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Department of Planning,
Lands and Heritage



draft State Planning Policy 3.7 Bushfire

April 2023

*Prepared under Part Three of the Planning and Development Act 2005
by the Western Australian Planning Commission*

The Department of Planning, Lands and Heritage acknowledges the traditional owners and custodians of land and waterways across Western Australia. The Department is committed to reconciliation to improve outcomes for Aboriginal and Torres Strait Islander peoples and to work together to provide a culturally-safe and inclusive environment.

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1 CITATION

This is a State Planning Policy made under Part 3 of the *Planning and Development Act 2005*. This policy may be cited as State Planning Policy No. 3.7 Bushfire (SPP 3.7).

2 POLICY INTENT

To implement effective, risk-based land use planning and development which avoids, manages and where possible mitigates the risk of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.

3 BUSHFIRE IN WESTERN AUSTRALIA

Bushfires are an inherent part of the Australian environment. In many parts of Western Australia, bushfire threat is increasing due to hotter, drier weather conditions associated with long-term climatic changes, and development expansion where urban, rural and natural areas interface. The personal and community devastation that can be caused by uncontrolled bushfires requires consistent application of policy objectives that avoid, manage or mitigate such effects.

Under certain weather conditions, bushfire incidents can reach catastrophic magnitudes. Fire conditions may be such that even development consistent with planning policy and building controls may not be enough to ensure the bushfire threat is sufficiently reduced to avoid injury or property damage. Bushfire threat can never be completely eliminated and landowners should recognise the need for management and evacuation measures when accepting a level of voluntary personal risk through choosing to live in bushfire prone areas.

Reducing vulnerability to bushfire is the collective responsibility of State and local governments, landowners, industry and the community. It requires ongoing commitment and diligence to locate and design development appropriately, manage potential fuel loads, implement bushfire management plans, provide emergency services, increase awareness of the potential risk through education, and ensure bushfire emergency plans are in place, amongst other management measures. Such measures, working in conjunction with planning policy and building controls, have the effect of increasing community resilience to bushfire.

4 APPLICATION OF THIS POLICY

This policy and its guidelines provide the foundation for land use planning to address bushfire management and applies to areas designated as bushfire prone on the Map of Bushfire Prone Areas in Western Australia. It is to be used to inform and guide decision-makers, referral agencies and landowners/proponents to help achieve acceptable bushfire protection outcomes.

The policy is to be read in conjunction with:

- the *Map of Bushfire Prone Areas*;
- the supporting Planning for Bushfire Guidelines (Guidelines);
- the Deemed Provisions contained in the *Planning and Development (Local Planning Schemes) Regulations 2015* that form part of every local planning scheme;
- where relevant, any supplementary provisions of a local planning scheme; and
- *Australian Standard 3959: Construction of Buildings in Bushfire-Prone Areas*.

The preparation and assessment of higher order strategic planning proposals, strategic planning proposals, subdivision and development applications, require the application of the Policy and Guidelines where the proposal will:

- result in the intensification of development (or land use); and/or
- result in an increase of visitors, residents or employees; and/or
- adversely impact or increase the bushfire risk to the subject or surrounding site(s).



This policy also applies where an area is not yet designated as bushfire prone but is proposed to be developed in a way that introduces a bushfire hazard, as outlined in the Guidelines.

The former SPP 3.7 (2015) and the Guidelines for Planning in Bushfire Prone Areas version 1.4 (2022) are superseded by SPP 3.7 (2023) and the revised Guidelines Version 2 (2023).

A designated bushfire prone area is an area that has been identified and designated by the Fire and Emergency Services Commissioner (FES Commissioner) under the *Fire and Emergency Services Act 1998* (as amended). Such areas are identified on the Map of Bush Fire Prone Areas. Designation of an area as being bushfire prone reflects the potential of bushfire to affect that site. It acts as a mechanism for initiating further assessment in the planning and building processes.

5 POLICY OBJECTIVES

The objectives of this policy are to:

- 5.1 Ensure future development is resilient to the bushfire-related impacts of climate change.
- 5.2 Manage the risk of bushfire to people, property and infrastructure.
- 5.3 Improve the bushfire resilience of communities through the provision of appropriate community infrastructure, for use by emergency services and the community in the event of a bushfire.
- 5.4 Achieve an appropriate balance between the modification or removal of native vegetation for bushfire risk management, biodiversity conservation and landscape amenity.

6 POLICY OUTCOMES

The outcomes listed below specify the role of planning and development in contributing to the overall objectives of this policy. Each outcome is reflected within the Elements of the Guidelines – Location, Siting and design, Vehicular access and Water supply. The outcomes are achieved through compliance with the bushfire protection criteria, utilising the acceptable solutions or through an outcomes-based approach. The outcomes may also provide a basis for policy evaluation.

All strategic planning proposals, subdivision and development applications:

- 6.1 Avoid broader landscapes that present an unacceptable bushfire risk to people, property and infrastructure.
- 6.2 Ensure siting and design solutions minimise environmental degradation and manages the bushfire risk to people, property and infrastructure.
- 6.3 Ensure the design and capacity of vehicular access and egress provides for efficient and effective evacuation to a suitable destination(s).
- 6.4 Ensure that sufficient water is available and accessible for emergency services use, to enable people, property and infrastructure to be defended from bushfire.



7 POLICY MEASURES

7.1 Higher order strategic planning documents in bushfire prone areas

Higher order strategic planning documents such as frameworks, region schemes and sub-regional structure plans should include high level consideration of relevant bushfire hazards in accordance with the Guidelines, when identifying or investigating land for future development.

7.2 Strategic planning proposals, subdivision and development applications in bushfire prone areas

7.2.1 General measures

- i. Proposed lot(s) the subject of strategic planning proposals and subdivision, and development site(s) the subject of development applications, that have or will have, a pre-development or post-development Bushfire Hazard Level above low and/or where a Bushfire Attack Level rating above BAL-LOW apply, are to comply with these policy measures.
- ii. Where policy measure 7.2.1i applies, a bushfire management plan¹ is to be prepared in accordance with the Guidelines, and include the following information:
 - a. the identification of any environmental, biodiversity or conservation values on the subject site, including vegetation that may be impacted by any proposed clearing or modification, necessary to mitigate bushfire risk;

- b. a Bushfire Hazard Level, Bushfire Attack Level Contour Map or Bushfire Attack Level assessment;
- c. an assessment of the broader landscape (where required);
- d. the identification of any bushfire hazard issues arising from the assessment; and
- e. assessment against the bushfire protection criteria contained within the Guidelines demonstrating compliance via either the acceptable solutions, or through an outcomes-based approach.

7.2.2 Subdivision (in accordance with the limitations provided in the Guidelines) and development applications (except for vulnerable land uses) where BAL-40 or BAL-Flame Zone (FZ) applies

- i. There is a presumption against approving development site(s) or habitable building(s) where BAL-40 or BAL-FZ applies, except in the following limited circumstances:
 - a. the lot was created prior to December 2015; and
 - b. there are demonstrated site and/or environmental constraints that prevent the achievement of 29 kW/m² (BAL-29); and
 - c. it is demonstrated that the reduction of the building footprint or development site, is not practical or appropriate.
- ii. An application that proposes a habitable building or development site, in accordance with policy measure 7.2.2i and the Guidelines, is to

be assessed under the requirements of policy measure 7.2.1ii, with the addition of a statement against each of the following in the bushfire management plan:

- a. the landowner/proponent has provided sufficient reason for why the proposal is considered to represent exceptional circumstances which adequately justifies a deviation from the policy measures;
- b. justification as to why no suitable or practical alternative development site exists;
- c. identification of the constraints of the subject site and any requirements for environmental conservation;
- d. explanation of the community interest in, or demand for, the proposed development (where applicable); and
- e. alternative or additional bushfire mitigation measures that address the non-compliance.

7.3 Vulnerable land uses

- i. Strategic proposals, subdivision and development applications for vulnerable land uses should comply with policy measures 7.2.1i and 7.2.1ii.
- ii. A bushfire emergency plan may not be required for strategic proposals and subdivision applications to facilitate vulnerable land uses, as at this level there is generally not sufficient information or detail available. Consideration of bushfire emergency procedures and options for evacuation, off-site shelter and, where relevant on-site shelter, should be included within the bushfire management plan, where relevant.

¹ It is strongly recommended that an appropriately accredited bushfire practitioner prepares any necessary bushfire management plan and bushfire emergency plan.

- iii. Development applications for vulnerable land uses, should include a bushfire emergency plan prepared in accordance with the Guidelines.

7.4 Outcomes-based approach

- i. This policy recognises that the use of the acceptable solutions, identified within the Guidelines, is preferred as these standards have been tried and tested across Australia, and form an accepted pathway for compliance. This policy also recognises that some sites include complex site and/or environmental constraints that are unable to fully comply with the acceptable solutions and innovative bushfire risk management solutions may be necessary.
- ii. Where full compliance with the acceptable solutions cannot be achieved and where re-design is not possible due to demonstrated site and/or environmental constraints, assessment is to be undertaken in accordance with policy measures, with the addition of the following criteria:
 - a. address the acceptable solutions to the greatest extent possible;
 - b. identify the non-compliance with the acceptable solutions and why these cannot be achieved;
 - c. detail how the design considers worst-case bushfire risk management and where additional bushfire risk management measures have been deemed necessary and included to minimise the risk;
 - d. detail if there are any community net-benefits, such as improvements to the public road network;

- e. include any Method 2 BAL assessments, fire engineering solutions or written evidence such as publications and State Administrative Tribunal decisions to support the proposal (where available);
 - f. outline how the policy objectives and policy outcomes have been achieved; and
 - g. outline why approval is warranted by the decision-maker in this instance.
- iii. Where an outcomes-based approach is unable to demonstrate to the satisfaction of the decision-maker, that the strategic planning proposal, subdivision or development application satisfies the policy objectives and policy outcomes of SPP 3.7, refusal should be contemplated.

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8 ADVICE OF STATE/RELEVANT AUTHORITY/IES FOR EMERGENCY SERVICES TO BE SOUGHT

The advice of the State/relevant authority/ies responsible for emergency services is to be sought and considered in the preparation and determination of:

- i. all strategic planning proposals.
- ii. subdivision or development applications where:
 - a. compliance with these policy measures is unlikely to be achieved; and/or
 - b. an outcome-based approach is proposed and the decision-maker considers that advice may assist in the determination.
- iii. the application contains a vulnerable land use.

8.1 Advice of relevant agencies/authorities for environmental protection to be sought

To ensure landscape amenity, environmental and biodiversity conservation values are taken into account, the advice of the relevant agencies/authorities responsible for biodiversity conservation management and environmental protection is to be sought and considered in the preparation and determination of all higher order and strategic planning proposals, subdivision and development applications where:

- i. the clearing of vegetation within environmentally sensitive areas protected under state or federal legislation is proposed; and/or



- ii. substantial clearing of locally significant native vegetation is proposed; and/or
- iii. development abuts vegetated land managed by that authority.

9 PRECAUTIONARY PRINCIPLE

Where a proposal does not satisfy the bushfire protection criteria through compliance with the acceptable solutions and/or an outcomes-based approach; is not supported by science, evidence or knowledge; and an understanding of the consequences have not been made available by the proponent to the decision-maker, the proposal should not be supported based on the application of the precautionary principle.

DEFINITIONS

Bushfire Attack Level (BAL): Bushfire Attack Level (BAL) as set out in the *Australian Standard 3959: Construction of buildings in bushfire-prone areas*, as referenced in the *Building Code of Australia* (as amended).

BAL assessment: An assessment prepared in a manner and form set out in AS 3959 to determine a bushfire attack level (BAL).

BAL Contour Map: A BAL Contour Map is a scale map of the subject lot(s) illustrating the potential radiant heat impacts and associated indicative BAL ratings in reference to classified vegetation. The intent of the BAL Contour Map is for land use planning purposes and to identify land suitable for development based on the potential BAL, not for final determination of the BAL.

Bushfire: An unplanned fire burning in vegetation. A generic term which includes grassfire, forest fires and scrub fires.

Bushfire hazard: The potential or existing flammability of vegetation that, in association with topography and slope, when ignited may cause harm to people and/or damage property and/or infrastructure.

Bushfire hazard issues: Issues identified in a bushfire management plan as a result of an examination of the results of the bushfire assessment, environmental considerations and broader landscape (where necessary), for a planning proposal. Identified issues are to be addressed through the bushfire protection measures and/or may need special consideration.

Bushfire Hazard Level (BHL) assessment:

A pre- or post-development assessment that provides a measure of the likely intensity of a bushfire and the likely level of bushfire attack on a site determined by categorising and mapping land as having a low, moderate or extreme BHL in accordance with the methodology set out in the Guidelines.

Bushfire emergency plan: A documented scheme of assigned responsibilities, actions and procedures, required in the event of a bushfire emergency for a facility and/or site, and prepared during the planning process. It consists of the preparedness, prevention and response activities.

Bushfire Management Plan: A document that sets out short, medium and long-term risk management strategies for the life of the development.

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

Bushfire prone area: An area that has been designated by the FES Commissioner under s.18P of the *Fire and Emergency Services Act 1998* as an area that is subject, or likely to be subject, to bushfires.

Bushfire protection criteria: An outcomes-based system of assessing bushfire risk management measures contained in the Guidelines.

Bushfire risk: The chance of a bushfire igniting, spreading and causing damage to people, property and infrastructure.



Bushfire risk management: Means the application of the bushfire protection criteria contained in the *Planning for Bushfire Guidelines* (2023).

Decision-maker: The Minister for Planning, State Administrative Tribunal, Western Australian Planning Commission, Development Assessment Panel, any other state decision making authorities, and/or relevant local government and their delegates that make decisions regarding the application of this policy, in accordance with the *Planning and Development Act 2015*.

Development application: An application for approval to carry out development or change a land use under either a local planning scheme or region planning scheme and includes local development plans.

Development site: Means that part of a lot on which a building(s) that is the subject of development stands or is to be constructed, as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*, section 78A.

Guidelines: Refers to the *Planning for Bushfire Guidelines* (2023).

Habitable building: Means a permanent or temporary structure on land that –

- a. Is fully or partially enclosed; and
- b. Has at least one wall of solid material and a roof of solid material; and
- c. Is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained, as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*, section 78A.

Higher order strategic planning: Including regional and sub-regional frameworks, region schemes and amendments, sub-regional strategies, district structure plans and local planning strategies.

Intensification: A planning proposal which would expose a greater number of individuals to a bushfire. This may be the result from development at a larger scale than what is currently existing; and/or a change in land use that would allow more occupants on the site, or activities occurring more frequently on the site and/or for longer periods.

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

Off-site shelter: Another location, some distance away from the site that is able to accommodate all the people being evacuated. The place is not under threat from a bushfire.

On-site shelter: An on-site location where people facing an immediate threat to their personal safety or property can gather and seek shelter from the impact of a bushfire.

Precautionary principle: The presumption against approving further strategic planning proposals, subdivision and development applications, where there is a lack of sufficient certainty that potentially significant adverse impacts can be adequately reduced or managed.

Strategic planning proposal: Any strategic-level planning proposal includes local planning schemes and amendments and structure plans, but does not include subdivision and development applications.

Subject site: The entirety of the lot(s), subject to and affected by, the planning proposal.

Suitable destination: An area that is not designated as bushfire prone on the *Map of Bush Fire Prone Areas* or is greater than 100 metres from classified vegetation, or 50 metres from Class C Grassland, as per AS 3959 and can provide protection during and after a bushfire event.

Unacceptable bushfire risk: A level of risk that is so high that bushfire mitigation measures are not considered appropriate and only avoidance enables the elimination of the risk.

Vulnerable land use: A land use which:

- is designed to accommodate people who are less physically or mentally able and likely to present evacuation challenges; and/or
- due to the building design or use, or the number of people accommodated, likely to present evacuation challenges; and/or
- involves visitors who are unfamiliar with the surroundings.

Examples are provided within the Guidelines.