climate change continues to exert an ever-increasing influence on our environment, leading to an alarming surge in natural disasters. When viewed through the lens of planning and bushfire management, the profound effects of climate change on fire weather patterns, fire frequency, and fire intensity cannot be overstated. Therefore, these impacts must be afforded greater significance in the evaluation and consideration of Strategic Planning projects.

Our planning system is in need of reform, with a heightened emphasis on the necessity for comprehensive consultations with professional industry bodies at every stage of the Strategic Planning process. Such consultations are crucial to ensure that changes in climatic conditions are thoroughly and adequately assessed. This will enable the incorporation of proactive measures to accommodate these changes in the design of future urban growth areas and the large-scale modifications to existing land use provisions. The goal is to create a more resilient and adaptive planning framework that can effectively respond to the evolving challenges posed by climate change.

In the bushfire industry, there is a growing acknowledgment of the imperative to revisit and modernise our standards to encompass the influences of climate change. Notably, the Planning for Bushfire Protection guidelines, initially crafted in 2001, are now showing signs of misalignment with present-day realities. A clear example of this mismatch is evident in the Fire Danger Index (FDI) used in various local government areas. The FDI values assigned to regions like the North Coast and Central West no longer accurately represent the current conditions. It is evident that these regions need to be updated to reflect the FDI levels more in line with those observed in the Greater Sydney Regions, which currently operate at an FDI of 100.

2. Environmental, Planning and Assessment Act 1979 - Section 4.13 Consultation and concurrence

Under the current provisions of Section 4.13(2A) within the Environmental Planning and Assessment Act (EP & A Act), State Significant Development (SSD) is not obligated to formally seek assessment from the Rural Fire Service or obtain a Bush Fire Safety Authority (BFSA).

State significant developments comprise a wide array of development types, such as the establishment of new educational facilities, hospitals, correctional centres, chemical industries, manufacturing facilities, mining and extraction operations, tourist and recreational facilities, selected port facilities, waste management facilities, and energy-generating facilities.

Projects of this nature play a pivotal role in delivering vital community infrastructure, ensuring the well-being and functionality of our communities. However, if these projects are not designed and constructed to withstand the challenges posed by natural hazards, such as bushfires, they risk encountering significant damage and loss.

The significance of a thorough assessment, as well as the consideration of the potential impact of bushfires during the project's design and assessment phases, cannot be overstated. This assessment is paramount for proactively identifying vulnerabilities, minimising risks, and implementing effective mitigation strategies. As climate change continues to exert an

increasingly profound influence on our environment, the effects of a bushfire will become more evident. This is notably reflected in the escalating frequency and intensity of bushfire. To secure the safety and resilience of our communities and the longevity of critical infrastructure, it is imperative that we adapt and reinforce our approach to bushfire protection, taking into account the evolving challenges presented by climate change. This approach will serve to safeguard lives, protect property, and preserve the crucial community assets that these projects represent.

Our recommendation involves amending the Environmental Planning and Assessment Act, specifically Section 4.13(2A). The proposed amendment seeks to make it mandatory for all SSD situated on designated bushfire-prone land to obtain a Bushfire Safety Authority from the Rural Fire Service. This measure is essential to ensure rigorous and uniform bushfire safety standards are applied to such developments, enhancing their resilience and safeguarding the surrounding communities and environment.

### 3. Environmental, Planning and Assessment Act 1979 - Section 4.15 Evaluation

Section 4.15 of the EP & A Act mandates that the consent authority assess the likely impacts of a development on both the natural and built environments. However, it presently lacks a specific provision compelling the consent authority to take into account the influence of the environment and the ongoing climate change on the development.

We advocate for a revision of Section 4.15 to incorporate the consideration of climate change and its associated impacts, including changes in fire weather patterns, on the development itself. This revised provision should necessitate the inclusion of mitigation measures aimed at safeguarding against changes in environmental and climate conditions throughout the lifespan of the development. Such an amendment would enhance the development assessment process, ensuring that it aligns with the evolving challenges and responsibilities associated with climate change and sustainability.

It is worth noting that the Standard Instrument used for the preparation of Local Environmental Plans lacks any provision for the evaluation or consideration of bushfire danger before granting development approval. Before the adoption of the Standard Instrument, several Councils had specific bushfire clauses in place. For instance, the Shoalhaven LEP 1985, under Clause 28 - "Danger of Bushfire," stipulated that Council could not grant consent for development on bushfire-prone land unless they were satisfied that adequate measures were proposed to prevent or mitigate the threat from bushfires. These measures took into account various factors, including the development's location, design, materials used, vegetation clearing, and the provision of asset protection zones, landscaping, and fire control aids like roads and water supplies.

In light of the potential for increase bushfire risk associated with climate change, we hold the view that the Standard Instrument - Principal Local Environmental Plan (2006 EPI 155a) should be revised to incorporate specific clauses that obligate the consent authority to assess bushfire risk as integral components of any assessment of development on Bushfire Prone Land. This revision would serve to strengthen the framework for addressing bushfire risks and align it with contemporary challenges related to climate change and environmental sustainability. Within this framework, any development recognised under 100B of the *Rural Fires Act* would remain as an integrated development, with Rural Fire Service consent.

#### 4. Bushfire Prone Land (BFPL)

The current system involving Bush Fire Prone Land (BFPL) maps and associated procedures necessitates a reformation. At present, the EP&A Act mandates that councils prepare a BFPL map after consultation with the Commissioner of the NSW Rural Fire Service (RFS). The Commissioner designates lands as bush fire-prone within a particular area, and upon confirming that the designated lands are accurately recorded on the map, certifies it as the official Bush Fire Prone Land map. While the current legislation stipulates that bush fire prone maps must be reviewed every five years following the map's certification, it is observed that these reviews often exceed the prescribed five-year interval. This protracted and inefficient process results in outdated maps, leading to unnecessary, lower-risk bushfire assessments, such as those for cleared lands. Moreover, it delays assessments for sites with genuine high-risk profiles.

To enhance both the efficiency of the process and the allocation of resources, we recommend amending Section 10.3 of the EP & A Act. This amendment should require councils and the RFS to update the Bushfire Prone Land maps more frequently, and after any major development approval of a specified size. This adjustment will contribute to more timely and accurate assessments, facilitating improved community safety and resource allocation.

#### 5. Environmental, Planning and Assessment Act 1979 - Section 4.14 Consultation and development consent

Section 4.14(1b) of the EP & A Act rightfully acknowledges the pivotal role played by bushfire planning professionals within the planning framework. Their contribution is instrumental in assessing bushfire risks and implementing mitigation measures. We firmly believe that this role will gain even more significance in the face of the escalating impacts of climate change.

However, it is our contention that the criteria for defining a person as "suitably qualified" should be revisited. This revision is warranted due to the substantial growth and maturation of the bushfire planning industry over the past two decades. It has evolved into a sizable, well-educated, and professional community. We propose that the regulation of Bushfire Planning professionals be transferred to the purview of the NSW Department of Fair Trading, instead of the Rural Fire Service.

To support this regulatory shift, we recommend the establishment of ongoing accreditation schemes for Bushfire Planning professionals, similar to those in place for other building professionals regulated under the Building and Development Certifiers Regulation 2020. These accreditation schemes should incorporate components such as continuous professional development, peer review, and periodic audits. Such a comprehensive approach would ensure that the expertise and practices of Bushfire Planning professionals remain current, consistent, and aligned with industry best practices. This, in turn, would bolster the overall effectiveness of bushfire assessment and planning, enhancing community safety and environmental protection.

As a professional Bushfire Association, actively representing the bushfire industry, we would welcome the opportunity to discuss these recommendations with you in further detail.

Yours faithfully

Katherine Harris

Company Secretary & Director

Bushfire Protection Association of Australia Ltd