



DEVELOPMENT IN BUSHFIRE PRONE AREAS

Background

This information sheet provides guidance to assist with the interpretation and implementation of *Planning and Development (Local Planning Schemes) Amendment Regulations 2015*, State Planning Policy 3.7: Planning in Bushfire Prone Areas, and Guidelines for Planning in Bushfire Prone Areas.

On 7 December 2015 the *Planning and Development (Local Planning Scheme) Amendment Regulations 2015* (Regulations) established deemed provisions relating to bushfire risk management (deemed provisions). The deemed provisions apply to all local planning schemes prepared under the *Planning and Development Act 2005* to ensure that bushfire risk is appropriately managed in new development throughout the State.

What is a Bushfire Prone Area?

A Bushfire Fire Prone Area (BPA) is land designated by an order made under the *Fire and Emergency Services Act 1998* Section 18P as a BPA.

Where are Bushfire Prone Areas in the City of Nedlands?

The Map of Bush Fire Prone Areas is available for viewing on the Department of Fire and Emergency Services' website: www.dfes.wa.gov.au/bushfireproneareas

What type of proposed development within Bushfire Prone Areas is affected?

Schedule 2, clause 61 of the Regulations (deemed provisions) sets out development for which development approval of the local government is not required.

The deemed provisions relating to bushfire management only apply to particular development. This includes development that is for the construction and/or use of a:

- a) single house or ancillary dwelling on a site that is 1,100m² or greater;
- b) habitable building (other than a single house or ancillary dwelling); or
- c) specified building

within 100m of a bushfire prone area, excluding 'unavoidable development' (i.e. public work as defined under the Public Works Act)

Single houses and ancillary dwellings on lots less than 1,100m² do not require consideration under the deemed provisions because there is limited ability for planning to manage bushfire risk on lots below this size. However, bushfire construction requirements under the *Building Act 2012* may still apply (i.e. AS 3959).

The deemed provisions do not apply to renovations or extensions to existing buildings. However, existing local government development approval or exemption arrangements for these activities will continue to apply, and individuals are encouraged to consider opportunities to reduce bushfire risk as part of any alterations or additions to their homes.

'Habitable building' is defined as any fully or partially enclosed structure, with at least one wall and a roof made of solid material, and used by people for the purpose of living, working, studying or being entertained. This includes buildings in which people are expected to spend a considerable amount of time (i.e. homes, schools, workplaces, hospitals, restaurants and entertainment venues, etc).



'Specified building' is defined as a structure that is identified in a local planning scheme as a building to which the deemed provisions apply. Currently no 'specified buildings' related to the bushfire requirements exist in the City's local planning scheme.

In addition to the above, the deemed provisions also apply to proposed subdivisions and structure plans within 100m of a BPA.

What is the process for these types of proposals within a Bushfire Prone Area?

Applicants are required to prepare a Bushfire Attack Level (BAL) assessment if the site is on land designated as bushfire prone on the Map of Bushfire Prone Areas and has been designated for at least four months.

Development approval is required to be obtained in areas where the BAL for the development site is BAL-40 or BAL-FZ, and in areas where the BAL for the development site cannot be calculated.

In these circumstances, the requirement to obtain a development approval applies regardless of any requirements or exemptions for development approval that exist in the local planning scheme (i.e. a single dwelling which is compliant with the deemed-to-comply provisions of the Residential Design Codes).

Development and subdivision applications, and proposed structure plans are required to include an assessment against the bushfire protection criteria requirements contained within the WAPC's Guidelines for Planning in Bushfire Prone Areas (Guidelines). This information can be provided in the form of a Bushfire Management Plan.

Construction of residential buildings (Classes 1, 2 or 3 and Class 10a buildings or decks associated with a Class 1, 2 or 3 building) in a designated bushfire prone area must also comply with the applicable construction requirements of the Building Code of Australia (i.e. AS 3959).

Which residential buildings are required to comply with the BCA bush fire construction requirements?

The BCA bush fire construction requirements apply to the following classes of residential buildings located in designated bush fire prone areas:

Class 1a - A single dwelling being a detached house, or row houses, duplexes, town houses, terrace houses or villa units where attached dwellings are separated by a fire resisting wall.

Class 1b - Includes the following:

- a) boarding houses, guest houses, hostels or the like in which not more than 12 people would ordinarily be resident and with a total area of all floors not exceeding 300m²; or
- b) four or more single dwellings located on one allotment and used for short term holiday accommodation.

Class 2 - Dwellings such as apartments and flats in a building containing two or more units.



Class 3 - A residential building which is a common place of long term or transient living for a number of unrelated persons, including:

- a) a boarding or lodging house, guest house, hostel, or backpacker's accommodation;
- b) a residential part of a hotel or motel;
- c) a residential part of a school;
- d) accommodation for the aged, children or people with disabilities;
- e) a residential part of a health-care building which accommodates members of staff; or
- f) a residential part of a detention centre.

Class 10a - buildings and decks associated with Class 1a, Class 1b, Class 2 or Class 3 buildings. Class 10a buildings include non-habitable buildings such as garages, carport, shed, or the like.

Who can prepare a BAL Assessment and Bushfire Management Plan?

BAL assessments are to be prepared by accredited Level 1 BAL Assessors.

A Level 1 BAL Assessor is a person who holds Level 1 BAL Assessor accreditation under the Western Australian Bushfire Accreditation Framework.

Bushfire Management Plans are to be prepared by accredited Bushfire Planning Practitioners in accordance with the requirements set out in the Guidelines on behalf of the landowner/proponent with the assistance of the responsible authority for emergency services where required.

A Bushfire Planning Practitioner being a person who holds Level Two or Level Three accreditation under the Western Australian Bushfire Accreditation Framework.

The register of accredited practitioners can be found on the FPA Australia website via the following link: <http://www.fpaa.com.au/bpad/practitioners.aspx>

Further Information

Further information can be obtained via the following links to the WAPC website:

State Planning Policy 3.7 and Guidelines for Planning in Bushfire Prone Areas:
<https://www.dplh.wa.gov.au/information-and-services/state-planning/bushfire-planning-reform/state-planning-policy-3-7-and-guidelines>

Local Planning Schemes Amendment Regulations 2015:
<https://www.dplh.wa.gov.au/information-and-services/state-planning/bushfire-planning-reform/lps-amendment-regulations-2015>