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17 Oct 2018

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Planning Reform

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Dear Planning Reform Team

RE: Planning Assessment Pathways Paper

With regard to the following two questions I continue to draw attention to a poor planning system and indeed a broken planning system when it comes to approving developments in bushfire prone areas. The Planning Reforms Process provide the best opportunity to address the issues now, but I am concerned that to date there has been no meaningful collaboration with the government agencies and the non-government sector to openly define the problems and try to agree on the solutions.

7. What types of principles should be used when determining ‘restricted’ development types in the Planning and Design Code?

And

8 How should restricted development be assessed - what other considerations outside of the Code should be taken into account?

There appears to be a failure by government to even acknowledge the issues that are causing people to be unsafe as a result of the planning process, and or causing an unsustainable level of continuing and cumulative destruction to native vegetation and biodiversity.

Principles to determine restricted development should include a sensible option to say no, where the impact on the environment is excessive and the end result means that residents/occupants are still unsafe.

The alternative option that I have suggested is that when development is approved in high risk locations where there is native vegetation, biodiversity habitat, and or functioning nature corridors, that there be proper constraints on the amount environmental destruction approved and proper transference the responsibility of manage the risk to life and safety to rest with the proponent and occupants.

There must be an orderly approach to limiting the extent of clearance of native vegetation for wider asset protection zones, excessive bushfire buffer zones, more escape routes and access roads that continue to be unsafe on days of extreme and catastrophic fire danger.

- Yes these situations are highly complex
- Yes these require a higher order of assessment

- Yes they may result in an impact that is beyond an expected use and/ or scale (and therefore notification and recourse through appeal rights is required)
- Yes they are currently creating impacts that may be unacceptable in the zone/locality
- Yes they are about development where the interface between land uses is insufficient to prevent impacts on more sensitive land uses
- have impacts that are unknown or potentially significant
- require detailed investigation of impacts to determine

My understanding is that when development proposals are put forward in high bushfire risk zones, that these are referred to the CFS Development Advisory Service, but there is no corresponding referral to the Native Vegetation Council.

The CFS Development Advisory Service seem to approve all developments and simply provide advice on placement and conditions to be met for the structure, but do not provide advice on the impact and subsequent cumulative impact on native vegetation, biodiversity and other natural assets. Saying no even where excessive destruction and clearance will be the end result, is not something that this referral service does.

For dwelling and typical private developments, once the CFS Development Advisory Service provide their advice which has no regard for environmental impacts, then the clearance just happens. The Councils wash their hands of the bad planning and say that the proposal was approved by CFS and that the clearance (no matter how excessive and for how long it continues for) was required for fire safety

The clearance often then continues for many years if not decades after the approval was granted and structures build. For commercial developments too, there is a history of clearance granted at one level, and then additional clearance, asset protection zones and bushfire buffer zones to continue destruction at an order of magnitude greater than what was initially approved. Nowhere is this more spectacularly demonstrated than with some of the high end tourist developments on Kangaroo Island.

Additional principles to determine restricted development should include:

- There should be a principle of getting the proposal right the first time for developments that may have a high level of residual risk and vulnerability to extreme events such as bushfire, flooding, inundation, storm surge and sea level rise, ground instability.
- There should be a principle of saying no when proposals will result in excessive and cumulative environmental harm on and off the proposed site.
- There should be a principle that ecologically sustainability still applies when applying for development approval in high bushfire risk areas which are typically high in bushfire risk because of biodiversity habitat.
- In particular, there should be a principle of not placing land divisions in or against native vegetation, noting that bushfire buffer zones may be 1 km wide to prevent against ember attack. Never again should we see land divisions on north facing slopes surrounded by native vegetation and natural assets that will ultimately be sacrificed. Please!

As a CFS volunteer of 35 years, I am aware that there is greater vulnerability of communities in the Mount Lofty ranges now than there was during the 1983 Ash Wednesday bushfires and this is a direct result of the Planning framework.

Bushfire Prevention Officers believe they have a duty to make everyone safe but this is not possible when the planning framework allows people to build, live and work in places of high

risk and high residual risk. There is also no *Code of Practice* for private landholders to be guided in meeting their duties to prevent bushfires under the Fire and Emergency Services Act, despite there being provision for this described in the Act.

All I am suggesting is that there be an honest and collaborative process to be realistic about bushfire risk, ensure that landholders and occupants understand and manage their own risks appropriate to those occupied developments and stop the cumulative but futile loss of native vegetation and biodiversity to make people safe where they will not ever be safe. I will also continue to try to collaborate with the CFS to develop *Codes of Practice* for managing fire risk appropriate to different land uses and land forms.

Restricted Development

Restricted development should be assessed against the core component of the Primary Objective of the Act to “*to support and enhance the State's liveability and prosperity in ways that are ecologically sustainable*”.

Development Planning and Control

CURRENT Development Control

The Rural Fire Hazard Leader participates in the regulation of development in bushfire prone areas. Specifically, proposals to develop property within high bushfire risk areas are assessed against the bushfire protection planning provisions of the relevant local area development plan. This will include a referral to SACFS for advice on the degree of difficulty in protecting the building from a bushfire planning conditions required for bushfire safety.

All new dwellings or tourist accommodation are assessed by SACFS for compliance against the Ministers Specification SA 78 using the Australian Standard AS3959. Key points address are:

- Radiant heat levels that the building will be exposed to;
- Water supplies for firefighting;
- Safe fire vehicle access and egress.

In addition, new buildings are assessed against the provisions of the building rules to ensure they are designed and constructed to provide an appropriate level of protection ranging from sparks and embers to direct flame contact. This requires a site assessment in accordance with AS 3959 – *construction of buildings in bushfire prone areas*.

Current Development Planning

The building of residential and tourist accommodation in bushfire prone areas of the state is controlled under the *Planning, Development and Infrastructure Act 2016* (PDI Act) through the declaration of Bushfire Protection Areas. The SACFS has input into changes to local government development plans and are directly consulted for land, or subdivision applications in these areas.

Discussion on where the System does not work

There are many areas that the Planning framework does not address and locational fire risks that the planning system cannot solve.

ISSUES BOX: Planning, fire risk in wild and high risk areas

The Declaration of a Bushfire Protection Area does not mean that existing and new developments and single dwellings are safe from bushfire. When people choose to build in the midst of high fuel load native vegetation, in rural and remote locations and at the end of

single tracks etc. with building development approval and despite even the establishment of an asset protection zone, their safety cannot ever be assured.

Any system that implies that Development Planning can adequately address this risk damages the concept that people in those areas need to accept that their property assets cannot be protected by others, must be treated as expendable and those occupants need to focus on having an adequate bushfire Survival and Property Preparedness Plan to take responsibility for managing their own risk.

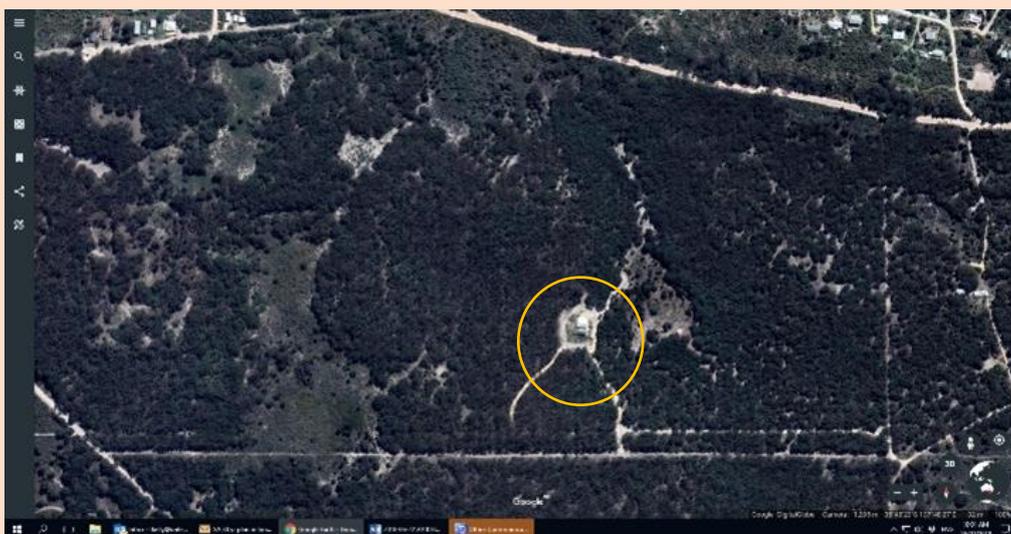
Areas of conflict include:

- Built assets being approved in an unsafe location causing destruction of native vegetation
- Approved built assets originally approved at a level of environmental impact, only to subsequently cause a far greater level of environmental harm and clearance through the expansion of Asset Protection Zones and additional Bushfire Buffer Zones required.
- Councils Fire Prevention Officers forcing the creation of property asset protection zones, perimeter clearance (even when unfenced), buffer zones and other directives in places of high conservation that cannot ever be effective in improving safety without destroying the reason that people live on those high risk locations. There is not yet a code of practice which deals with different land types and uses so there is conflict in interpreting what “have regard to the nature of the land” (F&ES ACT) means in practice

As the Planning and Design Code detail is being prepared, there is an opportunity properly address who has responsibility for existing and new developments in unsafe and wild places when damaged or destroyed by fire.

Example: Built 2013

- Unsafe.
- Cannot be made safe
- No safe access
- Approved by the Planning System



Example 2: Sub Division approved by the Planning System

- Sub Division Centre of page
- New houses yet to be built or not yet shown
- Land division is on a north facing slope spur with wooded gully's either side Adjacent to conservation park

HOW DOES THIS GET THROUGH????????????????????????????????



Kind regards

A handwritten signature in black ink that reads "Tim Kelly". The signature is written in a cursive, slightly slanted style.

Tim Kelly

