

**WILDFIRE MANAGEMENT OVERLAY
(AMENDMENT C109 TO BASS COAST
PLANNING SCHEME)
1499 BASS HIGHWAY & 25
GRANTVILLE-GLEN ALVIE ROAD,
GRANTVILLE**

**REPORT OF THE STANDING
ADVISORY COMMITTEE**

19 APRIL 2011

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Cathie McRobert



David Merrett

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Amendment C109	Amendment C109 to the Bass Coast Planning Scheme introduced the Wildfire Management Overlay (WMO) to land the Country Fire Authority (CFA) identified as being capable of supporting a wildfire with an intensity that is significant and likely to pose a threat to life and property. Amendment C109 was approved on 4 February 2010.
Planning Authority	Bass Coast Shire Council
The Referral	Matt Brosnan, on behalf of Sandy Cape Pty Ltd, which owns 1499 Bass Highway and 25 Grantville-Glen Alvie Road Grantville (the Review Site), requested removal of the WMO from that land.
The Standing Advisory Committee	The Standing Advisory Committee (The Committee) was appointed by the Minister for Planning under section 151 of the <i>Planning and Environment Act 1987</i> . The Committee's Terms of Reference (attached in Appendix A) set out the scope of the Committee's work and the process for the review of referred submissions.
Review by Committee Members	The Standing Advisory Committee members who reviewed this matter were: <ul style="list-style-type: none"> ▪ Cathie McRobert; and ▪ David Merrett.
Committee Consultation:	1 April 2011 Attendance: <ul style="list-style-type: none"> ▪ CFA - Chris Wyborn, ▪ Bass Coast Shire Council - Matthew Gill ▪ Matt Brosnan representing the owners of the Review Site.
Inspections	1 April 2011
Date of this Report:	19 April 2011

Cathie McRobert
Standing Advisory Committee Chair

1. Background

1.1 The Wildfire Management Overlay

The WMO is a VPP provision that applies on a State-wide basis and does not have a schedule providing for local provisions. The purposes of the WMO are to:

- *identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property*
- *ensure that development includes specified fire protection measures and does not significantly increase the threat to life and property from wildfire*
- *detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.*

The first purpose is particularly relevant to Committee's assessment as it is directed at whether the WMO should apply or not.

Under the WMO a planning permit is required for subdivision and for building or works associated with the following uses: Accommodation; Child care centre; Education centre; Hospital; Industry; Place of assembly; Retail premises; and Timber production. Exemptions from these permit requirements apply where:

- a dwelling was damaged or destroyed by bushfire after 1 January 2009;
- the development is consistent with the relevant fire authority fire risk management plan;
- an alteration to an existing building used for accommodation of less than 50% of the floor area of the existing building;
- where the floor area of a building ancillary to a dwelling is less than 100 square metres.

An application for subdivision, building or works must be accompanied by a statement demonstrating that all fire protection requirements for water supply, access, buildings and works, vegetation and any other relevant matter have been considered and incorporated. The WMO sets out objectives with desired outcomes for each fire protection requirement.

The WMO does not trigger a planning permit for use or the removal of vegetation.

The CFA *Building in a Wildfire Management Overlay - Applicant Kit 2007*, (Applicant's Kit) was replaced in June 2010 by the *Building in a Wildfire Management Overlay – Applicants Workbook 2010*. This 2010 version contains

updated messages and includes several new features to improve understanding of the site assessment process, such as guidance on dwelling design and location, and linkages to environmental planning controls. The Workbook retains the assessment process that relates standard conditions to the fire risk associated with the type of vegetation on a property. The Workbook establishes a standard practice that the planning permit will include a note which states the Bushfire Attack Level (BAL). Australian Standard 3959 (AS3959) prescribes the relevant building construction standards for each specific BAL. The standard permit conditions do not otherwise address the design and siting of any building. If the standard conditions are not appropriate or achievable, property specific fire protection requirements of the WMO apply.

Applications under the WMO must be referred to the relevant fire authority unless the responsible authority considers the proposal satisfies requirements or conditions previously agreed with the fire authority.

The Planning Scheme also refers to the documents that provide guidance on development in areas at risk from wildfire¹.

1.2 Introduction of the Wildfire Management Overlay

The Department of Planning and Community Development (DPCD) under delegation from the Minister for Planning approved amendments under section 20(4) of the *Planning and Environment Act 1987* to apply the WMO to areas identified by the CFA in 26 municipalities.

These planning scheme amendments were not exhibited. However, notice was published in local newspapers to advise the public that:

- the WMO had been applied in the municipality;
- land where the WMO applies can be viewed online or at the Council offices;
- submission could be made to the Minister for Planning requesting a change to the application of the WMO relating to errors in the application of the overlay; and

¹ These include: Municipal Fire Prevention Plans; Code of Practice for Fire Management on Public Land (DSE February 2006); Bushfire Prone Areas (Building Control Commission and CFA 1995); Wildfire Intensity Maps prepared by the CFA; Building in bushfire-prone areas. (SAA HB36-1993) (CSIRO & Standards Australia May 1993); Requirements for Water Supplies and Access for Subdivisions in Residential 1 and 2 and Township Zones (CFA 2004); Planning Conditions and Guidelines for Subdivisions (CFA 1991); and Design and Siting Guidelines, Bushfire Protection for Rural Houses (CFA and Ministry for Planning and Environment 1990).

- the Minister for Planning would refer submissions to the Standing Advisory Committee who will consider whether the application of a WMO should be changed.

1.3 Strategic and Policy Context

It is a principle of planning in Victoria to adopt a best practice risk management approach which aims *'to assist the minimisation of risk to life, property, the natural environment and community infrastructure from wildfire².'*

State planning policy strategies relating to wildfire are:

- *Site and design new development to minimise risk to life, property, the natural environment and community infrastructure from natural hazards such as bushfire and flooding.*
- *Identify wildfire risk environments in planning schemes in consultation with relevant fire authorities.*
- *Consider fire hazards in wildfire risk environments to avoid intensifying the risk of wildfire through inappropriately located or designed uses or developments.*
- *Seek the advice of the relevant fire authority if compliance with the policy guidelines is not likely or additional measures are believed necessary.*

The VPP Practice Note *Planning for Wildfire Protection* (Revised February 2010) indicates, amongst other things, that the WMO identifies areas where there is the potential for loss of life and property in a 1:50 year fire scenario. It also highlights that, regardless of whether a WMO applies, Clause 65 of planning schemes extends the consideration of wildfire protection issues to all planning permit applications.

Local planning policy in the Bass Coast Planning Scheme acknowledges *natural disasters (including fire, flood, storms and drought) have the potential to substantially affect the community economically and socially, in addition to the environmental issues created by these disasters.³* It includes the following strategies:

Encourage development to be sited, designed and constructed to minimise the impact of emergency conditions arising from fire.

Encourage the location of accessways, fencing and dams to maximise fire fighting potential and minimise the interface with fire fighting measures.

Discourage development on land prone to wildfire and ensure that development does not increase the risk of an environmental hazard.

² SPPF Clause 13.05 'Protection from Wildfire'.

³ Clause 21.07-3 'Overview Environmental hazards'.

1.3.1 CFA Wildfire Management Overlay Mapping Process

In addition to any submissions or comments it receives, the Committee's Terms of Reference require the assessment to have regard to:

- the purpose of the WMO (see Chapter 1.1); and
- the CFA *Land Use Planning Practice Note 0005 - Wildfire Management Overlay Mapping Process* (the CFA Practice Note).

The CFA Practice Note identifies the procedure to delineate WMO areas which, in summary, provides for application of the WMO where DSE's Corporate Geospatial Data Library dataset "TREEDEN25" shows a 5 hectare patch of vegetation with 80% density within 100 metres of the land. This approach provides a 'buffer' from vegetation to account for the area where ember attack, radiant heat and direct flame contact is likely to be most severe and protection controls should be considered.

The CFA Practice Note indicates that these areas are 'ground-truthed' by the CFA and this process includes the Municipal Fire Protection Committee.

1.4 Implications of the Bushfire Royal Commission

The Bushfire Royal Commission delivered its report to the State Government on 31 July 2010, and the then Premier announced on 27 August 2010 that the Government accepted in full or in part 66 of the 67 Commission's recommendations. The following aspects of Royal Commission recommendations, which were endorsed by the previous State Government, are of particular relevance to the Committee's work.

- Establish a central point of responsibility for and expertise in mapping bushfire risk to review urgently the mapping criteria used by the CFA to map the WMO to ensure that the mapping used to determine building and planning controls is based on the best available science and takes account of all relevant aspects of bushfire risk (Recommendation 37).
- Finalise the alignment of site-assessment methods for planning and building purposes, taking into account bushfire risk to human safety as well as to property (Recommendation 37).
- Amend the Victoria Planning Provisions to provide a comprehensive Bushfire-prone Overlay which ensures that the provisions give priority to the protection of human life; adopts a clear objective of substantially restricting development in the areas of highest bushfire risk—giving due consideration to biodiversity conservation—and provides clear guidance for decision makers (Recommendation 39).
- Amend CFA guidelines for assessing permit applications to substantially restrict new developments and subdivisions in those areas of highest risk in the Bushfire-prone Overlay, include the minimum defensible space

requirements for different risk levels, and clarify that the CFA will approve new developments and subdivisions only if the recommended bushfire protection measures can be created and maintained on a continuing basis for the life of the development (Recommendation 40).

- Amend AS 3959-2009 Construction of Buildings in Bushfire-prone Areas and the Building Code of Australia to ensure the objectives and performance requirements incorporate reducing the risk of ignition from ember attack (Recommendations 47 and 48).
- Modify the State's adoption of the Building Code of Australia to apply a minimum AS 3959-2009 construction level of BAL-12.5 to all new buildings and extensions in bushfire-prone areas unless exceptional circumstances apply (Recommendation 49).

The current State Government has also announced that it will implement the recommendations of the Royal Commission.

It is understood that DPCD, CFA, DSE and other relevant government agencies are working towards implementing the recommendations, with plans to implement new building and planning provisions to address bushfire risk by September 2011. The Committee is not aware of the content of new provisions but anticipates that they will not reduce the level of regulation applicable to areas where risks of bushfire are identified.

1.5 The Review Site and Locality

The Review Site (Lot 2 PS 85489 and Lot 2 PS 304710) forms the eastern edge of the township of Grantville and has access to the Bass Highway and Grantville-Glen Alvie Road. There is a heavily vegetated area at the highest point on the land at the northern end of the site which abuts the Creek. To the north east of the Review Site is a 28 hectare nature reserve that is connected to the creek reserve (see Figure 1 – aerial photo). The land rises in slope from the road frontages to this vegetated land. There is other scattered vegetation on the western part of the land.

An 81 lot residential subdivision is planned for the land. Only Stage 1, which relates to lots 1-33, has been approved and is under construction. A significant proportion of lots in Stage 1 have been sold. The subdivision of the balance of the land would be the subject of a new planning application process (An indicative Stage 2 subdivision plan was available at the consultation. The Committee found the plan useful in illustrating concepts but emphasised that the Committee's role does not extend to consideration of the subdivision proposals).

The Review Site access to the Bass Highway is located immediately to the north of a small commercial centre. Strategically the land is referred to in the planning scheme⁴ as:

Encouraging new residential development in a small area behind the 'Old Mechanics Hall' site on the east side of the highway north of the commercial centre.

There is an extractive industry that operates from land to the east of the site.



Figure 1 Subject site and surrounds

1.6 Zoning and Overlays

The land is zoned partly Residential 1 Zone (R1Z) and Public Conservation and Resource Zone (PCRZ). The WMO applies to all of the land and land to the north and east for a considerable distance. These controls are shown in Figures 2 and 3. The eastern lot is affected by the Development Plan Overlay – Schedule 16 Grantville - Glen Alvie Road, Grantville Residential Land (DPO16). The combined effect of the controls is that an approved development plan is required prior to subdivision and a planning permit is required for the subdivision of the land under the zone control and the WMO.

⁴ Clause 21.10-10 - Grantville

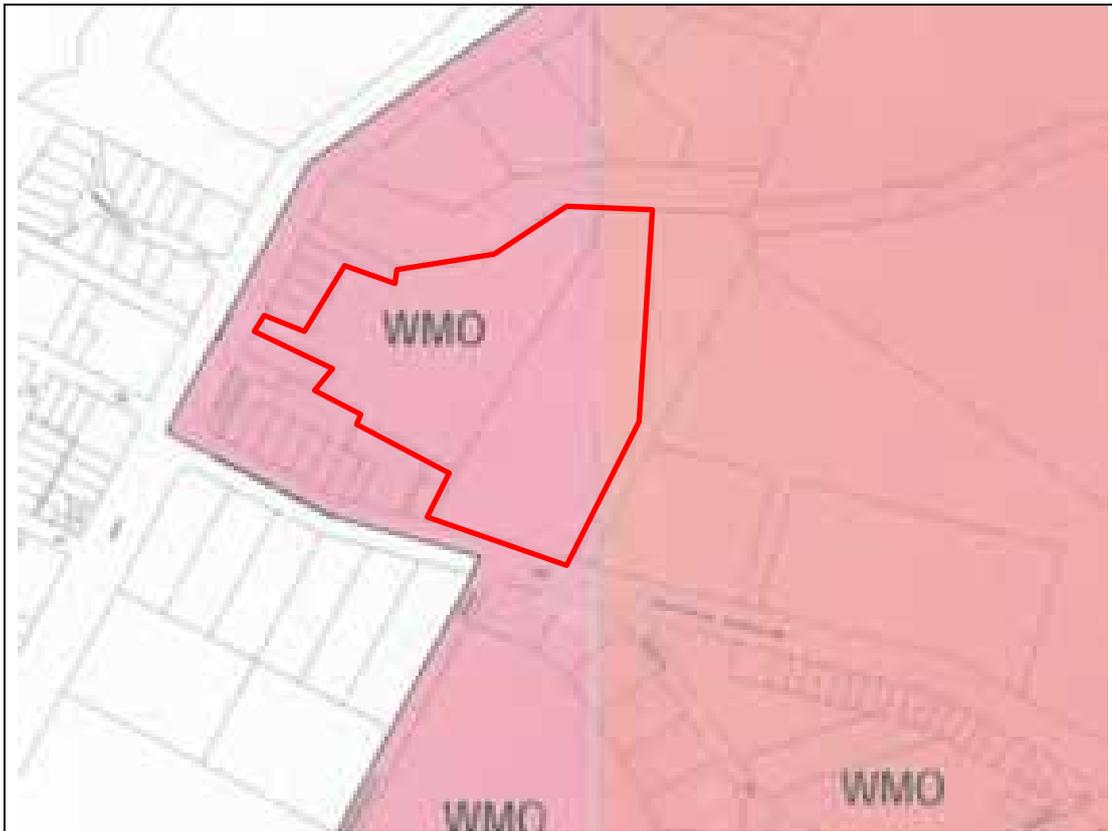


Figure 2 WMO – Grantville Review Site and Locality

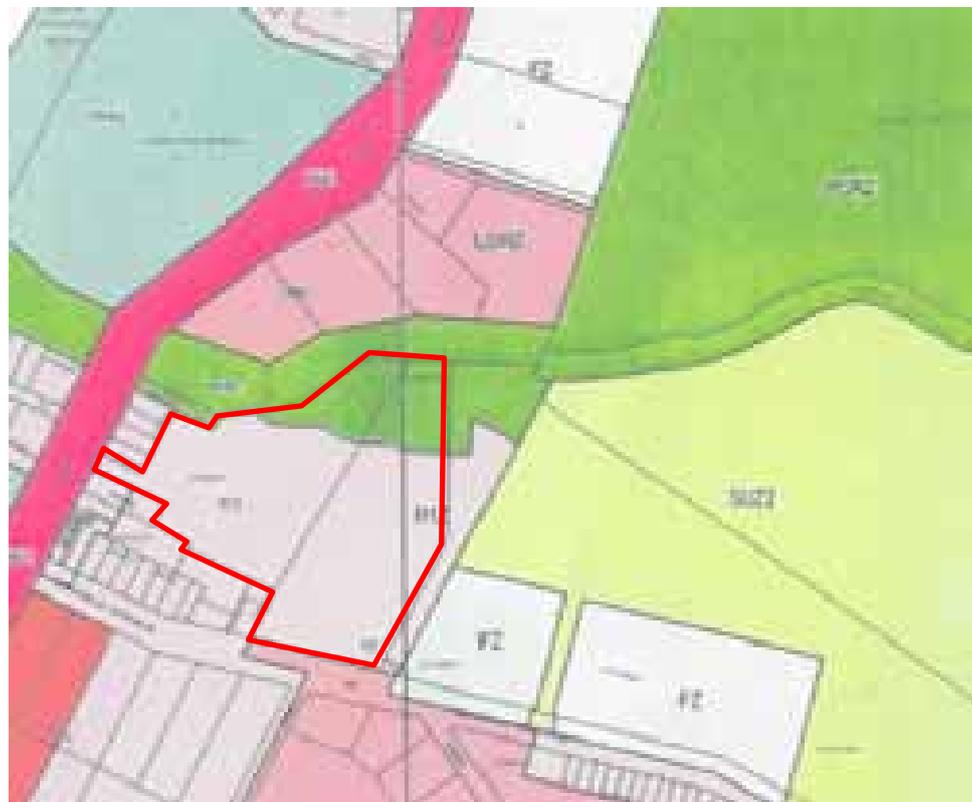


Figure 3 Zoning of Grantville Locality

2. Evaluation of Referred Submission

2.1 Submissions

Mr Wyborn from the CFA advised the Committee that the wider landscape needs to be considered because of the potential of ignition from other vegetated land. He considered the fire front in this area would approach from the north - north west and the south-south west. There is potential for impacts from the 28 hectare nature reserve immediately to the north east (contiguous with the creek reserve and the PCRZ part of the Review Site) and also from the larger disconnected vegetation further to the north (approximately 1.4km from the Review Site).

Mr Wyborn related experience from Black Saturday which indicated there is potential for creek gullies to support a wildfire when moisture levels are reduced due to prolonged dry periods. He also referred to the vegetation to the east, while not in the prevailing threat direction, may impact the Review Site if the fire convection column was to change the wind direction⁵.

In regard to the CFA Practice Note criteria, Mr Wyborn confirmed:

- the land is within an area of high wildfire risk and likely to pose a threat to life and property;
- the area's topography could support a wildfire and result in high fire intensity; and
- part of the land is within 100m of vegetation (5 ha with 80% vegetation cover) likely to result in severe ember attack.

In regard to the PCRZ, the CFA advised its assessment would adopt a 'default position' that this vegetation would not be managed to minimise fire risk⁶. It was noted that the PCRZ was put in place to protect the habitat of a rare orchid and this is referred to in the DPO16. Therefore, vegetation management in the reserve will need to have regard to the protection of biodiversity conservation values.

Mr Gill, from Council, noted that the Stage 1 permit was approved a number of years ago prior to the WMO being applied to the land and that a

⁵ This was apparent during the Black Saturday fires.

⁶ It was noted where land is in private ownership, Section 173 Agreements sometimes provide a mechanism to ensure vegetation management to address fire risk but, as the land is in public ownership, this option is not available.

significant portion of the Stage 1 land is within 100m of the PCRZ land. He expressed concern about the implications of the WMO provisions for the development of this land but acknowledged the identified risk of fire. Council concluded the WMO should remain on the Stage 2 land.

Mr Brosnan, for the land owner, advised that the owner expects that the WMO would be retained over part of the Review Site and there would be some further redesign of the subdivision layout to address fire related issues. Where possible, the owner of the Review Site would seek to maximise the creation of lots that did not require the application of the WMO and to avoid the need for 'Option 3' assessments of development of the subdivided lots.

2.1.1 Advisory Committee Evaluation

The Committee is conscious that bushfire planning policy is the subject of review and is to be overhauled in line with the expressed intent to ensure a more rigorous approach to the management of risk. The scope of that review is expressed in the following Bushfire Royal Commission view⁷:

There is a clear need for a wholesale review of the criteria used for mapping bushfire-prone areas for the purposes of applying planning and building controls. The criteria should specify that bushfire risk is to be mapped regardless of land tenure and the review should consider the following:

- *The inclusion of all vegetation types that carry a risk of bushfire that could pose a risk to life and property – in particular, grasslands, scrub and heath*
- *The identification of low, medium and high levels of bushfire risk*
- *The 100 metre margin applied to vegetation boundaries, with specific reference to the recent work of Risk Frontiers and to the proportion of house destruction that represents an acceptable level of risk*
- *The 5-hectare minimum patch size*
- *The methodology used in developing criteria for bushfire shelters (neighbourhood safer places)*
- *The impact of climate change projections of more frequent occurrence of catastrophic fire weather.*

The Committee understands a new fire control regime for planning schemes will be in place by September 2011 when the interim building regulations

⁷ 2009 Victorian Bushfires Royal Commission, page 223

expire. There is the likelihood that the Committee's consideration of this referral may be overtaken by the introduction of new bushfire provisions.

However, in the interim, we consider it is important to adhere to the State-wide principles in the WMO Mapping Practice Note to ensure the consistency, transparency and equity of the regulatory framework. It is clear to the Committee that part of the Review Site is within the 100m buffer from a patch of vegetation that meets the criteria established in the CFA Practice Note. The CFA Practice note indicates that, where properties are less than 10 hectares, the WMO will generally relate to property boundaries (or identifiable ground features such as rivers or roads).

The Committee notes that a significant part of the approved Stage 1 subdivision of the Review Site is within the '100m buffer' from a patch of vegetation and some lots are in the 'flame zone'. While we are aware that there have been practical issues in guaranteeing 'defendable space' in areas developed at 'urban' densities, we are not prepared to support removal of the WMO from Stage 1. In these circumstances, it may be 'strategic' responses can be developed to address fire risk but they have not been developed for the Review Site.

The Committee understands the subdivision design concept for Stage 2 provided at the consultation is not in a final form but it was useful to illustrate a possible form of development. Although the current concept incorporates a number of design principles to address fire risk, discussion at the consultation indicated that a number of further refinements are possible to address other fire related issues. One example was the potential for larger lots at the interface to the vegetation at the north of the site.

The Committee considers full consideration of fire risk in the assessment of subdivision proposals for the land is important. The application of the WMO to the whole of the Review Site will ensure there is an explicit statutory requirement to address fire risk in a comprehensive way.

At the consultation the Committee raised the option of future revision of the extent of the WMO through a combined amendment / permit process under Section 96 of the *Planning and Environment Act 1987*. This could ensure fire issues are addressed through the subdivision design, which may justify the removal of the WMO from some parts of the subdivision (the amendment would then remove the redundant parts of the WMO). Both Council and the proponent supported this option, with Council noting this would have to be initiated by the proponent.

At the conclusion of the hearing there was a general acknowledgement (including from the proponent) that WMO should be retained on the Review

Site to ensure fire related issues were considered appropriately at the subdivision stage. However, it would be appropriate to review the application of the WMO to the southern portions of the Review Site when the subdivision layout is finalised. The combined Amendment-permit process could provide a mechanism to expedite such a process.

The Committee noted at the consultation that any proposed subdivision, together with the potential review of the extent of the WMO at that time, will be subject to bush fire risk management policy and principles applicable at that time.

2.2 Conclusions

- The application of the WMO on the Review Site in Grantville is consistent with the methodology set out in the CFA Land Use Planning Practice Note 0005 - Wildfire Management Overlay Mapping Process.
- There may be potential to reduce the extent of the WMO when the form of subdivision for the Review Sites has been finalised but any such further review would be on the basis of bushfire planning policy and provisions applicable at that time.

2.3 Recommendation

Retain the WMO on 1499 Bass Highway and 25 Grantville – Glen Alvie Road, Grantville.

**Appendix A Standing Advisory Committee Terms
of Reference**



TERMS OF REFERENCE

Standing Advisory Committee

Application of the Wildfire Management Overlay Introduced by the Minister for Planning

1.0 Purpose

The purpose of the Standing Advisory Committee is to assess any submission referred to it and to make recommendations as to whether a change to the application a Wildfire Management Overlay introduced by the Minister for Planning after 31 October is warranted.

2.0 Background

2.1 Wildfire Management Overlay

The purpose of the WMO is to:

- identify areas where the intensity of wildfire is significant and likely to pose a threat to life and property
- ensure that development includes specified fire protection measures and does not significantly increase the threat to life and property from wildfire
- detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

The WMO identifies areas where there is the potential for loss of life and property in a 1:50 year fire scenario. Under this fire scenario, development requires special protection to withstand the passage of the fire. This protection includes moderating the intensity of the fire through vegetation management and aiding fire suppression through the provision of water and access for emergency vehicles.

WMO maps are prepared by the Country Fire Authority (CFA) based on vegetation density and then 'ground truthed' using local knowledge of potential fire behaviour to check for data accuracy, vegetation changes and practical application.

Ground truthing will normally involve council planners, building surveyors and local and regional CFA staff. The CFA staff coordinates ground truthing through its regional offices.

2.0 Application of the WMO

The CFA has identified areas in 26 municipalities where the WMO should be applied. The amendments to apply the WMO to these areas will be prepared and approved by the Department of Planning and Community Development (DPCD) under delegation from the Minister for Planning and without notice under section 20(4) of the *Planning and Environment Act 1987*.

When the amendments come into effect a notice will be published in a local newspaper circulating in the area where the WMO has been applied to advise the public that:

- the WMO had been applied in the municipality;
- land where the WMO applies can be viewed online or at the offices of the Council;
- they can make a submission to the Minister for Planning to request a change to the application of the WMO if they consider it has been applied in error; and
- the Minister for Planning has established a Standing Advisory Committee to assess submissions and to make recommendations as to whether a change to the application a Wildfire Management Overlay is warranted...

3.0 Scope

The Standing Advisory Committee will consider any submission on the application of the Wildfire Management Overlay (WMO) that the Minister for Planning or his delegate refers to it.

The Minister for Planning or his delegate will only refer submissions that:

- relate to a WMO introduced by the Minister for Planning under section 20(4) of the *Planning and Environment Act 1987* after 31/10/09; and
- request a change to the application of a WMO.

The Standing Advisory Committee will assess any submission referred to it and make recommendations as to whether a change to the application of a WMO is warranted. Where the Standing Advisory Committee recommends that a change to the application of a WMO is warranted, it will specify the required changes.

4.0 Review and reporting methodology

In order to meet timeframes, the WMO submissions will be assessed by the Standing Advisory Committee using the following process:

- | | |
|---------------|--|
| Step 1 | DPCD refers the submission to the Standing Advisory Committee.
DPCD provides all information relevant to the amendment that introduced the WMO.
DPCD provides the response or comments to the submission from the CFA and the Council. |
| Step 2 | The Chair of the Standing Advisory Committee will nominate members to consider the submission and to prepare a report for the Minister for Planning or his delegate. |
| Step 3 | The Standing Advisory Committee, as necessary, consults with the submitter, CFA, Council, DPCD and other relevant experts or stakeholders. |
| Step 4 | The Standing Advisory Committee assesses the material before it and prepares a brief report making recommendations on the submission to the |

Minister for Planning or his delegate.

There will not be a formal hearing process for each submission. The submission and accompanying information will be the principal means of providing input to the Standing Advisory Committee process. However, and at its discretion, the Standing Advisory Committee may consult with any party and may invite the submitter and any other stakeholder to meet to assist with their assessment of the submission.

In addition to any submissions or comments it receives, the Standing Advisory Committee will have regard to the following matters in making its assessment:

- the purpose of the Wildfire Management Overlay; and
- CFA Land Use Planning Practice Note 0005 - *Wildfire Management Overlay Mapping Process*.

5.0 Timing

The Advisory Committee should endeavour to submit its report within 15 days from the conclusion of any consultation.

6.0 Consultation

The Standing Advisory Committee may inform itself in any way it sees fit, including written or verbal information or meeting with submitters, Council, CFA and other stakeholders. Any such information or advice will be openly disclosed through the final report (unless it is of a confidential nature).

Any meetings will be conducted in an open, orderly and timely manner, with the minimum of formality and without the need for legal representation.

7.0 Outputs

The Advisory Committee is to provide a brief report that:

- Summarises and responds to key issues.
- Recommends whether WMO should be changed.
- Lists any additional information sought as part of the Standing Advisory Committee process and specifies the information sources.

The Standing Advisory Committee may provide an on the spot recommendation, followed up by a short written report.

8.0 Standing Advisory Committee membership

The membership of the Standing Advisory Committee is:

- Cathie McRobert - Chair
- Chris Baron
- David Merrett
- Peter Sheehan

An Advisory Committee of a minimum of two members from the above list will be convened for each matter. The full Standing Advisory Committee does not need to meet to consider every proposal. The Chair will be responsible for signing off on each report.

9.0 Costs

The fee for the Standing Advisory Committee will be set at the current rates for an Advisory Committee appointed under section 151 of the *Planning and Environment Act 1987*.

10.0 Project support

The Standing Advisory Committee will be supported by a nominated DPCD planning officer. The project support officer will assist with administrative functions, source any required further information, and provide assistance with the review. The initial contact for the DPCD is:

Name:	Joel Twining Senior Planner Department of Planning and Community Development
Phone:	9537 9489
E-mail:	joel.twining@dpcd.vic.gov.au

Appendix B List of Acronyms

AS3959-2009	Australian Standard 3959-2009, Construction of buildings in bushfire-prone areas
BAL	Bushfire Attack Level
CFA	Country Fire Authority
LPPF	Local Planning Policy Framework
MAV	Municipal Association of Victoria
SPPF	State Planning Policy Framework
The Act	<i>Planning and Environment Act 1987</i>
The Council	Shire of Bass Coast
The Planning Scheme	Bass Coast Planning Scheme
VPPs	Victoria Planning Provisions
Zones and Overlays	
DPO	Development Plan Overlay
R1Z	Residential 1 Zone
WMO	Wildfire Management Overlay