



Department of
Planning



PLANNING IN BUSHFIRE PRONE AREAS

BUSHFIRE POLICY FRAMEWORK



SPP 3.7
Planning in
Bushfire
Prone Areas

Guidelines for
Planning in
Bushfire
Prone Areas

INFORMATION SHEET

December 2015

INFORMATION FOR
LOCAL GOVERNMENTS

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BUSHFIRE PLANNING REFORMS

Areas within Western Australia have now been designated as bushfire prone by the FES Commissioner. This order was gazetted in tandem with the *Planning and Development (Local Planning Scheme) Amendment Regulations 2015* and new *State Planning Policy 3.7: Planning in Bushfire Prone Areas* (SPP 3.7) which together form the State Government's bushfire planning reforms.

The *Map of Bush Fire Prone Areas* identify the parts of the State that are designated as bushfire prone and come into effect on 8 December 2015.

The *Planning and Development (Local Planning Scheme) Amendment Regulations 2015* (LPS Amendment Regulations 2015) introduce deemed provisions relating to bushfire at Part 10A and came into effect on 8 December 2015. Due to the transitional arrangements provided by the LPS Amendment Regulations 2015, some provisions will not become operational until **8 April 2016**.

SPP 3.7 and the *Guidelines for Planning in Bushfire Prone Areas* were released and took effect on the 7 December 2015. SPP 3.7 provides the foundation for land use planning decisions in designated bushfire prone areas and local governments need to give due regard to the policy provisions.

Further information on the how the bushfire planning reforms affect local governments can be found at Planning for Bushfire Prone Areas fact sheet: Interim and transitional arrangements.

SPP 3.7 strongly recommends the use of Accredited Level 1 BAL Assessors or Bushfire Planning Practitioners to undertake various bushfire risk management measures in designated bushfire prone areas (i.e. BAL assessment, BAL Contour Map).

The *Guidelines for Organisations Seeking to Become Accrediting Bodies in Western Australia* released in December 2015, provide for organisations to apply to be an accrediting body for Level 1 BAL Assessors or Level 2 and Level 3 Bushfire Planning Practitioners.

The Fire Protection Association (FPA) Australia can provide guidance on Accredited Level 1 BAL Assessors and suitably qualified consultants offering services in Western Australia. Further information is available at www.fpa.com.au.

LOCAL GOVERNMENT MAPS OF BUSHFIRE PRONE AREAS

The *Map of Bush Fire Prone Areas* is the only means to designate an area as bushfire prone for the purposes of the application of the LPS Amendment Regulations 2015 (i.e. deemed provisions relating to bushfire risk management) and SPP 3.7.

Where local governments have existing maps that identify parts of the local government area as being bushfire prone, these maps will only remain valid if they form part of a special control area relating to bushfire.

The effect of the LPS Amendment Regulations 2015, means that any area identified by a local government as being bushfire prone (but not in a special control area) that falls outside the designated bushfire prone areas on the *Map of Bushfire Prone Areas* will no longer have any status under the scheme. However, local governments can use their own maps to the extent that they are consistent with the *Map of Bush Fire Prone Areas* and can provide a greater level detail in relation to bushfire hazard.

SPECIAL CONTROL AREAS RELATING TO BUSHFIRE

The LPS Amendment Regulations 2015 provide that in designated bushfire prone areas, the requirements imposed by the deemed provisions apply in addition to the provisions or requirements of a Special Control Area relating to bushfire. This means that where a Special Control Area already exists in a local planning scheme, the Special Control Area continues to have effect, including in any additional areas identified as bushfire prone under the Special Control Area.

For example, if a Special Control Area required a Bushfire Attack Level (BAL) assessment to be undertaken for the development of a single house on a lot of less than 1,100m², then this requirement would continue to apply in addition to the deemed provisions relating to bushfire risk management. However, if a Special Control Area only required a BAL assessment to be undertaken for the development of a single house on a lot of greater than 2,000m², the effect of the deemed provisions relating to bushfire risk management would mean that a BAL assessment would also be required for lots equal to or greater than 1,100m².

For a local planning scheme without a Special Control Area relating to bushfire, the requirements imposed by the LPS Amendment Regulations 2015 take effect and are enforceable from 8 April 2016.

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OTHER LOCAL PLANNING SCHEME PROVISIONS RELATING TO BUSHFIRE

Where a local planning scheme has provisions relating to bushfire (other than under a Special Control Area) that are consistent with the LPS Amendment Regulations 2015 they will continue to have effect for the four month transition period from 8 December 2015 to 7 April 2016.

For example, local planning scheme provisions which require a BAL assessment or a development approval in an area that is identified in the *Map of Bush Fire Prone Areas* will continue to apply until 7 April 2016. In these circumstances a four month transition period is not necessary as these requirements are already imposed on development.

The LPS Amendment Regulations 2015 prevail to the extent of any inconsistency with the local planning scheme provisions. This means that any existing local planning scheme provisions that are inconsistent with the deemed provisions relating to bushfire risk management will cease to operate and will cease to apply to areas not designated as bushfire prone.

Some existing local planning schemes may have provisions relating to bushfire that are considered supplementary to the deemed provisions relating to bushfire risk management (i.e. they are complimentary, and are neither consistent nor inconsistent). For example they may provide requirements for additional information to be supplied with a development application in a bushfire prone area. Any existing local planning scheme provisions that are considered supplementary will continue to apply.

ASSESSING DEVELOPMENT IN DESIGNATED BUSHFIRE PRONE AREAS

Development applications in designated bushfire prone areas are required to be accompanied by a BAL assessment. Where a BAL Contour Map has been prepared for the subject site for a previous subdivision approval, this may be used in place of a BAL assessment providing it is at a scale that is appropriate for the development.

A development application in a designated bushfire prone area will include a BAL Contour Map or a BAL assessment; identification of any issues arising from the BAL Contour Map or BAL assessment; and an assessment against the bushfire protection criteria requirements contained within the *Guidelines for Planning in Bushfire Prone Areas*.

When assessing development applications in bushfire prone areas, local governments should consider the

existing requirements of the local planning scheme as amended by the LPS Amendment Regulations 2015, the objectives and policy measures contained in SPP 3.7, and the *Guidelines for Planning in Bushfire Prone Areas*, including the bushfire protection criteria and other bushfire risk management measures applicable to the development application.

Where all bushfire protection criteria contained in the *Guidelines for Planning in Bushfire Prone Areas* have been met, the development application is considered to be compliant with the requirements of SPP 3.7. However, applicants can also propose alternative solutions to those contained in the bushfire protection criteria through a performance principle assessment as outlined in the *Guidelines for Planning in Bushfire Prone Area*.

Local governments should exercise discretion when considering the merits of proposals that do not satisfy the policy objectives and measures of SPP 3.7 or the acceptable solutions (i.e. performance principle assessment). When assessing a proposal, local governments should take into consideration advice received from DFES and/or other relevant authorities regarding bushfire risk management practices.

In these situations, it is strongly recommended that a Bushfire Management Plan containing alternative solutions that meet the performance principles of each element (location, siting and design of development, vehicular access, and water) be prepared by an accredited Level 3 Bushfire Planning Practitioner. The onus is on the applicant to demonstrate to the local government's satisfaction that the proposal complies with the performance principles and the intent of each element.

BUSHFIRE ATTACK LEVEL (BAL) ASSESSMENTS

Local governments can have confidence that a BAL assessment prepared by an accredited Level 1 BAL Assessor or Bushfire Planning Practitioner is consistent with SPP 3.7 and the *Guidelines for Planning in Bushfire Prone Areas*.

Local governments may accept a BAL assessment prepared by an individual other than an accredited person for development on a site located greater than 50kms from a gazetted town site. However, local governments have the discretion to require a BAL assessment to be undertaken by an accredited Level 1 BAL Assessor or Bushfire Planning Practitioner if they are the opinion that the BAL assessment is invalid or inappropriate.

Local governments may accept a BAL assessment (basic) prepared by a landowner/proponent where a

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site is not within 100 metres of vegetation. However, local governments have the discretion to require a BAL assessment to be undertaken by an accredited Level 1 BAL Assessor or Bushfire Planning Practitioner if they are of the opinion that the site is in fact within 100 metres of vegetation or the BAL assessment (basic) is invalid or inappropriate.

BUSHFIRE ATTACK LEVEL (BAL) CONTOUR MAPS

Local governments can have confidence that a BAL Contour Map prepared by an accredited Bushfire Planning Practitioner, is consistent with SPP 3.7 and the *Guidelines for Planning in Bushfire Prone Areas*.

Where a Bushfire Attack Level (BAL) Contour Map exists for an approved subdivision and is accompanied by a compliance certificate/report, the BAL Contour Map may be used in place of a site-specific BAL assessment at the development application stage provided the BAL Contour Map is at a scale that is appropriate for the development. The BAL Contour Map may also be used as part of the building permit process.

However, local governments have the discretion to require a new BAL Contour Map or site-specific BAL assessment to be undertaken, if they are of the opinion that the BAL Contour Map is invalid or inappropriate. This may include instances where there has been a significant time delay since the original assessment was done, the proposed subdivision design has been altered or the site conditions have changed, or there is an error in the original BAL Contour Map.

BUSHFIRE MANAGEMENT PLANS

Local governments should keep a register or record of sites that have an existing Bushfire Management Plan to identify servicing and infrastructure gaps and help inform district-level bushfire risk management planning.

FURTHER INFORMATION

The Department of Planning will be holding information and training sessions with local governments about the bushfire planning reforms in the coming months.

In the meantime, local governments can find further information about the Bushfire Planning Framework and the Bushfire Accreditation Framework at www.planning.wa.gov.au/bushfire.

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