

Bushfire Planning made clearer: Options for Victoria's Planning System

Making the existing bushfire planning scheme provisions clearer.



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Overview

Over the past 10 years the Victorian Government has delivered changes to how planning schemes consider bushfire with a focus on prioritising human life over other policy objectives. Many of these changes were in response to the recommendations made by the 2009 Victorian Bushfires Royal Commission.

The focus over the next two years is to enhance the bushfire planning provisions by making them clearer. A discussion paper has been prepared as a conversation starter on potential improvements, including many already identified by stakeholders. A copy of the discussion paper is found below in the 'Document Library'. The scope of this work excludes the provisions that support bushfire recovery and rebuilding in bushfire affected communities.

The Victorian Government is seeking your feedback on issues and opportunities with the bushfire planning provisions including developing:

- a more usable state bushfire planning policy
- clearer planning requirements for developing land in bushfire prone areas
- better bushfire hazard assessments
- improving the implementation of bushfire-related planning permit conditions
- training and capacity building opportunities.

The Victorian Government remains committed to the planning policy objective of prioritising life in decision making.

How to participate

1. Read the discussion paper which is found in the Document Library below.
2. Note the privacy notice at the bottom of this page.
3. Make a submission by completing the survey.

Next steps

The submissions will be processed and will contribute to the recommendations made to the Victorian Government.

Document Library



Discussion paper

PDF (14.91 MB)

Timeline



[See less](#)

Online Information Sessions

Thursday 20 January:

- Peak Bodies & Private Sector - 9.30am - 10.30am
- General Public - 11am - 12pm

Register and let us know your questions or topics of interest by **11 January** using the email shown below.

The questions and topics of interest will be addressed during the session, where possible.

Contact Us

Have questions or want to learn more about a project, contact us below:

✉ Email planning.systems@delwp.vic.gov.au

Survey

The survey consists of a number of pages each corresponding to the chapters in the discussion paper. The survey format is a mix of ratings, options and free text. Comment fields are available after some questions and at the end of each section to provide further details. Most questions are optional as we understand that some stakeholders may only be interested in specific issues.

11% complete

SIMPLER AND MORE USABLE STATE BUSHFIRE POLICIES

Improvements to the state policy, Clause 13.02-1S Bushfire planning, have been proposed to make the structure and concepts in the policy clearer. The proposal also includes integrating the bushfire hazard setback strategy for development enabled by planning scheme amendments after 2017 across the bushfire provisions.

1. Which parts of the policy are working well?

The current 'policy application' and 'objective' are clear. The following proposals included in the discussion paper to improve the policy are supported:

- providing greater guidance on applying the settlement planning strategies in a new Planning Practice Note,
- providing clearer strategies to guide decision-making, including:
 - the scales of assessment necessary to fully consider the bushfire hazard
 - describing locations that may be more suitable for development
 - describing low fuel areas
 - describing development setbacks from bushfire hazards
 - clarifying when strategies are to be applied
- better managing bushfire setbacks in strategic plans and planning scheme amendments

2. Which parts of the policy are not working well?

Clause 13.02-1S does not provide sufficient guidance around assessing uses or developments which may create a bushfire hazard. While overarching policy preferences the protection of human life, there is nothing beyond this to provide guidance on assessing land uses which create a bushfire hazard. This should be expanded up and considered similar to uses with adverse amenity potential (under Clause 53.10 – Uses with adverse amenity potential).

3. Do you think we've identified the right policy areas for improvement?

Select by clicking in the box. A comment box will be visible after selecting.

yes, no, unsure, other

See Question 1 response above.

4. What do you think about the identified policy improvements?

The areas identified for improvement are areas that need to be addressed.

5. What parts of the policy could be improved?

Please note that the prioritisation of life is not changing.

Clause 13.02-1S should provide further policy guidance around developments which may create a bushfire hazard. Beyond Clause 13.02-1S, improvements could be delivered by introducing referral and information requirements for uses with the potential to create a bushfire hazard, similarly to the structure of Clause 53.10.

6. Do you have additional comments?

Strengthening the definitions and veto power of “unacceptable biodiversity impacts” and “important areas of biodiversity” (Clause 13.02-1S) will help ensure settlement growth minimises its impact on biodiversity and reduce bushfire risk.

An additional point should be added to the decision guidelines of Clause 53.02-4.5 to specify consideration of the ‘impact of the proposed development and identified defensible space on biodiversity’. This would add weight to the biodiversity impact considerations in Clause 13.02-1S. Examples might include the percent land area required to be cleared; vegetation condition over a certain value; presence of threatened species habitat; or landscape connectivity.

Integration between strategic land use planning and emergency management in settlement planning should be improved, as stated in the Natural Hazards and Climate Change policy (Clause 13.01-1S).

Guidance is required to define how landscape bushfire risk can be reduced, without incurring unacceptable loss of biodiversity as required by Clause 12.01- 1S Protection of biodiversity, the Rural Conservation Zone, Green Wedge Areas, Environmental and Landscape Overlays, and the Native Vegetation Regulations. Ecosystem resilience is one of two strategic objectives (in addition to protecting human life) in the [Metropolitan Bushfire Management Strategy 2020](#), the [Code of Practice for Bushfire Management on Public Land](#) and one of the accepted recommendations from the [VAGO audit into Reducing Bushfire Risk \(2020\)](#).

CLEARER PLANNING REQUIREMENTS IN THE BUSHFIRE PRONE AREA

The types of planning permits applications (use, development and subdivision) specified in the Use and Development Control in the Bushfire Prone Area section of Clause 13.02-1S Bushfire planning will be reviewed. No changes are proposed for planning scheme amendments, settlement planning and other strategic matters.

7. How satisfied are you with the Use and Development Control in a Bushfire Prone Area?

Rank by clicking on the scale below.

Very dissatisfied – **Dissatisfied** - Neutral – Very satisfied

8. Could the Use and Development Control in a Bushfire Prone Area be better targeted based on bushfire risk?

Rank by clicking on the scale below.

Substantial improvement required – Neutral – No improvement required

9. What types of use, development and subdivision should be included within the Use and Development Control in a Bushfire Prone Area?

Recreation and retail facilities located outside the Urban Growth Boundary (UGB) or within a Rural Zone could potentially be added to the Use and Development Control. This would cover uses like Primary produce sales, Outdoor recreation, and be more specific than the general statement for “any application for development that will result in people congregating in large numbers”.

Rural areas are often more isolated from services and facilities, or require longer drive times to safe places, which increases the risk that bushfire poses to these uses. Identification of residential areas that are particularly subject to fire risk and the acknowledgement of the UGB or land zoning would serve to recognise this.

Additionally, all types of use, development and subdivision that impact biodiversity should be included.

9b. How would these changes to the Use and Development Control in a Bushfire Prone Area that you identified in the above question create safer communities?

Would allow for better assessment of how risk will impact the use, development or subdivision. Biodiversity and vegetation have benefits to human health, including urban cooling and climate resilience.

10. Would a permit trigger for the Use and Development Control in a Bushfire Prone Area be of assistance?

Select by clicking in the box. A comment box will be made visible after selecting.

yes, no, unsure, other

Permit triggers should only be added for the highest risk uses when considering location and use, rather than a blanket permit trigger for all uses in the use and development control. Alternatively,

Clause 53.02 could be expanded to include specified uses in the Bushfire Prone Area while not triggering the BMO.

A key part of the Use and Development Control is that new development should be able to implement protection measures without unacceptable biodiversity impacts. This would be severely diminished by excluding single dwellings, accommodation, or subdivision from the use and development control.

11. Do you have additional comments?

The Use and Development Control could stand to outwardly recognise different levels of bushfire risk, including the inherent risk posed by the land use (eg. dwelling versus place of assembly), and the uses' location (eg. rural versus urban area). By taking an approach which explicitly recognises that risk differs based on context, the Use and Development Control could integrate more formal involvement of fire authorities in decision making in higher risk situations (outside of the BMO).

The use and development control in Clause 13 provides some guidance, however it does not provide a framework for Council to interact with relevant fire authorities on land use and development applications which lie outside of the BMO. This can make it difficult to know exactly when a fire authority's views are relevant to an application. Further, it places the necessity of determining what an appropriate level of information is for each application (for example, bushfire emergency plans, bushfire management statements) on Council planning officers who are often not adequately informed or qualified to make these judgement calls. More formal involvement of fire authorities for certain uses that fall within the use and development control would be beneficial.

BETTER BUSHFIRE HAZARD ASSESSMENTS

There is an opportunity to improve the quality and utility of bushfire hazard landscape assessments and bushfire hazard site assessments by specifying information to be included without altering the methodology. Landscape typologies could also be integrated into the bushfire provisions.

12. What is your experience in preparing or assessing bushfire hazard assessments?

Rank by clicking on the scale below.

Inexperienced - **Some experience** - Experienced

13. How well do they contain the information necessary to inform planning scheme decisions?

Rank by clicking on the scale below.

Insufficient - **Adequate** - Sufficient

14. Do you think that specifying more clearly how to prepare bushfire hazard assessment would improve their quality and consistency?

Rank by clicking on the scale below.

Improvement required - Neutral - No improvement required

15. What opportunities are there to improve the usability of bushfire hazard landscape assessments?

The BMO/Clause 53.02 should be drafted to ensure the hazard assessments are undertaken by suitably qualified individuals. Councils will sometimes receive assessments written by non-practitioners using template Bushfire Hazard Assessment documents which is available on the DELWP website. These are almost always completely unsatisfactory.

The Government should provide bushfire hazard landscape mapping for each local government. This should also link with bushfire risk considered in the Bushfire Management Strategies (Department of Land, Water and Planning, 2020; <https://www.safertogether.vic.gov.au/strategic-bushfire-management-planning>) and State Emergency Management Plan Bushfire Sub-Plan (Emergency Management Victoria, 2021; <https://www.emv.vic.gov.au/responsibilities/sempl-sub-plans/sempl-bushfire-sub-plan>).

16. Do you have additional comments?

It is not just the case that the bushfire hazard site assessment could be more clearly specified, but the assessment methodology could also be reviewed and refined with more current science and modelling.

It is agreed that more meaningful bushfire hazard landscape assessments would be helpful. Additionally, for improved transparency and consistency across a municipality, Shire-wide bushfire hazard mapping could be provided by the Government. This needs to link with other state government bushfire risk initiatives in the Bushfire Management Strategies (Department of Land,

Water and Planning, 2020; <https://www.safertogether.vic.gov.au/strategic-bushfire-management-planning>) and State Emergency Management Plan Bushfire Sub-Plan (Emergency Management Victoria, 2021; <https://www.emv.vic.gov.au/responsibilities/semv-sub-plans/semv-bushfire-sub-plan>).

BETTER APPROACHES TO PREPARE AND ASSESS PLANNING APPLICATIONS

Opportunities have been identified to improve the useability of the Bushfire Management Overlay and Clause 53.02 Bushfire Planning, to enable bushfire risk to be addressed more comprehensively and updated to align with Clause 13.02-1S Bushfire planning.

17. Could the various application pathways under the Bushfire Management Overlay be simplified without losing the intent to streamline decision making?

Rank by clicking on the scale below

Simplification required – Neutral – No simplification required

18. Do you think a use permit trigger in the Bushfire Management Overlay would be appropriate?

Select by clicking in the box. A comment box will be visible after selecting.

yes, no, unsure, other

Officers support the following comments from the Municipal Association of Victoria (MAV):

A use permit trigger would capture risks that a development trigger may not. A significant contributor to bushfire risk, and in particular risk to life, is the knowledge, preparation, and decision-making of those in the area at the time.

Compared to a guest, a permanent resident is more likely to have a bushfire plan, know access routes and potential safe or dangerous areas, and keep tuned to relevant information sources.

However, the use of a building or property can change significantly without the need for assessment under the BMO. For example, a dwelling could change from a primary residence to a bed and breakfast without a permit trigger.

Arguably even more dangerous is changing use to short-stay accommodation where none of the owners or operators may be on-site. Currently there is no specific land-use term for short-stay accommodation. Potential bushfire risk may be one compelling reason for this to be addressed.

A control within the BMO that considers the tenancy of a proposed development may be an appropriate response to bushfire risk.

19. Could bushfire risk for proposals that do not contain buildings be better managed?

Select by clicking in the box. A comment box will be visible after selecting.

yes, no, unsure, other

Clearer requirements would assist applicants, responsible authorities, and referral authorities, as well as improve bushfire risk outcomes.

20. Would clearer requirements in the planning scheme assist decision making for proposals that do not contain buildings?

Select by clicking in the box. A comment box will be visible after selecting.

yes, no, unsure, other

Clearer requirements would assist applicants, responsible authorities, and referral authorities, as well as improve bushfire risk outcomes.

21. Should VicSmart be used for permit applications for outbuildings associated with a dwelling in the Bushfire Management Overlay and dwellings where the schedule applies?

Select by clicking in the box. A comment box will be visible after selecting.

yes, no, unsure, other

VicSmart is a process that should be expanded generally, but there are two issues with regards to the BMO specifically:

- Determining when a referral is required to the relevant fire authority
- Determining how defensible space interacts with other controls which may require a permit trigger for vegetation removal.

The current requirements for outbuildings in the BMO are effectively:

- Outbuildings ancillary to a dwelling but not used for accommodation under 100sqm in floor area do not require a permit.
- Non habitable outbuildings over 100sqm do not require referral to the relevant fire authority if they are provided with 10m defensible space, and meet the requirements of Clause 53.02-7 if they are within 10m of a dwelling.
- Habitable outbuildings require permit and referral.

VicSmart puts the onus of Section 55 referrals onto applicants. This is suitable when a referral requirement is a blanket requirement, but the current exemption from referral requirement for outbuildings contains a lot of caveats, which could be difficult for applicants to determine of their own volition. It is noted that it can be more frustrating for applicants to be told they need to go to the CFA directly before lodgement to gain their approval, or else their application will not be considered a VicSmart application - as opposed to having a Council officers complete the referral when required under a regular application process.

The BMO causes a lot of 'interactions' with other overlays to determine if vegetation removal for defensible space requirements would trigger a permit under other overlays, and whether the extent of vegetation removal pulls the application out of VicSmart under an Environmental Significance Overlay (ESO) or Significant Landscape Overlay (SLO). A common further information request that Council officers send for applications in the BMO is in relation to people not clearly showing the extent of vegetation removal for defensible space. While Clause 52.12-5 provides an exemption for vegetation removal associated with defensible space for applications for single dwellings, this doesn't apply in the Green Wedge Zone where the council can commonly see outbuildings over 100 square metres in floor area.

22. What other types of applications could be considered for VicSmart?

Avoid bringing VicSmart into the BMO. Council officers support the MAV's views that applications requiring a referral to fire authorities may not be suitable for VicSmart. For other VicSmart pathways, applicants have often encountered difficulty receiving written consent from the referral authority prior to lodging their application with council. This can diminish any purported efficiencies of having a VicSmart application.

23. Do you think better reflecting state policy in the range of bushfire planning provisions would assist decision making?

Select by clicking in the box. A comment box will be visible after selecting.

yes, no, unsure, other

Officers support the MAV's comments that better reflecting state policy in bushfire provisions would significantly increase visibility of all relevant considerations for both decision makers and applicants.

24. Do you have additional comments?

The terminology surrounding pathways and schedules *needs* to be simplified into clearer language. "Pathway" is not a term which is used in the Planning Scheme, with the pathways referred to on public websites only being separate clauses within Clause 53.02. The distinction between a pathway and a schedule is something that is extremely difficult for Council officers to clearly explain to applicants and is not a distinction which is made clear on DELWP's website. Council officers often see applications for a 'Pathway 1' development which come with a BMO1 Bushfire Management Plan, as an example. Pathways should be formally incorporated as terminology into the BMO and Clause 53.02. From a form and content perspective, the pathways could be more clearly set out.

There is potential utility in expanding Clause 53.02 so that it applies to a broader range of uses and developments than developments triggered by Clause 44.06. This may also serve as a means of expanding the Use and Development Control.

While streamlining and simplifying Clause 53.02 would be beneficial, there also needs to be scope for assessment of the differing levels of risk that different contexts presents. Clause 53.02 is a fairly blunt instrument in that it offers a 'tick box' approach to Bushfire Planning and the measures set out apply to all uses covered fairly equally – whether it be a single dwelling or a chemical refinery. Clause 13.02 requires a more contextual approach to risk and this is not reflected in Clause 53.02 as an assessment tool. The deficiencies of Clause 53.02 were well articulated by VCAT in *Department of Environment, Land, Water and Planning v Yarra Ranges SC* (6 March 2019).

Including policy matters (low fuel areas and landscape risk) should certainly be included. Shire-wide bushfire hazard mapping indicating landscape risk could be provided by the government.

PERMIT EXEMPTIONS FOR MANAGING VEGETATION

There may be opportunities to make the permit exemptions to remove or lop vegetation for defensible space more accessible to landowners.

25. How satisfied are you with the bushfire permit exemptions?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, **no**, unsure, other

The bushfire permit exemptions allow for the outright clearing of vegetation on a property within the 10/30 and 10/50 areas designated in Clause 52.12-1, to assist with the management and reduction of bushfire risk. This level of vegetation removal is not consistent with the defensible space standards included in Clause 53.02-5 (Table 6), nor does it correspond with CFA landscape guidelines or current scientific literature.

Changes to the current exemptions should be considered in the context of the inadvertent impacts they have on human health, biodiversity, natural systems, urban cooling and climate change resilience.

1. Need to minimise the extent of unnecessary vegetation loss because of exemptions to create defensible space (Clause 52.12)

Vegetation clearing exemptions for bushfire protection (Clause 52.12-1) promotes complete removal of all relevant vegetation within the 10/30 - 10/50 zones. Complete removal is not in alignment with defensible space standards in the Planning Scheme (Clause 53.02-5 Table 6), CFA guidelines (Landscaping for Bushfire: Garden Design and Plant Selection, CFA 2021; <https://www.cfa.vic.gov.au/plan-prepare/how-to-prepare-your-property>) nor current science (Gibbons et al. 2012. Land management practices associated with house loss in wildfires. *PLoS one* 7, e29212; Gibbons et al. 2018. Options for reducing house-losses during wildfires without clearing trees and shrubs. *Landscape and Urban Planning* 174: 10-17). Complete vegetation removal is:

- unnecessary to reduce bushfire risk
- can increase bushfire risk in some situations
- inconsistent with benefits of vegetation for human health, extreme heat mortality, biodiversity, natural systems, urban cooling and climate change resilience.
- has the capacity to unnecessarily denude whole suburbs of native vegetation and change neighbourhood character

Little consideration is given to existing implications of vegetation removal under these exemptions on human health, heatwave related death, biodiversity, urban cooling and climate resilience, let alone how these might change with proposed amendments. The amount of vegetation removal under these exemptions should be quantified, particularly to gauge the extent of potential unnecessary vegetation removal. As vegetation removal results from a permit exemption, it is difficult for local government to track and quantify. The state government needs to consider the extent of vegetation loss at a state level.

2. Align vegetation clearing exemptions for bushfire protection (Clause 52.12-1) with defensible space standards of Clause 53.02-5 (Table 6 vegetation management requirements).

Vegetation clearing exemptions for bushfire protection exist so landowners can create adequate defensible space. These exemptions need to align with defensible space standards in the VPP

in 'vegetation management requirements' of Clause 53.02-5 (Table 6). These standards align with current scientific literature on house loss and CFA guidance for property preparation (Landscaping for Bushfire: Garden Design and Plant Selection, CFA 2021; <https://www.cfa.vic.gov.au/plan-prepare/how-to-prepare-your-property>), which demonstrate that not all vegetation needs to be removed to create an adequate defendable space (Gibbons et al. 2012. Land management practices associated with house loss in wildfires. *PloS one* 7, e29212; Gibbons et al. 2018. Options for reducing house-losses during wildfires without clearing trees and shrubs. *Landscape and Urban Planning* 174: 10-17).

3. No vegetation removal exemptions beyond 10/30 -10/50 distances

There should be no exemptions applied to defendable space distances greater than the 10/30 - 10/50 distances (Clause 52.12-1). This includes no exemptions for the defendable space distances set out in [Clause 53.02-5 \(Tables 1-3\)](#).

The 10/30 - 10/50 distances (Clause 52.12-1) are roughly consistent with science on defendable space and house or life loss (Blanchi et al. 2012. *Life and house loss database description and analysis*. CSIRO, Bushfire CRC report to the Attorney-General's Department. CSIRO EP-129645; Cohen 2008. The wildland-urban interface fire problem. A consequence of the fire exclusion paradigm. *Forest History Today* Fall 2008: 20-26; Gibbons et al. 2012. Land management practices associated with house loss in wildfires. *PloS one* 7, e29212; Gibbons et al. 2018. Options for reducing house-losses during wildfires without clearing trees and shrubs. *Landscape and Urban Planning* 174: 10-17; Newnham, G. J., et al 2012. Exploiting three dimensional vegetation structure to map wildland extent. *Remote Sensing of Environment* 123: 155-162; Penman et al. 2019. The role of defensible space on the likelihood of house impact from wildfires in forested landscapes of south eastern Australia. *International Journal of Wildland Fire* 28, 4–14; Price et al. 2021. Comprehensive Examination of the Determinants of Damage to Houses in Two Wildfires in Eastern Australia in 2013. *Fire* 4, 44).

Although it is recommended to align Clause 52.12-1 with the defendable space vegetation standards described in [Clause 53.02-5 \(Table 6\)](#), the 10/30 - 10/50 exemption distances should not be expanded to a broader distances such as those represented in [Clause 53.02-5 \(Tables 1-3\)](#), which have the aim of restricting new developments. If anything, 10/30 – 10/50 distances could be narrowed (for example 10/40 instead of 10/50) for consistency with current scientific literature.

4. Balance bushfire provisions with other objectives; prioritising human life

The discussion paper highlights that the Victorian Government is delivering how planning schemes "address bushfire with a focus on prioritising human life over other policy objectives". As the planning scheme aims to prioritise human life in decision-making, then bushfire provisions need a more detailed review to be balanced against other objectives, including those that also contribute to prioritising life.

Regarding the impact of natural hazards on human mortality, extreme heat events have resulted in more fatalities "than the combined total of deaths from all other natural hazards" (Coates *et al.* 2014. Exploring 167 years of vulnerability: An examination of extreme heat events in Australia 1844–2010. *Environ. Sci. Policy* 42, 33–44). These statistics remain current (Coates et al. 2022 Heatwave fatalities in Australia, 2001–2018: An analysis of coronial records. *International Journal of Disaster Risk Reduction* 67: 102671).

Extreme heat events receive very little to no attention in the planning scheme. Extreme heat events should be considered in Clause 13 (perhaps as an additional provision under Clause 13) and as a higher priority to bushfire (13.02). The only consideration otherwise given is to the urban heat

island effect, which is mentioned in only three sections of the planning scheme (Clauses: 15.02-1S, 55.07-4, 58.03-5). The planning scheme identifies strategies to:

- Reduce the urban heat island effect by greening urban areas, buildings, transport corridors and open spaces with vegetation.
- Encourage retention of existing vegetation and planting of new vegetation as part of development and subdivision proposals (Clause 15.02-1S).

This is consistent with other Victorian Government objectives, including decreased health impacts associated with climate change, including from extreme heat events (Victorian Government 2019. Victorian public health and wellbeing plan 2019–2023. Melbourne) and (Victorian Government 2021. Heat health plan for Victoria Protecting health and reducing harm from extreme heat. Department of Health, Melbourne). Other recommendations in our response to minimise unnecessary vegetation loss for bushfire protection will directly assist with reducing urban heat island effect and resilience to climate change and extreme heat events.

To quote from Coates et al. (2022): “at least 354 heatwave deaths were reported to a Coroner from July 2000 to June 2018. We find that heatwaves still pose a greater threat to Australian mortality than any other natural hazard. However, Australia has no national framework for heatwaves, despite a case for one being established as early as 2011 [56]. There is no consistent planning nationwide at local government level to connect with vulnerable groups”.

5. Simplicity of exemptions.

The discussion paper states that “some stakeholders say that the exemptions remain complex”, however, if this is the case and a trigger for its review, then this needs to be clearly quantified. Other stakeholders, including officers at Mornington Peninsula Shire, believe that the exemptions are too simplified and require greater specification. As stated elsewhere, the exemptions to allow the removal of all vegetation in 10/30 – 10/50 zones is overly simplified and undoubtedly results in the unnecessary removal of vegetation for adequate defensible space. Linking defensible space standards in Clause 53.02-5 Table 6, to 10/30 – 10/50 provisions will provide clarity, consistency and minimise unnecessary vegetation loss. To make exemptions simple to understand and apply, it is important to be clear on what is necessary and what is unnecessary for defensible space. It is very clearly specified in 53.02-5 Table 6, CFA guidance and scientific literature that removing all vegetation in defensible space is not necessary to reduce bushfire risk.

26. How simple are the exemptions to understand and apply? Rank by clicking on the scale below

very difficult, difficult, **neutral**, very easy

27. If someone wants to build on their land, should a permit be required to remove vegetation to create adequate defensible space?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, unsure, other

A permit requirement seems appropriate so that a landowner must demonstrate that defensible space can be created on their property without the need to remove all vegetation, which results in negative impacts on biodiversity. This would be assisted by a tool such as a landscape design guide which would demonstrate to landowners how high-quality landscaping outcomes are possible in a bushfire settings, whilst still managing bushfire risk and not resorting to stripping a property of vegetation using the 10/30 and 10/50 rules.

Clause 52.12-5 exempts some dwelling applications from requiring a permit application to remove vegetation for the creation of defensible space to the relevant distances specified in [Clause 53.02-5 \(Tables 1-3\)](#), which in some cases may include a radius of ninety-eight metres from a new dwelling. This needs to be removed to ensure that all dwelling applications are assessed and subject to vegetation offsets. Any exemptions should be strictly limited to the 10/30 – 10/50 distances (Clause 52.12-1). The intent of the planning scheme is to limit development to areas where bushfire risk is to an acceptable level and discourage development in areas where there is bushfire risk and requiring extensive vegetation removal. A permit requirement will allow for increased disincentive to build in high risk areas and improved opportunity for offsetting of vegetation and biodiversity loss.

It would be appropriate that green wedge areas (for example, RCZ and GWZ) are not included in bushfire exemptions as these areas have greater biodiversity values and landscape bushfire hazard risks than other zones. It is very important for decision makers to consider whether development is appropriate, especially for vulnerable uses, to prioritise the protection of human life in terms of landscape risk and unacceptable biodiversity loss.

28. Should a landowner be able to maintain adequate defensible space without the need for a permit?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, unsure, other

A landowner should be allowed to maintain defensible space without a permit, however as stated above the level of vegetation clearance allowed by these exemptions under Clause 52.12-1 should be consistent with the defensible space standards of Clause 53.02-5. The Clause 53.02-5 standards are informed by specific landscape characteristics including vegetation type and slope of land and were developed from an evidence base. A further review of these standards should be considered to align them with current science and other guidance (CFA), it would provide a much less ruthless approach to the creation of defensible space in bushfire areas.

Exemptions for maintenance of defensible space should not be required either. The point at which a permit would be required needs consideration. Regrowth vegetation under 10 years old does not require a permit for removal. Vegetation over 10 years old in a potential defensible space should be reassessed, as presumably bushfire risk understanding will be improved over a 10 year timeframe. This is particularly relevant to defensible space distances beyond 10/30 – 10/50 specified in 53.02-5. Maintenance activities in defensible space should comply with DELWP's (2017) '*Guidelines for the removal, destruction or lopping of native vegetation*'.

29. Do you have additional comments?

1. Improved BPA and BMO mapping to enhance the accuracy of bushfire hazard areas and low risk areas

Bushfire Prone Areas (BPA) and Bushfire Management Overlay (BMO) mapping strongly influence planning decisions, vegetation clearing exemptions and (inadvertently) operational bushfire risk management by local governments. Therefore, it is crucial to ensure that these areas are mapped accurately and do not cover locations where exemptions are not necessary or do not contribute to the reduction of bushfire risk.

These maps need to be as accurate and precise as they can be to ensure decisions are risk-based and evidence-based as recommended from recent bushfire inquiries. Considering no houses have been lost to bushfire more than 700m from the urban - bushland interface (Chen & McAneney 2004. Quantifying bushfire penetration into urban areas in Australia, *Geophysical*

Research Letters., 31: L12212), it is important to ensure accurate identification of bushland to establish genuine bushfire risk. Improved accuracy of these maps will:

- Improve prioritisation of higher bushfire risk areas
- Avoid unnecessary vegetation loss for bushfire protection in low risk areas

In addition to improved BPA and BMO mapping, a supporting bushfire hazard landscape assessment for each municipality shire-wide would add value.

2. Review of relative bushfire risk for municipalities

Bushfire Prone Areas (BPA) and Bushfire Management Overlay (BMO) mapping represent building and planning triggers, but do not necessarily represent landscape bushfire risk. The discussion paper suggests that Clause 44.06 refers to “land at the most extreme risk of bushfire”, however, this is factually inaccurate as the BMO is not a bushfire risk map and there are higher and lower levels of bushfire risk within this area. To be serious about addressing bushfire risk and the primacy of life in the planning scheme, there is merit in providing assessment of actual bushfire risk. There is need for a bushfire hazard landscape assessment for each municipality shire-wide to be delivered state-wide for consistency. This needs to link with bushfire risk considered in the Bushfire Management Strategies (Department of Land, Water and Planning, 2020; <https://www.safertogether.vic.gov.au/strategic-bushfire-management-planning>) and State Emergency Management Plan Bushfire Sub-Plan (Emergency Management Victoria, 2021; <https://www.emv.vic.gov.au/responsibilities/semv-sub-plans/semv-bushfire-sub-plan>). This can then be used in conjunction with BPA and BMO mapping to better inform decision-making with an assessment of risk.

Improvement of the quality and utility of bushfire hazard landscape assessments and bushfire hazard site assessments is welcome. Integrating landscape typologies into the bushfire provisions is a valid option, but does not go as far as integrating shire-wide bushfire risk through a municipal bushfire hazard landscape assessment. Different municipalities have different bushfire risk levels, including from vegetation, landscape type, slope, topography, bushfire behaviour, meteorological conditions, and passive shelter options.

For example, there is a fixed Fire Danger Index (FDI) threshold of 100 for Victoria (Table 2.1, Australian Standard 3959), which does not realistically represent actual bushfire risk for some municipalities. For the Mornington Peninsula Shire only one day (Black Saturday 7th February 2009) recorded an FDI above 75 (Extreme and Code Red), which represented 0.01% of records (Terramatrix 2015. *Hastings Bushfire Case Study: Warringine Park Coastal Section*, Report commissioned by Mornington Peninsula Shire & CFA).

"Virtually all of the house loss has occurred above the 99.5th percentile level in the distribution of daily FFDI for each of the regions considered" and "little house loss has occurred on days where the FFDI did not exceed 50" (Blanchi et al. 2010. Meteorological conditions and wildfire-related house loss in Australia. *International Journal of Wildland Fire* 19, 914–926).

3. Bespoke defensible space for municipalities.

Further development of defensible space standards (53.02-5 Table 6) could be investigated to create a credible mechanism to substitute existing bushfire planning controls requirements (10/30, 10/50 rules Clause 52.12-1) with bushfire responsive landscape objectives/outcomes. Better biodiversity protection measures can also be specified, including:

- Retain as many trees as possible when meeting 5m canopy separation
- Prioritise retention of hollow bearing trees, then largest indigenous trees
- Prioritise retention of threatened flora and habitat for threatened fauna

- Clumping vegetation where tree canopies are shared to minimising impacts to biodiversity, improve vegetation survivability and reduce hazards such as wind throw for remaining trees.

Guidance should be provided for best practice vegetation management, such as existing examples in the CFA's [Landscaping for Bushfire](#) guide and the Surf Coast's [Landscaping your Surf Coast Garden for Bushfire](#). These could align with actual bushfire risk as represented in shire-wide bushfire hazard landscape assessment mapping or similar.

Bespoke defensible space and guidance on fuel management will assist Councils achieving consistency in fire risk management between public and private land, which is a recommendation of the recent Victorian Bushfire inquiry. Guidance on species (natives) that can be planted to help manage fire risk whilst reducing unnecessary loss.

Some municipalities are already able to consider site-responsive defensible space options for new dwellings in some Zones, including removal of vegetation to an agreed level with retention of some canopy and mid-story elements without compromising fire protection. There is concern that proposed changes would remove the ability for a nuanced site-specific approach (which is the better practice) and allow complete removal without considering site context. Changes that promote this outcome should be avoided.

COMPLIANCE WITH BUSHFIRE-RELATED PLANNING PERMIT CONDITIONS

The Victoria Auditor General has recommended that options be developed to improve owner and occupier awareness of and accountability for bushfire planning controls. The Department of Environment, Land, Water and Planning is leading this work.

30. Do you think there should be a greater focus on complying with bushfire planning controls and permit conditions?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, unsure, other

Having an increased focus on compliance with bushfire planning controls would be positive step, however the main barrier to achieving this within a local government setting is the availability of resourcing and funding to monitor compliance with bushfire planning controls and permit conditions. Efforts should be directed towards ensuring that robust and clear permit conditions are provided prior to the 'occupancy' stage of development.

There are significant challenges for local government to monitor and enforce compliance. It is imperative that the government ensures that councils are adequately resourced for this and other related tasks.

31. Do you think the visibility and awareness of permit conditions could be improved?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, unsure, other

There is little that Mornington Peninsula Shire can do to improve visibility and awareness in addition to the initiatives raised in the discussion paper. The council's main role is to provide clear permit conditions at the 'prior to occupation' stage of development, but after this point it is difficult for a council to proactively monitor compliance with permit conditions further down the line. This is also compounded by the large volume of permits that are processed each year.

Permit conditions can be made available to the public upon request which provides some visibility, however it is ultimately the responsibility of a landowner to be aware of their responsibilities to manage bushfire risk.

32. How could the visibility and awareness of permit conditions be improved?

The further initiatives outlined in the discussion paper seem logical and could be undertaken to help raise landowner awareness of bushfire planning permit conditions and their responsibilities to manage bushfire risk. Any of the initiatives that would be led by local government would likely require further resourcing and funding to be undertaken.

33. Do you think there are triggers where raising awareness and compliance of permit conditions could occur?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, unsure, other

No further triggers other than the ones listed in the discussion paper, however a greater focus on compliance with permit conditions at the 'prior to the occupation' stage of development would be beneficial.

34. Do you think there are other regulatory systems that could assist or take the lead on compliance of permit conditions?

Select by clicking in the box below. A comment box will be visible if yes is selected.

~~yes, no, unsure~~, other (*allows a comments box also for the following*)

No other regulatory systems would seem appropriate. What may assist instead are funded positions within councils whose role would be to deal directly with bushfire planning controls and permit condition compliance.

35. Do you have any other ideas about how to increase landowner and occupier awareness and compliance with permit conditions? If yes, please explain.

Community engagement on these matters needs to be included in state government lead engagement opportunities, including by the CFA and FRV.

36. Do you have any other additional comments?

The planning system itself can also make it difficult for councils to proactively monitor compliance with bushfire-related permit conditions. The statutory timeframes applied to the expiry of a planning permit (P & E Act 1987, Sec 68) mean that an approved planning permit might not be acted upon for several years. A council is generally not aware of when a permit is acted upon so it is difficult to determine when compliance with bushfire-related permit conditions should be monitored. It is more often a reactive process triggered by third party requests for the investigation of planning permit compliance.

Compliance is a local government resourcing issue. The State should ensure that local governments are adequately resourced to undertake compliance monitoring and enforcement, as these are additional responsibilities beyond what is currently possible for most local governments.

TRAINING, CAPACITY BUILDING AND LONGER-TERM OPPORTUNITIES

As the risk of bushfire increases, the planning system will need to keep upskilling and broadening the capability of systems users. There may also be new ways to manage bushfire planning requirements over the longer term.

37. Could an accreditation system work to support bushfire planning scheme decision making?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, **unsure**, other

There is an inherent bias from the CFA with bushfire risk, as this agency is not required to consider other government objectives as does local and state government in general. Consistency of approach across trained practitioners both government and business is a good idea. However, any accreditation system should not replace statutory decision-makers or referral authorities.

38. Do you think that a risk-based approach could be used to align bushfire referrals and decision making with the bushfire risk?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, **unsure**, other

Not necessarily. Fully trained and accredited practitioners could equally provide quality assessments regardless of the level of bushfire risk.

39. Would more training and professional development assist in preparing and assessing planning applications and undertaking strategic planning in bushfire areas?

Select by clicking in the box below. A comment box will be visible after selecting.

yes, no, unsure, other

Support and training for planners.

Better training is required to help inform decision-making for planners around bushfire risk, the built environment (Clause 15 Built Environment and Heritage) and biodiversity impacts, including:

- development in high conservation and/or fire risk areas
- incorporating guidance such as [The Draft Built Environment Adaptation Action Plan | Engage Victoria](#)
- Bushfire Attack Level assessments; and Bushfire Hazard Site and Landscape Assessments
- Understanding of landscape bushfire risk

40. What training and professional development would you like to see more of?

- development in high conservation and/or fire risk areas
- incorporating guidance such as [The Draft Built Environment Adaptation Action Plan | Engage Victoria](#)
- Bushfire Attack Level assessments; and Bushfire Hazard Site and Landscape Assessments

- Understanding of landscape bushfire risk

41. What other information could be made available to better support bushfire decision making?

Bushfire hazard landscape mapping for each municipality that links with other state bushfire risk mapping in the Bushfire Management Strategies (Department of Land, Water and Planning, 2020; <https://www.safertogether.vic.gov.au/strategic-bushfire-management-planning>) and State Emergency Management Plan Bushfire Sub-Plan (Emergency Management Victoria, 2021; <https://www.emv.vic.gov.au/responsibilities/semv-sub-plans/semv-bushfire-sub-plan>).

42. Do you have additional comments?

Improved resourcing for local governments.

Recommendations from the recent bushfire inquiries indicate the State's obligation to adequately resource councils to implement delegated responsibilities, such as bushfire management. The Royal Commission into National Natural Disaster Arrangements stated that "state and territory governments remain accountable, and should therefore ensure local governments have the support and resources they need to carry out their responsibilities". Local governments are currently not resourced adequately to carry out all their responsibilities to an adequate standard including urban planning and enforcement for bushfire, fire prevention management on private land, fuel management on public land, community engagement and the assessment and identification of bushfire risk in the landscape.

The Discussion Paper talks about improving inspection and compliance by local government, which amounts to additional workloads. What consideration is there for the State to improve resourcing to Councils?

OTHER OPPORTUNITIES

43. Are there any other improvements to the bushfire planning provisions that you would like to see that are not identified in the discussion paper?

Note that decision making which prioritises life will remain.

1. Establishment of an inter-agency collaborative group for bushfire provisions

The Planning Minister has previously indicated to the Mornington Peninsula Shire support for a collaborative approach to any future review of the bushfire planning provisions with local government. We request the Planning Minister establish, fund and resource an inter-agency collaborative group to progress this, and any subsequent review of the bushfire planning provisions (and other allied actions).

The discussion paper states that the “focus over the next two years is to enhance the bushfire planning provisions” suggesting that there is an ongoing process which local governments and other DELWP and CFA partners should be closely involved with.

2. A number of other improvements that are not identified in the discussion paper have been raised in the responses above.