

# Local Planning Policy No. 4.2

## BUSHFIRE

### 1. HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to development in Bushfire Prone Areas across the whole of the City.

This Policy has also been adopted as guidance for assessment of town planning schemes and amendments, Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire issues require consideration.

### 2. PURPOSE

The purpose of this Policy is to –

- 2.1 Provide clarity regarding the assessment of applications for development approval or other planning proposals on sites located within a Bushfire Prone Area, or which otherwise require consideration of bushfire risk;
- 2.2 Supplement State level guidance in the assessment of town planning schemes and amendments, Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire risk requires consideration; and
- 2.3 Ensure consideration of, and an appropriate balance between, bushfire risk, building and land management costs, and visual and environmental impact, in the assessment of applications for development approval or other planning proposals on sites located within a Bushfire Prone Area, or which otherwise require consideration of bushfire risk issues.

### 3. INTERPRETATION

Terms should be interpreted in the same way as they would be interpreted if they were contained within the *City of Busselton Local Planning Scheme No. 21*, other than those terms defined below –

**“Appropriately Accredited Professional”** means a person with a level of accreditation pursuant to the Western Australian Bushfire Accreditation Framework appropriate to the nature of the work being undertaken.

**“APZ”** means Asset Protection Zone as per the Guidelines (which in general terms means that ground fuels and vegetation are managed, and tree canopy cover is kept away from buildings and does not exceed 15% of the area).

**“AS 3959”** means Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas.

**“BAL”** means the bushfire attack level for the building site for the building or structure determined in accordance with AS 3959.

**“BCA”** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board.

**“Bushfire Prone Area”** means an area designated as being in a bushfire prone area by an order made under

# Local Planning Policy No. 4.2

## BUSHFIRE



section 18P of the Fire and Emergency Services Act 1998, and that has been so designated for a period of at least four months.

**“Firebreak”** means a trafficable mineral earth or constructed surface, a minimum of 3.0 metres wide and completely clear of all vegetation, living or dead, and over which any overhanging vegetation is no less than 5.0 metres above ground level (the primary purpose of which is to provide access for fire-fighting, not to prevent the transmission of fire).

**“Guidelines”** means the WAPC Guidelines for Planning in Bushfire Prone Areas associated with SPP3.7.

**“Low-Threat Vegetation or Non-Vegetated Area”** means vegetation consistent with the description in 2.2.3.2 of AS3959.

**“Minor Development”** means (as per SPP3.7) development in a Residential Built-Out Area at a scale which may not require full compliance with the relevant policy measures set out in SPP3.7. Classes of development considered under this definition, with the exclusion of applications for unavoidable development (as per SPP3.7), 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.

**“Perpetual Agreement”** means either an easement over the title of the relevant adjoining property allowing the owner/occupier of the subject lot to develop and maintain an APZ on the adjoining property, or in the case of strata titled properties, suitable provisions in the strata management statement/by-laws, in both cases secured via an agreement that requires the City’s consent to remove the easement or provisions (secured via a caveat in the case of green title property, or via a provision in the strata management statement/by-laws in the case of strata title property).

**“Policy”** means this Bushfire Local Planning Policy.

**“Relevant Buildings”** means a building that falls within Class 1, Class 2 or Class 3 of the BCA, or a Class 10a building or deck that is, or is proposed to be, located less than 6.0 metres from a Class 1, Class 2 or Class 3 building.

**“Residential Built-Out Area”** means an area that meets the criteria for a Residential built-out area as per the WAPC Position Statement and is generally illustrated as such on the map provided as Appendix One to this Policy, other than where the extent of the reticulated water network has not been properly understood in preparing the map, or the reticulated has or is proposed to be extended by the proponent (and its extension would be a condition of development approval).

**“Scheme”** means the City of Busselton Local Planning Scheme No. 21, or any scheme which comes into operation on the revocation of that scheme.

**“SPP3.7”** means WAPC *State Planning Policy 3.7: Planning in Bushfire Prone Areas*.

**“Visual Landscape Planning Manual”** means *Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design* (November 2007).

**“Vulnerable Land Use”** means (as per SPP3.7) a land use where persons may be less able to respond in a

# Local Planning Policy No. 4.2

## BUSHFIRE



bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the Guidelines.

**“WAPC Position Statement”** means the Western Australian Planning Commission’s *Position Statement: Tourism land uses in bushfire prone area* (October 2019).

### 4. POLICY STATEMENT

In addition to the requirement to satisfy the relevant provisions of SPP3.7, Guidelines and associated documents, the following provisions detail the City’s expectations for applications for development in bushfire prone areas.

While there is a presumption that the policy provisions detailed below should be satisfied for all relevant applications, the notes listed below each policy provision provide guidance on how the City will assess alternative solutions, should they be required, and form part of the policy.

#### ALL APPLICATIONS FOR DEVELOPMENT IN BUSHFIRE PRONE AREAS

4.1. All supporting plans and documents relevant to consideration of bushfire risk have been endorsed by an Appropriately Accredited Professional.

4.2 The APZ proposed to be provided:

- (a) Is no greater than 25 metres from Relevant Buildings.

*Note: A larger APZ may be considered, but only to the extent necessary to allow the determined BAL requirement to be reduced to BAL29, and where there are considered to be no unacceptable impacts on biodiversity, landscape values or visual amenity impacts.*

*In respect of visual amenity, this shall generally require a demonstration that the larger APZ will not increase the visibility of the proposed development, when viewed from locations outside the subject lot (and, in cases where the potential impact is considered significant, a visual/landscape assessment may be required, prepared using the methodology set out in the Visual Landscape Planning Manual).*

- (b) Can be accommodated entirely within the subject lot or, where the APZ cannot be accommodated entirely within the subject lot, the land involved –
  - (i) is developed as a public road, path or is otherwise public land managed such that there is a reasonable expectation that fuel loads will be managed to the APZ standard on an ongoing basis; or
  - (ii) is part of an APZ or Firebreak already in place and/or required on an adjoining property; or
  - (iii) is otherwise Low-Threat Vegetation or Non-Vegetated Area.

*Note: Where the APZ cannot be accommodated within the subject lot or in accordance with parts (i) – (iii) above, a Perpetual Agreement is required to be in place with the owner of the neighbouring*

## Local Planning Policy No. 4.2

### BUSHFIRE



*property to allow and require the maintenance of the portion of the APZ that extends beyond the subject property.*

- (c) Can be created and maintained without need to obtain a clearing permit under the (State) *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*, approval under the (State) *Biodiversity Conservation Act 2016*, and/or approval under the (Commonwealth) *Environmental Protection and Biodiversity Conservation Act 1999*.

*Note: Where a clearing permit is necessary, consideration of the following is required:*

- *Whether the necessary permit or approval (including a conditional permit or approval, where the application is consistent with those conditions) has been obtained; or*
- *Flora and fauna assessments have been prepared by appropriately qualified and experienced environmental professionals, and the City considers that the clearing is necessary and appropriate, from an environmental perspective, to accommodate the proposed development; or*
- *The applicant commits to seeking the necessary permit or approval prior to commencement of development (including a change of use), and the City considers that the environmental approval processes are unlikely to require significant changes to the proposal.*

#### **CHANGE OF USE OF EXISTING BUILDINGS TO A VULNERABLE LAND USE IN A BUSHFIRE PRONE AREA**

- 4.3 Where the Bushfire Management Plan prepared by an Appropriately Accredited Professional sets out, and the City agrees, that it is not practicable to upgrade the existing building to the determined BAL a larger APZ may be considered, having considered the application against the other requirements as listed in 4.1.2 above.

#### **STRUCTURE PLANS, LOCAL DEVELOPMENT PLANS, ACTIVITY CENTRE PLANS AND APPLICATIONS FOR SUBDIVISION APPROVAL**

- 4.4 Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval should ensure that all new lots are capable of meeting the provisions of this Policy, generally without the need to consider alternative approaches set out in the notes.
- 4.5 With respect to Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where creation of an emergency access way or fire service access route as per the Guidelines is provided for, the land on which they are developed shall be ceded to the Crown, rather than being provided for within an easement over land which is to be retained in private ownership.

# Local Planning Policy No. 4.2

## BUSHFIRE



### 5. RELATED DOCUMENTATION / LEGISLATION

- 5.1 *City of Busselton Local Planning Scheme No. 21*
- 5.2 *State Planning Policy 3.7: Planning in Bushfire Prone Areas*
- 5.3 *WAPC Guidelines for Planning in Bushfire Prone Areas*
- 5.4 *Orders made under section 18P of the Fire and Emergency Services Act 1998*
- 5.5 *Building Code of Australia*
- 5.6 *Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas*

### 6. REVIEW DETAILS

<b>Review Frequency</b>		2 yearly		
<b>Council Adoption</b>	<b>DATE</b>	11/03/2020	<b>Resolution #</b>	C2003/084
<b>Previous Adoption</b>	<b>DATE</b>	27/03/2019	<b>Resolution #</b>	C1903/053

\* Policy number changed from LPP 10 to LPP 4.2 on the 11th May 2020. The change is administrative only, no resolution by Council required.



