



Department of  
**Planning**



Western  
Australian  
Planning  
Commission

# PLANNING IN BUSHFIRE PRONE AREAS

## BUSHFIRE POLICY FRAMEWORK



**SPP 3.7**  
Planning in  
**Bushfire**  
**Prone Areas**

**Guidelines** for  
Planning in  
**Bushfire**  
**Prone Areas**

# FACTSHEET

Version 2, January 2016

## INTERIM AND TRANSITIONAL ARRANGEMENTS

Information to support the release of *State Planning Policy No. 3.7: Planning in Bushfire Prone Areas* and amendments to the *Planning and Development (Local Planning Scheme) Regulations 2015*

# PLANNING IN BUSHFIRE PRONE AREAS

## BUSHFIRE POLICY FRAMEWORK

### EFFECT OF STATE PLANNING POLICY NO. 3.7: PLANNING IN BUSHFIRE PRONE AREA ON DECISION MAKING

State Planning Policy No. 3.7: Planning in a Bushfire Prone Area (SPP 3.7) and the supporting Guidelines for Planning in Bushfire Prone Areas (the Guidelines) clearly set out how bushfire risk should be addressed at each stage of the planning process. The policy measures require certain information to accompany all planning applications and proposals (refer to Table 1) and take into consideration the level of risk. As such, a landuse proposal in an area that will continue to pose an unacceptable risk will not be supported unless certain conditions apply.

SPP 3.7 became effective upon its gazettal, which occurred on 7 December 2015. As of this date, all future landuse planning decisions relating to 'higher order strategic planning documents, strategic planning proposals, subdivision and development applications' located in designated bushfire prone areas should give due regard to the policy and its provisions. SPP 3.7 also applies to areas where it is not yet designated as bushfire prone, but is proposed to be developed in a way that introduces a bushfire hazard. The Guidelines should be read in conjunction with SPP 3.7 to assist in the interpretation and implementation of the policy.

It is important to note that planning applications should be determined in accordance with the law as it stands at the time of the determination, rather than at the date of application. Therefore a decision-maker should give due regard to the gazetted SPP, even if the application was lodged before gazettal.

### WHAT IS A BUSHFIRE ATTACK LEVEL (BAL) ASSESSMENT

A Bushfire Attack Level (BAL) assessment is an assessment set out in Australian Standard 3959: Construction of buildings in bushfire-prone areas (AS 3959) which determines the BAL for a proposed building. The BAL is one way of determining the potential severity of bushfire exposure to a building, such as a single house or ancillary dwelling. The BAL is used to establish requirements for construction to improve the protection of building elements from attack by bushfire.

Generally a BAL assessment will be undertaken by an accredited Level 1 BAL Assessor or an accredited Bushfire Planning Practitioner.

### WHAT IS A BAL CONTOUR MAP

A BAL Contour Map is a scale map that illustrates the indicative BAL ratings across the subject site in reference to vegetation that is remaining after the development is complete.

The preparation of BAL Contour Maps should be undertaken by an accredited Bushfire Planning Practitioner and in accordance with the Department of Planning Fact Sheet on BAL Contour Maps.

TABLE 1: APPLICATION REQUIREMENTS OF SPP 3.7

Type of proposal	Type of assessment			Requirement
	Bushfire hazard level assessment	BAL Contour Map	BAL Assessment	
Strategic planning proposals	✓	✓ or	✗	• Demonstrate how bushfire protection criteria can be achieved at future stages of planning
Subdivision applications	✗	✓	✓ or	• Demonstrate compliance with specific bushfire protection criteria
Development applications – <b>excluding</b> single houses and ancillary dwellings on a lot <1,100m <sup>2</sup>	✗	✓	✓ or	• Demonstrate compliance with specific bushfire protection criteria

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#### USING A BAL CONTOUR MAP FOR SUBSEQUENT DEVELOPMENT OR BUILDING PURPOSES

The regulations relating to bushfire risk management (discussed later in this Fact Sheet) make allowance for a BAL Contour Map to be used where one exists in place of undertaking a BAL assessment. If a BAL Contour Map is to be used to support a subsequent planning and/or building application, the BAL Contour Map must be accompanied by a Compliance Certificate or Report.

The ability to use BAL Contour Maps for development (planning) or building approval is intended to operate in new subdivided urban areas where a large number of lots are created, the area is predominantly cleared and the bushfire risk has been managed at the subdivision stage. They may also be applicable to large rural subdivisions and their subsequent development applications if the scale of the BAL Contour Map is appropriate. Their use in this context is intended to reduce the duplication of assessment at the development application and/or building stage (where appropriate).

Where a BAL Contour Map does not exist, an individual BAL assessment will be required (subject to specific exemptions).

Where a BAL Contour Map exists, landowners/proponents can obtain a copy and its accompanying Compliance Certificate or Report from the developer of the subdivision or a previous owner. At the discretion of the decision-maker and/or registered building surveyor, a BAL Contour Map may be used in support of a development (planning) application or to demonstrate compliance with the Building Code of Australia prior to the lodgement of a building permit application where the BAL rating for the subject lot is clearly displayed.

Where the decision-maker or registered building surveyor is not satisfied with the suitability of the BAL Contour Map, they may require an individual BAL assessment.

#### FINDING ACCREDITED PROFESSIONALS TO UNDERTAKE BUSHFIRE ASSESSMENTS

An accreditation and training framework has been developed for bushfire professionals to complement the new bushfire planning reforms. This framework supports the reforms by recognising and developing the knowledge and skills of practising professionals. The use of accredited individuals to prepare bushfire assessments and supporting documents will result in the delivery of consistent, reliable and credible advice to inform planning and building decisions. As part of the framework, there are three levels of recognised accreditation, each with

increasing degrees of expertise; Level 1 BAL Assessors, Level 2 Bushfire Planning Practitioners – Prescriptive and Level 3 Bushfire Planning Practitioners – Performance.

The Fire Protection Authority of Australia (FPA Australia) is currently the only recognised accrediting body in Western Australia for Level 1 BAL Assessors. A list of accredited Level 1 BAL Assessors in Western Australia will be available on its website at [www.fpa.com.au](http://www.fpa.com.au). The FPA Australia can also provide guidance on suitably qualified consultants offering BAL assessment services in Western Australia.

If you are required to engage the services of a Level 2 or 3 Bushfire Planning Practitioner to satisfy the requirements of SPP 3.7, the FPA Australia can also provide guidance on suitably qualified consultants offering more advanced bushfire risk management services in Western Australia.

For more information, including details regarding the competency expectations for each level of accreditation, visit: [www.planning.wa.gov.au/bushfire](http://www.planning.wa.gov.au/bushfire).

#### DEEMED PROVISIONS RELATING TO BUSHFIRE RISK MANAGEMENT

On 7 December 2015, the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Amendment Regulations) were amended to introduce deemed provisions relating to bushfire risk management. These deemed provisions are automatically inserted into every local planning scheme in the State. The deemed provisions require a BAL assessment to be undertaken when particular development is proposed on a site that has been designated as bushfire prone for **at least 4 months** and where a certified BAL Contour Map does not already exist for the development site. They also specify where development approval is required (over and above any exemptions that may already exist in the local planning scheme).

If you are proposing to develop a:

- single house or ancillary dwelling (i.e. granny flat) on a site equal to or greater than 1,100m<sup>2</sup>; or
- other habitable building; or
- specified building;

on a site that is:

- designated as bushfire prone on the *Map of Bush Fire Prone Areas* for at least 4 months; and
- not identified on an existing BAL Contour Map;

you are required to undertake a BAL assessment before you can commence development.

Development approval is always required if that BAL assessment indicates BAL-40 or BAL-Flame Zone.

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#### TRANSITIONAL PROVISIONS

The LPS Amendment Regulations became effective on 8 December 2015 however, any **new requirements** as a result of these regulations do not become operational until 8 April 2016. The requirement to undertake a BAL assessment for a single house or ancillary dwelling (i.e. granny flat) will not apply until 8 April 2016, as this requirement only applies after an area has been designated bushfire prone on the *Map of Bush Fire Prone Areas* for at least four months. The exception to this will be if there is an existing requirement for a BAL assessment under the local planning scheme.

The four months from when a site is designated as bushfire prone provides landowners and industry with a transitional period in which they can adjust to the new requirements imposed by the deemed provisions. This transitional period will similarly apply to new areas designated as bushfire prone by the Fire and Emergency Services Commissioner as part of the annual review of the Map. The transitional provisions provide that, where a building permit for building work already exists or is granted during the four-month period after a site is designated as bushfire prone, no further BAL assessment or development approval requirements apply.

Where a development proposal already requires planning approval under the local planning scheme (meaning it is not exempt), a BAL assessment will be required under SPP 3.7, unless it is a single house or ancillary dwelling that is not compliant with the R-Codes on a lot that is less than 1,100m<sup>2</sup>.

#### EXISTING SPECIAL CONTROL AREAS

The LPS Amendment Regulations specifically state that the requirements of any special control area relating to bushfire apply **in addition** to the deemed provisions. This means that any requirements as a result of an existing special control area which complement the regulations, including the identification of additional areas as bushfire prone, will continue to apply, including during the four-month transitional period.

#### HOW DO THE DEEMED PROVISIONS AFFECT LOCAL PLANNING SCHEMES WITH EXISTING BUSHFIRE PROVISIONS

The deemed provisions have been written to ensure that where a local planning scheme already has bushfire provisions that are **consistent** with the deemed provisions (that is, they specify the requirement to undertake a BAL assessment or obtain development approval), the four-month transitional period does not apply. In other words, the requirements to undertake a BAL or obtain a development approval will continue to apply to a site where these requirements were already applied under the local planning scheme. In these circumstances a four-month transition period is not necessary as these requirements are already known and imposed on development.

Some existing local planning schemes may have provisions relating to bushfire that are considered **supplementary** to the deemed provisions (i.e. they are neither consistent nor inconsistent). Any existing provisions that are considered supplementary, for example requirements for additional information to be supplied with an application, will continue to apply.

If there are any existing local planning scheme provisions that are **inconsistent** with the deemed provisions, for instance, they exempt the requirement for obtaining development approval, these provisions will no longer apply.

#### EXISTING LOCAL GOVERNMENT MAPS OF BUSHFIRE PRONE AREAS

Some local governments have existing maps that identify areas as being bushfire prone. Following the gazettal of the order by the Fire and Emergency Services Commissioner declaring areas as bushfire prone on the *Map of Bush Fire Prone Areas*, unless these areas are identified in a special control area, these maps will only remain valid to the extent that they are consistent with the *Map of Bushfire Prone Areas*. The effect of the deemed provisions means that any areas identified by a local government (but not in a special control area) that fall outside the designated bushfire prone areas on the *Map of Bushfire Prone Areas* will no longer have any status under the scheme.

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#### WHERE DO THE DEEMED PROVISIONS NOT APPLY

There are some parts of the State that are not covered by a local planning scheme or where there is a legislative basis to override a local planning scheme (for example areas subject to the *Metropolitan Redevelopment Act 2011* or *Hope Valley-Wattleup Redevelopment Act 2000*). In these cases, the deemed provisions do not apply. Where an area is not covered by a local planning scheme, the area may be subject to an interim development order or have no planning requirements. Areas affected by a Redevelopment Act will have separate development requirements. To determine if any requirements in these areas apply, it is recommended that the local government be contacted to advise of any specific requirements or direct the query to the appropriate Redevelopment Authority.

#### SUPERSEDED DOCUMENTS

SPP 3.7 and the Guidelines replace previous versions, being the draft SPP 3.7 (May 2014), the *Planning for Bush Fire Protection (Edition 2) Guidelines* (WAPC, 2010) and the draft *Planning for Bushfire Risk Management Guidelines* (WAPC, 2014). Where there is a conflict between the interpretation of these documents and AS 3959 (as amended), AS 3959 prevails to the extent of any inconsistency.

#### FURTHER INFORMATION

You can find further information about when a BAL assessment is required by visiting the Department of Planning's website [www.planning.wa.gov.au/bushfire](http://www.planning.wa.gov.au/bushfire).

You can also find information on building in bushfire prone areas by visiting the Building Commission's website [www.commerce.wa.gov.au/building-commission](http://www.commerce.wa.gov.au/building-commission) or by contacting your local government.

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Perth WA 6001

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website: [www.planning.wa.gov.au](http://www.planning.wa.gov.au)  
email: [corporate@planning.wa.gov.au](mailto:corporate@planning.wa.gov.au)

tel: 08 6551 9000  
fax: 08 6551 9001  
National Relay Service: 13 36 77  
infoline: 1800 626 477

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