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FIRE AND EMERGENCY SERVICES ACT 1998

**FIRE AND EMERGENCY SERVICES  
(BUSH FIRE PRONE AREAS) ORDER 2015**

PLANNING AND DEVELOPMENT ACT 2005

**PLANNING AND DEVELOPMENT  
(LOCAL PLANNING SCHEMES)  
AMENDMENT REGULATIONS 2015**

PLANNING AND DEVELOPMENT ACT 2005

STATE PLANNING POLICY 3.7

**PLANNING IN BUSHFIRE PRONE AREAS**

PREPARED BY THE WESTERN AUSTRALIAN PLANNING  
COMMISSION UNDER PART THREE OF THE *PLANNING AND  
DEVELOPMENT ACT 2005*

BUILDING ACT 2011

**BUILDING AMENDMENT REGULATIONS  
(No. 3) 2015**



Fire and Emergency Services Act 1998

## **Fire and Emergency Services (Bush Fire Prone Areas) Order 2015**

Made by the FES Commissioner under section 18P of the Act.

**1. Citation**

This order is the *Fire and Emergency Services (Bush Fire Prone Areas) Order 2015*.

**2. Commencement**

This order comes into operation on 8 December 2015.

**3. Terms used**

***Bush Fire Prone Areas dataset*** means the spatial dataset titled “WA\_BPA\_20151208.gdb” held by Landgate;

***Bush Fire Prone Areas map*** means the map titled “Map of Bush Fire Prone Areas 2015” published in electronic form on the Department of Fire and Emergency Services’ official website;

***Landgate*** means the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5.

**4. Bush fire prone areas**

- (1) The areas of the State described in the Bush Fire Prone Areas dataset are designated as bush fire prone areas.

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- (2) The bush fire prone areas designated under subclause (1) are shown, for information purposes, on the Bush Fire Prone Areas map.

WAYNE GREGSON APM, FES Commissioner.

Planning and Development Act 2005

## **Planning and Development (Local Planning Schemes) Amendment Regulations 2015**

Made by the Minister under Part 15 Division 1 of the Act.

### **1. Citation**

These regulations are the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015*.

### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) regulations 3 and 4 — on the day after that day;
- (c) regulation 5 — on the day on which the *Fire and Emergency Services (Bush Fire Prone Areas) Order 2015* comes into operation.

### **3. Regulations amended**

These regulations amend the *Planning and Development (Local Planning Schemes) Regulations 2015*.

### **4. Schedule 2 clause 61 amended**

- (1) Delete Schedule 2 clause 61(1)(b) and insert:
  - (b) the carrying out of internal building work which does not materially affect the external appearance of

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the building unless the development is located in a place that is —

- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
- (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
- (iii) included on a heritage list prepared in accordance with this Scheme and identified on that list as having an interior with cultural heritage significance; or
- (iv) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;

(2) Delete Schedule 2 clause 61(3) and insert:

- (3) Despite subclause (1) development approval may be required for certain works carried out —
  - (a) in a special control area; or
  - (b) on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

**5. Schedule 2 Part 10A inserted**

After Schedule 2 Part 9 insert:

**Part 10A — Bushfire risk management**

**78A. Terms used**

In this Part, unless the contrary intention appears —

**AS 3959** means Australian Standard AS 3959 —  
Construction of buildings in bushfire-prone areas, as

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adopted from time to time as a referenced document for the purposes of the Building Code;

**BAL contour map**, in relation to a development site, means a scale map of an area that includes the development site —

- (a) prepared in accordance with State planning policy 3.7: Planning in Bushfire Prone Areas as part of a plan of subdivision that has been approved under Part 10 of the Act for the area; and
- (b) that shows the indicative bushfire attack levels (BAL) for the area;

**bushfire attack level assessment** means an assessment prepared in a manner and form set out in AS 3959 to determine a bushfire attack level (BAL) as set out in AS 3959;

**construction** of a building includes the erection, assembly or placement of a building but does not include the renovation, alteration, extension, improvement or repair of a building;

**development approval** means development approval of the local government obtained under Part 8;

**development site** means that part of a lot on which a building that is the subject of development stands or is to be constructed;

**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;

**specified building** means a structure of a kind specified in this Scheme as a kind of structure to which this Part applies in addition to its application to habitable buildings.

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**78B. Application of Part to development**

- (1) This Part does not apply to development unless the development is —
  - (a) the construction or use, or construction and use, of a single house or ancillary dwelling on a lot or lots with a total area of 1 100 m<sup>2</sup> or more; or
  - (b) the construction or use, or construction and use, of —
    - (i) a habitable building other than a single house or ancillary dwelling; or
    - (ii) a specified building.
- (2) The requirements in this Part are in addition to any provisions relating to development in a bushfire prone area that apply in a special control area.

**78C. Determining whether development site is in a bushfire prone area**

For the purposes of this Part, a development site is subject, or likely to be subject, to bushfires and is referred to as being ***in a bushfire prone area*** if the development site is on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

**78D. Proposed development in a bushfire prone area**

- (1) Unless subclause (2) applies, before commencing any development on a development site a person (the ***developer***) must cause to be prepared a bushfire attack level assessment for the development site if the development site —
  - (a) is in a bushfire prone area; and
  - (b) has been in a bushfire prone area for a period of at least 4 months.

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- (2) A developer is not required under subclause (1) to cause to be prepared a bushfire attack level assessment for a development site if —
- (a) a BAL contour map has been prepared in relation to the development site; or
  - (b) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.
- (3) The developer must have development approval to commence any development on the development site if —
- (a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or
  - (b) a bushfire attack level assessment has not been prepared under subclause (1) but a BAL contour map prepared in relation to the development site indicates that the bushfire attack level of the development site is BAL - 40 or BAL - Flame Zone; or
  - (c) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.
- (4) Subclause (3) applies —
- (a) in addition to any requirement in this Scheme for development approval to be obtained; and
  - (b) despite any exemption in this Scheme from the requirement to obtain development approval.

**78E. Matters to be considered for development approval**

- (1) In considering an application for development approval for development to which this Part applies, the local government is to have regard to the bushfire resistant construction requirements of the Building Code.

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- (2) The matters referred to in subclause (1) are in addition to any other matters that the local government is to have regard to in considering the application in accordance with this Scheme.

**78F. Transitional provisions for sites in new bushfire prone areas**

- (1) In this clause, each of these terms has the meaning given in the *Building Act 2011* section 3 —

***building permit***

***building work***

- (2) In this clause —

***application*** means an application under the *Building Act 2011* for a building permit;

***transitional permit*** means a building permit granted in respect of an application to do building work on a development site if —

- (a) the site was not in a bushfire prone area when the application was made; or
- (b) the site had been in a bushfire prone area for a period of less than 4 months when the application was made.
- (3) Clause 78D does not apply to the commencement of development to which a transitional permit applies.

**78G. Transitional provisions relating to *Planning and Development (Local Planning Schemes) Amendment Regulations 2015***

- (1) In this clause —

***commencement day*** means the day on which the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015* clause 5 comes into operation;

***previous bushfire provisions*** means any provisions in this Scheme that, immediately before commencement day, required a developer in an area that was identified under this

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Scheme as being an area that is subject, or likely to be subject to bushfires to —

- (a) cause to be prepared a bushfire attack level assessment for a development site; or
- (b) to have development approval to commence development on a development site because —
  - (i) a bushfire attack level assessment prepared for the development site calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or
  - (ii) it is not possible to calculate the bushfire attack level of the development site because of the terrain of the development site;

**transitional development site** means a development site that is located in an area that —

- (a) is a bushfire prone area; and
- (b) immediately before commencement day was an area identified in any way under this Scheme as being an area that is subject, or likely to be subject, to bushfires;

**transition period** means the period of 4 months beginning on commencement day.

- (2) Clause 78D(1) applies in respect of development on a transitional development site if —
  - (a) the development is commenced within the transition period; and
  - (b) a developer would have been required under the previous bushfire provisions to prepare a bushfire attack level assessment for the development site.
- (3) Clause 78D(3) applies in respect of development on a transitional development site if —
  - (a) the development is commenced within the transition period; and

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- (b) a developer would have been required under the previous bushfire provisions to have development approval to commence the development.
- (4) For the purposes of paragraph (b) of the definition of ***transitional permit*** in clause 78F(2), an area that immediately before commencement day was identified in any way under this Scheme as being an area that is subject, or likely to be subject, to bushfires is to be taken on and from commencement day to have been in a bushfire prone area for a period of at least 4 months.

J. DAY, Minister for Planning.

**PLANNING AND DEVELOPMENT ACT 2005****State Planning Policy No. 3.7****PLANNING IN BUSHFIRE PRONE AREAS**

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

**1. CITATION**

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

**2. POLICY INTENT**

The intent of this policy is to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

**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 close attention to the consistent application of policy objectives that prevent or manage 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 measures when assuming 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 government, landowners, industry and the community. It requires ongoing commitment and diligence to a range of management measures such as the appropriate location and design of development; managing potential fuel loads; implementing bushfire management plans; providing emergency services; increasing awareness of the potential risk through education; and ensuring emergency evacuation plans are in place. Such measures, in conjunction with planning policy and building controls, have the effect of increasing community resilience to bushfire.

**4. APPLICATION OF THIS POLICY**

This policy provides the foundation for land use planning to address bushfire risk management 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.

It applies to all higher order strategic planning documents, strategic planning proposals, subdivision and development applications located in designated bushfire prone areas. 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 for Planning in Bushfire Prone Areas* (WAPC 2015; the Guidelines).

This policy contains objectives and policy measures, as well as reference to the bushfire protection criteria contained in the Guidelines. The objectives outline the general aims on which the policy measures and bushfire protection criteria are based. The objectives apply to all higher order strategic planning documents, strategic planning proposals, subdivision and development applications in designated bushfire prone areas; while the policy measures apply as relevant to the type of proposal and stage of the development process.

The policy is to be read in conjunction with—

- the Deemed Provisions contained in the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015*, which form part of every local planning scheme;
- where relevant, any supplementary provisions of a scheme;
- the supporting Guidelines; and
- *Australian Standard 3959: Construction of buildings in bushfire-prone areas*.

The former *Planning for Bush Fire Protection Guidelines* (WAPC 2010, Ed. 2) are superseded by SPP 3.7 and the revised Guidelines. The former Guidelines are referenced in *State Planning Policy 3.4: Natural Hazards and Disasters* (WAPC 2006, as amended; SPP 3.4). Until such time as SPP 3.4 is reviewed, where there is a conflict between SPP 3.4 and this policy in relation to bushfire matters, this policy prevails to the extent of any inconsistency.

A designated bushfire prone area is an area that has been identified and designated by the Fire and Emergency Services 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 Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.
- 5.2 Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.
- 5.3 Ensure that higher order strategic planning documents, strategic planning proposals, subdivision and development applications take into account bushfire protection requirements and include specified bushfire protection measures.
- 5.4 Achieve an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change.

## 6. POLICY MEASURES

### 6.1 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 when identifying or investigating land for future development.

### 6.2 Strategic planning proposals, subdivision and development applications

- (a) Strategic planning proposals, subdivision and development applications within designated bushfire prone areas relating to land that has or will have a Bushfire Hazard Level (BHL) above low and/or where a Bushfire Attack Level (BAL) rating above BAL-LOW apply, are to comply with these policy measures.
- (b) Any strategic planning proposal, subdivision or development application in an area to which policy measure 6.2 a) applies, that has or will, on completion, have a moderate BHL and/or where BAL-12.5 to BAL-29 applies, may be considered for approval where it can be undertaken in accordance with policy measures 6.3, 6.4 or 6.5.
- (c) This policy also applies where an area is not yet designated as a bushfire prone area but is proposed to be developed in a way that introduces a bushfire hazard, as outlined in the Guidelines.

### 6.3 Information to accompany strategic planning proposals

Any strategic planning proposal to which policy measure 6.2 applies is to be accompanied by the following information prepared in accordance with the Guidelines—

- (a) (i) the results of a BHL assessment determining the applicable hazard level(s) across the subject land, in accordance with the methodology set out in the Guidelines. BHL assessments should be prepared by an accredited Bushfire Planning Practitioner; or
  - (ii) where the lot layout of the proposal is known, a BAL Contour Map to determine the indicative acceptable BAL ratings across the subject site, in accordance with the Guidelines. The BAL Contour Map should be prepared by an accredited Bushfire Planning Practitioner; and
- (b) the identification of any bushfire hazard issues arising from the relevant assessment; and
- (c) clear demonstration that compliance with the bushfire protection criteria in the Guidelines can be achieved in subsequent planning stages.

This information can be provided in the form of a Bushfire Management Plan or an amended Bushfire Management Plan where one has been previously endorsed.

### 6.4 Information to accompany subdivision applications

Any subdivision application to which policy measure 6.2 applies is to be accompanied by the following information in accordance with the Guidelines—

- (a) a BAL Contour Map to determine the indicative acceptable BAL ratings across the subject site, in accordance with the Guidelines. BAL Contour Maps should be prepared by an accredited Bushfire Planning Practitioner;
- (b) the identification of any bushfire hazard issues arising from the BAL Contour Map; and
- (c) an assessment against the bushfire protection criteria requirements contained within the Guidelines demonstrating compliance within the boundary of the subdivision site.

This information can be provided in the form of a Bushfire Management Plan or an amended Bushfire Management Plan where one has been previously endorsed.

### **6.5 Information to accompany development applications**

Any development application to which policy measure 6.2 applies is to be accompanied by the following information in accordance with the Guidelines—

- (a) (i) a BAL assessment. BAL assessments should be prepared by an accredited Level 1 BAL Assessor or a Bushfire Planning Practitioner unless otherwise exempted in the Guidelines; or
- (ii) a BAL Contour Map that has been prepared for an approved subdivision clearly showing the indicative acceptable BAL rating across the subject site, in accordance with the Guidelines. BAL Contour Maps should be prepared by an accredited Bushfire Planning Practitioner
- (b) the identification of any bushfire hazard issues arising from the BAL Contour Map or the BAL assessment; and
- (c) an assessment against the bushfire protection criteria requirements contained within the Guidelines demonstrating compliance within the boundary of the development site.

This information can be provided in the form of a Bushfire Management Plan or an amended Bushfire Management Plan where one has been previously endorsed.

### **6.6 Vulnerable or high-risk land uses**

#### **6.6.1 In areas where BAL-12.5 to BAL-29 applies**

Subdivision and development applications for vulnerable or high-risk land uses in areas between BAL-12.5 to BAL-29 will not be supported unless they are accompanied by a Bushfire Management Plan jointly endorsed by the relevant local government and the State authority for emergency services. Subdivision applications should make provision for emergency evacuation. Development applications should include an emergency evacuation plan for proposed occupants and/or a risk management plan for any flammable on-site hazards.

#### **6.6.2 In areas where BAL-40 or BAL-Flame Zone (FZ) applies**

Subdivision and development applications for vulnerable or high-risk land uses in areas of BAL-40 or BAL-Flame Zone (FZ) will not be supported unless they comply with policy measures 6.6.1 and 6.7.2.

### **6.7 Strategic planning proposals, subdivision or development applications in areas where an extreme BHL and/or BAL-40 or BAL-FZ applies**

Strategic planning proposals, subdivision or development applications which will result in the introduction or intensification of development or land use in an area that has or will, on completion, have an extreme BHL and/or BAL-40 or BAL-FZ will not be supported unless—

- (a) the proposal is considered to be minor development to which policy measure 6.7.1 applies; or
- (b) the proposal is considered to be unavoidable development to which policy measure 6.7.2 applies.

#### **6.7.1 Minor development in areas where BAL-40 or BAL-FZ applies**

Minor development in areas where BAL-40 or BAL-FZ applies is to be assessed under the requirements of policy measure 6.5, with the addition of a statement against each of the following in the Bushfire Management Plan—

- (a) where full compliance of 6.5(c) cannot be achieved within the boundary of the development site, evidence must be provided demonstrating to the fullest extent possible how the bushfire protection criteria have been addressed and provide justification for those criteria that have not been met;
- (b) ensure that the bushfire hazard level is not increased and/or the ability to manage bushfire related hazards on adjoining lands is not otherwise adversely affected;
- (c) ensure that the siting of the buildings within the boundary of the development site has been optimised to reduce the bushfire impact;
- (d) give holistic consideration to existing emergency services in the area, existing road networks, water provision, existing places that could function as emergency evacuation centres in a bushfire event, the surrounding landscape, issues that may arise in the course of a bushfire both during and post event, and any other contextual issues relevant to the application of bushfire risk management measures.

#### **6.7.2 Unavoidable development in areas with an extreme BHL and/or areas where BAL-40 or BAL-FZ applies**

There is a presumption against approving any strategic planning proposal, subdivision or development application that will result in the introduction or intensification of development or land use in an area that has or will, on completion, have an extreme BHL and/or where BAL-40 or BAL-FZ applies unless it meets the definition of unavoidable development.

Such strategic planning proposals, subdivision and development applications will only be supported if—

- (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) it greatly improves the bushfire management of the site and surrounding area through the provision of a demonstrably significant reduction in the bushfire-related risk level to the community and property;
- (c) the benefits of the proposal going ahead in the area outweigh the costs to adjacent landowners, government and the general community; and
- (d) it is accompanied by a Bushfire Management Plan, jointly endorsed by the relevant local government and the State authority responsible for emergency services. The Bushfire Management Plan should demonstrate ongoing management measures that will improve the bushfire management of the site and/or surrounding area by minimising the level of bushfire impact.

#### 6.8 Advice of State/relevant authority/s for emergency services to be sought

The advice of the State/relevant authority/s responsible for emergency services is to be sought and considered in the preparation and determination of all strategic planning proposals, subdivision and development applications where—

- (a) compliance with these policy measures is unlikely to be achieved; and/or
- (b) additional/alternative measures are proposed; and/or
- (c) the application contains unavoidable development, or vulnerable or high-risk land uses.

#### 6.9 Advice of State/relevant agencies/authorities for environmental protection to be sought

To ensure landscape amenity, environmental protection and biodiversity conservation values are taken into account; the decision-maker is to seek the advice of the State/relevant agencies/authorities responsible for biodiversity conservation management and environmental protection when making decisions on strategic planning proposals, subdivision and development applications where—

- (a) the clearing of vegetation within environmentally sensitive areas protected under State or Federal legislation is proposed; and/or
- (b) substantial clearing of locally significant native vegetation is proposed; and/or
- (c) development abuts vegetated land managed by that authority.

#### 6.10 Bushfire conditions may be imposed

The decision-maker may impose detailed requirements, including modifications and/or conditions, on strategic planning proposals, subdivision and development applications to which this policy applies to address bushfire risk management implementation measures, as outlined in the Guidelines.

A 'notice on title' advising that the site is located in a bushfire prone area should be required as a condition of any subdivision or development approval. In addition, if a Bushfire Management Plan is required, a notification on title should also be required advising that the site is subject to a Bushfire Management Plan.

#### 6.11 Precautionary principle

Where a landowner/proponent has not satisfactorily demonstrated that the relevant policy measures have been addressed, responsible decision-makers should<sup>1</sup> apply the precautionary principle to all strategic planning proposals, subdivision and development applications in designated bushfire prone areas. For example, if a landowner/proponent cannot satisfy the performance principles of the relevant policy measures through either the application of the acceptable solutions outlined in the Guidelines, or through the alternative solutions endorsed by the WAPC and State authority/relevant authority responsible for emergency services, the application may not be approved.

### DEFINITIONS

**BAL:** Bushfire Attack Level (BAL) as set out in the *Australian Standard 3959: Construction of buildings in bushfire-prone areas* (AS 3959), 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 BAL. It is strongly recommended that BAL assessments are prepared by accredited Level 1 BAL Assessor or Bushfire Planning Practitioner, unless otherwise exempted in the Guidelines.

**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 any classified vegetation remaining within 100 metres of the assessment area after the development is complete. The intent of the BAL Contour Map is to identify land suitable for development based on the indicative BAL. It is strongly recommended that BAL Contour Maps are prepared by an accredited Bushfire Planning Practitioner.

**Bushfire:** An unplanned fire burning in vegetation. A generic term which includes grass fires, forest fires and scrub fires both with and without a suppression objective.

**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.

<sup>1</sup> In this context, "should" is to be read as a strong recommendation. In relation to strategic planning proposals, subdivisions and development applications, this policy also recognises that each site is to be assessed on merit and that the determination of an application may involve the use of discretion in planning decision-making to support innovative bushfire risk management solutions.

**Bushfire Hazard Level (BHL) assessment:** A Bushfire Hazard Level (BHL) assessment 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. It is strongly recommended that BHL assessments are prepared by an accredited Bushfire Planning Practitioner.

**Bushfire Management Plan:** A document that sets out short, medium and long-term risk management strategies for the life of the development. It is strongly recommended that Bushfire Management Plans are prepared by an accredited Bushfire Planning Practitioner 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.

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

**Bushfire prone area:** An area that has been designated by the Fire and Emergency Services Commissioner under s. 18P of the *Fire and Emergency Services Act 1998* (as amended) as an area that is subject, or likely to be subject, to bushfires. Such areas are identified on the *Map of Bush Fire Prone Areas* and can be found on the Department of Fire and Emergency Services website.

**Bushfire protection criteria:** A performance-based system of assessing bushfire risk management measures contained in the Guidelines and applied to all strategic planning proposals, subdivisions and development applications.

**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 Guidelines.

**Decision-maker:** Refers to the Minister for Planning, the State Administrative Tribunal, the Western Australian Planning Commission, Development Assessment Panels and any other State decision-making authority and/or relevant local government and their delegates empowered to make decisions regarding the application of this policy.

**Development application:** An application for approval to carry out development or change a land use under a local planning scheme or region planning scheme, this includes local development plans but excludes applications for single houses and ancillary dwellings on a lot or lots less than 1,100m<sup>2</sup>.

**Guidelines:** Refers to the *Guidelines for Planning in Bushfire Prone Areas* (WAPC 2015, as amended).

**Higher order strategic planning documents:** Any higher order strategic planning documents including: frameworks, region schemes, sub-regional strategies and sub-regional structure plans.

**High-risk land use:** A land use which may lead to the potential ignition, prolonged duration and/or increased intensity of a bushfire. Such uses may also expose the community, fire fighters and the surrounding environment to dangerous, uncontrolled substances during a bushfire event. Examples of what constitutes a high-risk land use are provided in the Guidelines.

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

**Minor development:** Refers to applications in residential built-out areas at a scale which may not require full compliance with the relevant policy measures. Classes of development considered under this definition, with the exclusion of applications for unavoidable development, are—

- a single house on an existing lot 1,100m<sup>2</sup> or greater;
- an ancillary dwelling on a lot of 1,100m<sup>2</sup> or greater; and
- change to a vulnerable land use in an existing residential development.

**Precautionary principle:** The presumption against approving further strategic planning proposals, subdivision and development applications or intensification of land uses, where there is a lack of certainty that the potential for significant adverse impacts can be adequately reduced or managed in the opinion of the decision-maker.

**Strategic planning proposal:** Any strategic-level planning proposal including: region scheme amendments; district structure plans; local planning strategies; local planning schemes and amendments; and structure plans and master plans—but does not include subdivision or development applications.

**Unavoidable development:** Development that, in the opinion of the decision-maker, represents exceptional circumstances where full compliance with this policy would be unreasonable; no alternative location exists; it is not minor development; and is not contrary to the public interest. Examples of what constitutes unavoidable development are provided in the Guidelines.

**Vulnerable land use:** A land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the Guidelines.

**WAPC:** Western Australian Planning Commission.



## Building Act 2011

**Building Amendment Regulations (No. 3) 2015**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Building Amendment Regulations (No. 3) 2015*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Fire and Emergency Services (Bush Fire Prone Areas) Order 2015* comes into operation.

**3. Regulations amended**

These regulations amend the *Building Regulations 2012*.

**4. Regulation 3 amended**

In regulation 3 insert in alphabetical order:

*bush fire prone area* means an area of the State designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area;

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**5. Regulation 31A amended**

In regulation 31A(1) before “31B,” insert:

31BA,

**6. Regulation 31BA inserted**

After regulation 31A insert:

**31BA. Applicable building standards for buildings and incidental structures in bush fire prone areas (s. 3, 19(3), 37(1) and (2), 57(3), 49(b), 51(2) and (3))**

- (1) For the purposes of the definition of *applicable building standard* in section 3, the building standards set out in subregulation (2) are prescribed as applicable building standards for the purposes of sections 19(3) and 37(1) in respect of all kinds of buildings or incidental structures located in a bush fire prone area.
- (2) For subregulation (1), the applicable building standards for a building or incidental structure are the requirements mentioned in regulation 31A(2) except that, for a building or incidental structure located in an area that has been a bush fire prone area for a period of less than 4 months at the time an application for a building permit is made, the requirements listed in the Table to this regulation do not apply.
- (3) For the purposes of the definition of *applicable building standard* in section 3, the building standards set out in subregulation (4) are prescribed as applicable building standards for the purposes of section 37(2) in respect of all kinds of buildings or incidental structures located in a bush fire prone area.

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- (4) For subregulation (3), the applicable building standards for a building or incidental structure are the requirements mentioned in regulation 31E(2) except that, for a building or incidental structure located in an area that has been a bush fire prone area for a period of less than 4 months at the time construction commenced, the requirements listed in the Table to this regulation do not apply.
- (5) For the purposes of the definition of ***applicable building standard*** in section 3, the building standards set out in subregulation (6) are prescribed as applicable building standards for the purposes of section 57(3) for an application mentioned —
- (a) in section 49(b) or 51(2) in respect of all kinds of buildings located in a bush fire prone area; or
  - (b) in section 51(3) in respect of all kinds of buildings and incidental structures located in a bush fire prone area.
- (6) For subregulation (5), the applicable building standards for a building or incidental structure are the requirements mentioned in regulation 31G(2), except that, for a building or incidental structure located in an area that has been a bush fire prone area for a period of less than 4 months at the time the application for an occupancy permit or building approval certificate is made, the requirements listed in the Table to this regulation do not apply.

**Table**

<b>Part of Building Code</b>	<b>Performance requirements</b>
Volume One, Part G5 — Construction in Bushfire Prone Areas	GP5.1

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<b>Part of Building Code</b>	<b>Performance requirements</b>
Volume Two, Part 2.3 — Fire safety	P2.3.4

- (7) For the purposes of this regulation an area that is a bush fire prone area is to be taken to have been a bush fire prone area for a period of at least 4 months if immediately before commencement day the area was identified in any way under a local planning scheme as an area that is subject, or likely to be subject, to bush fires.
- (8) In subregulation (7) —  
*commencement day* means the day on which the *Building Amendment Regulations (No. 3) 2015* regulation 6 comes into operation;  
*local planning scheme* has the meaning given in the *Planning and Development Act 2005* section 4(1).

**7. Regulation 31E amended**

In regulation 31E(1) delete “structures.” and insert:

structures, except to the extent that regulation 31BA otherwise provides.

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**r. 8**

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**8. Regulation 31G amended**

In regulation 31G(1) delete “are prescribed” and insert:

are, except to the extent that regulation 31BA otherwise provides, prescribed

K. H. ANDREWS, Clerk of the Executive Council.