The Planning Institute of Australia (PIA) is the peak body representing professionals involved in planning Australian cities, towns and regions. The Institute has around 4,500 members nationally and around 1,200 members in New South Wales. PIA NSW plays key roles in promoting and supporting the planning profession within NSW and advocating key planning and public policy issues. This submission has been prepared on behalf of PIA NSW by Members of the Institute.

General Overview

The NSW Division of the Planning Institute of Australia (PIA NSW) welcomes the opportunity to provide input to the review of the NSW Rural Fire Service’s ‘Planning for Bush Fire Protection 2006 - Guide for Councils, Planners, Fire Authorities and Developers’.

The Planning Institute of Australia’s National Position Statement on ‘Bushfire Planning Response’ (October 2007) supports planning initiatives that contribute towards the following processes and outcomes:

- Research into the characteristics of bushfires and the development of measures to best mitigate their adverse impacts, in particular with ongoing reviews of construction standards.
- Simplify legislative provisions and ensure that they are effectively integrated into all the other factors to be taken into account when assessing proposals or preparing statutory plans for bushfire prone areas.
- Ensure a balance between native vegetation retention and bushfire hazard mitigation.
- Upgrade construction standards for buildings as part of hazard mitigation, so that the reliance on clearing is minimised.
- Provide for some flexibility in regulatory controls such that key performance outcomes can be determined on a merits basis.
- Promote community based self-help hazard reduction programs.
- Provide a national approach to bushfire protection to ensure effective disaster responses and consistent protection measures such as in accordance with Australian Standards, the Building Code of Australia and associated special State building provisions, and other statutory documents.

In addition, the Institute submit that there is a need for the NSW Rural Fire Service (RFS) to align all their various documentation so that terminology, distances, practice etc are consistent across a variety of documents. This is especially true for documents like the Fire Trail Policy 2/2007, Pile Burning Standards, Risk Management Plans and the new Community Protection Plans. It appears that the RFS may be writing policy across different areas of the organisation.
and in some cases the structure and consistency of documents and internal consultation processes could be improved.

Comments on Planning for Bushfire Protection 2006

The Institute recognises that ‘Planning for Bushfire Protection 2006’ (PfBP) is a far superior document that the original 2001 version. The emphasis on performance based controls, improved format, greater technical/scientific explanations, variations in Fire Danger Indexes (FDIs) to address different geographical locations, fact sheets and on-line tools have all improved the workability of the document and appropriateness of developments approved after being assessed against PfBP. However, there are still issues to be resolved and potential improvements which include the need for any revised PfBP to embrace the various development control notes, fact sheets, departmental interpretations and amended appendix 3, so that there is no inconsistencies between the core document and the clarifying information.

In addition, other issues that need consideration are as follows:

1. **Legislation issues**

   Consideration needs to be given to the resource impact of reviewing and updating the fire prone mapping. For many Councils this is a significant cost and the implications of having mapping that is grossly out of date can be very serious. The State Government needs to assist Councils in ensuring this mapping is reviewed on a regular basis. In addition, the question needs to be asked why fire prone land is not treated as another overlay in the standard template for Council’s comprehensive LEPs. By excluding such a plan from the template you diminish the totality of the LEP as a relevant summary document of all planning constraints. The current situation by which Bushfire Planning is dealt with separately to the standard LEP is typical of the malaise of NSW planning and makes the system impractical for property owners to understand, in a holistic way, what planning controls (including the effect of bushfire prone mapping) apply to their property.

   There is a need for additional guidelines that relate to commercial and industrial buildings (cl.5-9 BCA). Such information would assist in resolving applications involving such development and providing a more sustainable approach to building in hazardous locations.

   The sections within the legislation related to provision of information about threatened species habitat (section 46) appear to be uncertain and duplicate environmental impact considerations that are dealt with in other parts of the Environmental Planning & Assessment Act. Such provisions need to be rationalised to avoid unnecessary duplication.

2. **Asset Protection Zones**

   The circumstances when adjoining land can be used for an Asset Protection Zone (APZ) needs to be more clearly stated and explained. Further, when such land is public land there needs to be a whole of government position on the extent of such use and the type of assurances (for example, easements) that will be entered into to ensure ongoing maintenance can be legally undertaken by the benefiting party. The concept of attaining an agreement to maintenance in “perpetuity” for many government agencies is unrealistic. The ability for Councils to ensure conditions of consent are complied with, when adjoining land is involved, needs to be also clarified. As a general principle, it is submitted that any APZs that are required for private property should not rely on any public land that contains threatened species, bushland or significant trees protected by a TPO.
A further issue involving management of asset protection zones is the assessment and determination of measures to deal with bushfire hazard which may be in conflict with the zoning of a site for bushland or scenic protection. For example, the bushfire hazard reduction measures may require removal or reduction of interlocking tree canopies whereas the objectives of the area are to retain the tree canopies that provide the character and environmental values of an area. The PfBP document should introduce a criteria based matrix to assist in weighing up the alternative approaches for bushfire management.

3. Infill Development

The provisions concerning “infill development” relate to exceptional circumstances when normal APZs cannot be applied. However, accommodation of reduced APZs in infill circumstances generally only relates to single detached dwellings. Given that in many metropolitan and other urban locations infill development is the predominant form of urban renewal other forms of development where improved fire protection can be designed into the development should be identified for guidance on APZs.

The following guidelines are similar to the ones provided by many Councils assessing development applicants:

- Development in the area identified in the Bush Fire Prone Land map held by Council must conform to the specifications and requirements of Planning for Bushfire Protection produced by the Rural Fire Service.
- A Bush Fire Threat Assessment must be submitted, to include the following information:
  i) the extent to which the development is to provide for setbacks, including asset protection zones,
  ii) the siting and adequacy of water supplies for fire fighting,
  iii) the capacity of public roads in the vicinity to handle increased volumes of traffic in the event of a bush fire emergency,
  iv) whether or not public roads in the vicinity that link with the fire trail network have two-way access,
  v) the adequacy of arrangements for access to and egress from the development site for the purposes of an emergency response,
  vi) the adequacy of bush fire maintenance plans and fire emergency procedures for the development site,
  vii) the construction standards to be used for building elements in the development,
  viii) the adequacy of sprinkler systems and other fire protection measures to be incorporated into the development,
  ix) how the proposed development conforms with the requirements of Planning for Bushfire Protection.

These are the matters that most Councils focus on in the consideration of an application where a bushfire hazard is involved. It would be helpful for the PfBP to provide guidance on these key assessment matters to assist property owners.

4. Riparian Zones

Consideration should be given to reducing the Bushfire Attack Level (BAL) for development next to narrow linear strips of vegetation such as riparian corridors.
5. **Compliance/Monitoring**

A major issue for local government and for the overall aims and objectives of PfBP is on-going compliance with Development Application (DA) conditions, especially those related to maintenance of APZs and active fire mitigation measures. Councils simply do not have the resources to undertake on-going periodic audits or inspections of properties to ensure compliance with conditions. There is a fundamental need for a periodic approval or audit process (for example, annual fire safety certificate) similar to that already administered by Councils for on-site effluent disposals systems. This need was identified in the 2009 Victorian Bushfire Royal Commission and was a key recommendation. Such an approach would enable Councils or suitably accredited certifiers to undertake inspections (every 1, 3 or 5 years) to ensure conditions were adhered to.

This concern is exacerbated for Complying Development (CD) when a CD Certificate is issued by a private certifier yet there is no responsibility to ensure on-going compliance.

6. **Bushfire Attack Levels**

There is a significant issue with respect to the competency level of both private certifiers and Council building surveyors when it comes to undertaking PfBP assessments. Levels of competency could become a critical issue in any coronial inquiry following a major fire event. For Complying Development a certifier is required to have an appropriately qualified expert provide a Bushfire Attack Level certificate but the balance of the assessment (up to BAL 29) can be undertaken by a certifier who has no training in PfBP. While Councils are better able to address ongoing liability/negligence claims the Institute doubts many certifiers fully appreciate the extent of their potential exposure. The Building Professionals Board accreditation requirements for building surveyors and certifiers should include a training module related bushfire assessments under PfBP.

The Institute welcomes ongoing engagement on this issue.

**PIA NSW Division**

**26 March 2012**