

# Bushfire State Planning Policy Amendment VC140

Planning Advisory Note 68

MARCH 2018

## What bushfire policy has been updated?

On 12 December 2017 the Minister for Planning amended the State Planning Policy Framework (SPPF) to provide directive strategies to manage bushfire risk in planning and decision making.

This reflects the government's commitment to strengthen community resilience to bushfire and delivers on the recommendations of the 2009 *Victorian Bushfires Royal Commission*.

## Clause 10.04 – Integrated decision making

Planning authorities and responsible authorities must integrate policies and balance conflicting objectives in planning and decision making.

The operation of the SPPF has been amended to ensure that the protection of human life is prioritised over all other policy considerations in areas subject to bushfire risk.

## Clause 13.05 – Bushfire

The objective of bushfire planning policy in Victoria is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

The amendment introduced strategies to better identify, assess and manage bushfire hazards through the planning process.

## When do these strategies apply?

These bushfire strategies must be applied in all planning and decision making under the *Planning and Environment Act 1987* relating to land which is:

- within a designated Bushfire Prone Area (BPA)
- subject to a Bushfire Management Overlay (BMO)
- proposed to be used or developed in a way that may create a bushfire hazard.

These strategies require regional growth plans, precinct structure plans, planning scheme amendments and planning permit applications to assess bushfire hazards and include appropriate bushfire protection measures.

## What is a Bushfire Prone Area?

Areas that are subject, or are likely to be subject, to bushfires are designated as Bushfire Prone Areas (BPA) by the Minister for Planning under the *Building Act 1993* and Building Interim Regulations 2017.

Bushfire construction standards apply to new buildings under Australian Standard AS 3959-2009 *Construction of buildings in bushfire prone areas*.

The bushfire construction standard, known as the Bushfire Attack Level (BAL), measures the severity of a building's potential exposure to ember attack, radiant heat and direct flame contact.

There are six Bushfire Attack Levels:

- BAL-LOW
- BAL-12.5
- BAL-19
- BAL-29
- BAL-40
- BAL-FZ (Flame Zone).

BAL 12.5 is the minimum construction standard for buildings in a BPA.

## What is a Bushfire Management Overlay?

The BMO is a planning control that applies to bushfire prone areas that are subject to extreme bushfire behaviour.

*Clause 44.06 - Bushfire Management Overlay* establishes a planning permit requirement for certain use and development. The permit requires bushfire hazards to be assessed and bushfire protection measures in *Clause 52.47 - Planning for Bushfire* to be implemented. These measures are in addition to the bushfire construction standards.

## Bushfire Management Overlay Schedules

BMO schedules are local planning provisions that streamline the planning permit process by simplifying application requirements, bushfire protection measures and referral arrangements.

Schedules may only vary bushfire protection measures from those in *Clause 52.47* where bushfire mitigation strategies are applied at the settlement level. Schedules must be supported by the relevant fire authority.



## What strategies have been introduced into Clause 13.05 - Bushfire?

### Protection of human life

Planning authorities and responsible authorities must actively address bushfire risk and direct population growth to low risk locations during the strategic planning process.

### Bushfire hazard identification and assessment

Bushfire hazard mapping must be consistent with established criteria and methodology. The relevant fire authority has expertise in mapping bushfire hazards and risk. Future mapping changes should therefore be supported by the relevant fire authority.

Strategic planning documents, planning scheme amendments, planning permit applications and development plans must only be approved where a landowner or proponent has assessed bushfire hazards, and demonstrated that the relevant bushfire protection measures can be implemented.

### Settlement planning

Planning authorities and responsible authorities prepare strategic land use and development plans at the regional, municipal and settlement scale.

The settlement planning strategy requires authorities to address bushfire risk at the settlement scale rather than delaying bushfire protection until the subdivision and/or construction phase.

In settlement planning, responsible authorities must:

- *not approve any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL- 12.5 rating under AS 3959-2009.*

Strategic plans under consideration, and not yet approved, that include development with a BAL 19 rating or greater must be adjusted to comply with BAL 12.5.

Additional bushfire hazard assessments and protection measures may be required to achieve this. While this may require additional resources, the protection of human life must be prioritised.

Note: Building envelopes may need to be specified in development and/or subdivision plans to ensure that building comply with a BAL 12.5 rating at completion.

## Areas of high biodiversity conservation value

The strategic planning process is the most effective planning mechanism to protect biodiversity while improving community resilience to bushfire risk.

While the protection of human life is prioritised over all other policy considerations, the objectives of *Clause 12.01 - Biodiversity* must be considered when applying bushfire protection measures and bushfire planning strategies at the settlement and site scale.

A key strategy in *Clause 12.01* is to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

This is achieved through a three-step approach to:

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

This approach must be considered during the planning and land use process. Native vegetation condition, strategic biodiversity value and consequential removal, destruction or lopping of native vegetation must be recognised to ensure integrated decision making.

## Use and development control in a Bushfire Prone Area

A use and development control measure has been introduced into the SPPF to apply the precautionary principle when assessing bushfire hazards and risk. This applies to certain uses and development that are in a designated BPA but not subject to the BMO.

While developments in a BPA are required to meet relevant bushfire construction standard, this bushfire protection measure alone may not reduce risk to an acceptable level. Responsible authorities may consider additional bushfire protection measures to meet the relevant objectives, strategies and requirements for bushfire.



## Applying the use and development control

### What types of applications does the use and development control apply to?

Responsible authorities are required to consider a range of bushfire protection measures for the following applications:

- Subdivisions of more than 10 lots
- Accommodation
- Child care centre
- Education centre
- Emergency services facility
- Hospital
- Indoor recreation facility
- Major sports and recreation facility
- Place of assembly
- Any application for development that will result in people congregating in large numbers.

The use and development control is a risk-based planning strategy that has been introduced to ensure that buildings occupied by vulnerable people have additional bushfire protection measures.

While these buildings may be required to build to a bushfire construction standard under the BPA, this use and development control ensures that additional bushfire protection measures are considered. These additional measures may include:

- Siting, design and defensible space
- Vegetation management
- Vehicle access design and construction
- Static water supply
- Emergency management plans.

If a planning permit is required for the use or development under *Clause 44.06 - Bushfire Management Overlay*, then this strategy is addressed through the relevant application requirements and decision guidelines in *Clause 52.47 - Planning for Bushfire*.

### What information may be required when assessing these uses and developments?

The information required will depend on the site context and landscape risk. Responsible authorities may require the following information to be submitted:

- A **bushfire hazard site assessment** documents bushfire hazards within 150 metres of the proposed site. The assessment:
  - provides factual information on the bushfire hazard (vegetation type and slope)
  - informs defensible space and building construction requirements

*Note: This site assessment is generally prepared by a building surveyor to determine the BAL. This assessment may be used as part of the planning application to avoid duplication and ensure integrated planning and decision-making.*

- A **bushfire hazard landscape assessment** provides information on the bushfire hazard more than 150 metres away from the subject site. Considering bushfire from this broader landscape perspective is important to assess the level of bushfire risk posed to future occupants and communities. The landscape assessment provides:
  - factual information on the bushfire hazard (vegetation extent and slope).
  - information on key features of the general locality that are relevant to better understanding the level of protection required for the location.

Additional Information should also be submitted with an application that demonstrates how the bushfire hazard has been managed.

*Note: If there is no landscape bushfire risk, a bushfire hazard landscape assessment is not required.*

While templates are available to assist in the preparation of these assessments, for subdivision or complex development applications, a bushfire planning consultant may be required. These templates can be found at:

<https://www.planning.vic.gov.au/bushfire-protection/bushfire-management-overlay/technical-information>



## What is considered when assessing these uses and developments?

Responsible authorities should:

- consider the risk of bushfire to people, property and community infrastructure.
- require the implementation of appropriate bushfire protection measures to address the identified bushfire risk.
- ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.

Responsible authorities should use internal resources when assessing an application under this use and development control, this may include Municipal Fire Prevention Planning Committees.

If approved, these developments may need to be registered on Vulnerable Facility Lists in Municipal Emergency Management Plans.

To ensure that proposed use and development manages bushfire risk effectively, responsible authorities may require an application to meet the requirements *Clause 52.47 - 2 Bushfire protection objectives*.

The bushfire protection measures and decision guidelines of Clause 52.47 should be applied relevant to the site context and landscape risk.

The *Planning Permit Applications - Bushfire Management Overlay Technical Guide* published by DELWP contains guidance on Pathway 2 and 3 applications. This guide can be used by applicants when lodging an application and by responsible authorities in decision making.

## Should these applications be referred to relevant fire authorities?

Applications that meet the approved measures in Clause 52.47, or that are in a low risk landscape, do not need to be referred to the relevant fire authority in accordance with Clause 66 of the planning scheme. These low risk landscapes (Type 1 Landscape - bushfire hazard landscape assessment) have the following features:

- Limited vegetation beyond 150 metres of the site (except grasslands and low threat vegetation).
- Vegetation type and extent is unlikely to result in neighbourhood-scale destruction of property.
- Immediate access is available to a place that provides shelter from bushfire.

A responsible authority may seek feedback from the relevant fire authority in the following circumstances:

- There are complex landscape hazards.
- Alternative measures are proposed.
- Construction standards exceed BAL 29.
- For major use / development applications such as Hospitals and significant Tourism facilities.

## Additional information

Amendment VC140 was introduced to improve the planning system's response to bushfire. DELWP will continue to deliver resources and training to planning authorities and responsible authorities to guide decision-making. Access to guides, fact sheets and templates can be found at: <https://www.planning.vic.gov.au/bushfire-protection/bushfire-management-overlay/technical-information>

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