



Launch of designated bush fire prone area reforms

This bulletin is to update industry on the State Government's bush fire reforms and outline what this means for building permits in designated bush fire prone areas.

Background

On Sunday 6 December 2015 the Minister for Planning and Minister for Emergency Services launched the bush fire reform package in response to planning and building recommendations from the Keelty Report into the Perth Hills bush fire of 2011. The package of reforms includes:

- gazettal of the Fire and Emergency Services (Bush Fire Prone Areas) Order 2015;
- release of the Map of Bush Fire Prone Areas;
- gazettal of State Planning Policy 3.7 – Planning in Bushfire-Prone Areas (WAPC 2015) and the Planning and Development (Local Planning Schemes) Amendment Regulations 2015;
- release of the Guidelines for Planning in Bushfire-Prone Areas (WAPC 2015); and
- gazettal of the Building Amendment Regulations (No. 3) 2015.

Gazettal or release of these documents occurred on Monday 7 December 2015, with the provisions coming into operation on Tuesday 8 December 2015.

Designated bush fire prone areas

The Map of Bush Fire Prone Areas identifies land that has been designated as being bush fire prone by the Fire and Emergency Services (FES) Commissioner under section 18P of the Fire and Emergency Services Act 1998.

Designation as a bush fire prone area (highlighted in pink on the map) may trigger:

- bush fire planning requirements that may include planning approvals; and
- the bush fire construction requirements of the Building Code of Australia (BCA).

The map is available to view online from the Department of Fire and Emergency Services website at www.dfes.wa.gov.au/bushfireproneareas. An updated version of the map will be published within six months of its initial release and on an annual basis thereafter.

Bush fire construction requirements

The *Building Act 2011* (the Act) adopts the BCA as the primary applicable building standard for new building work. The BCA includes specific bush fire construction requirements for the following classes of residential buildings in designated bush fire prone areas:

- Class 1 buildings;
- Class 2 buildings;
- Class 3 buildings; or
- Class 10a buildings and decks associated with a Class 1, Class 2 or Class 3 building.

Generally, the application of the BCA bush fire construction requirements links to whether the land is designated as bush fire prone at the time the application for a building permit is made, or for building work that can be undertaken without a building permit, the time the construction commenced.

(Please note: These classes of buildings may be different to the types of development that will be considered for bush fire risk under new bush fire planning requirements.)

Four month transition

The Building Amendment Regulations (No. 3) 2015 introduce a four month transition period before the bush fire construction requirements of the BCA are triggered for certain residential buildings.

The transition period is designed to give industry additional time to take into account the effect of a designation when considering future development.

The four month transition period starts from the date that an order designating a new area as bush fire prone by the FES Commissioner comes into operation. This means that the bush fire construction requirements of the BCA will not apply in new designated bushfire prone areas until **Friday 8 April 2016**.

Once the four month transition period ends, applications for building approval for certain residential buildings in those areas, will need to address compliance with the bush fire construction requirements of the BCA.

The four month transition period does not apply if an area was identified prior to 8 December 2015 in any way under a local planning scheme as an area that is subject, or likely to be subject, to bush fires.

Please refer to Industry Bulletin 58 for more detailed information regarding the Building Amendment Regulations (No. 3) 2015.

Current building permits are not affected

There is no change to building permits that are currently in effect. Building work can continue in accordance with the requirements of that building permit. This is despite the fact that some building work may now be located in a designated bushfire prone area when previously it was not.

Building permit applications submitted before 8 April 2016

Due to the four month transitional period, an application for a building permit submitted before 8 April 2016 for a relevant class of building in a new designated bush fire prone area, will not need to address compliance with the bush fire construction requirements of the BCA.

However, as noted above, existing areas that were identified in any way under a local planning scheme as an area that is subject, or likely to be subject, to bushfires prior to 8 December 2015, must ensure that relevant classes of building address compliance with the bush fire construction requirements of the BCA. Consult the relevant local government for information on existing bush fire prone areas.

Building permit applications submitted on or after 8 April 2016

An application for a building permit submitted on or after 8 April 2016 for a relevant class of building in a new designated bush fire prone area, must ensure the application addresses compliance with the bush fire construction requirements of the BCA.

Industry is therefore encouraged to make use of this period in the lead up to 8 April 2016 to consider the design of buildings in such areas.

Alterations and additions

During the four month transition period alterations and additions to existing residential buildings will not be required to comply with the bush fire construction requirements of the BCA unless the existing residential building is in an area that was identified in any way under a local planning scheme as being bush fire prone prior to 8 December 2015.

From 8 April 2016 all major alterations and additions to certain residential buildings in designated bush fire prone areas are required to comply with the bush fire construction requirements of the BCA. Consideration is being given to provide a transition period to the application of the bush fire construction requirements to minor alterations and additions. Regulations giving effect to this proposal are expected to be finalised during the four month transition period.

Disclaimer

The information contained in this bulletin is provided as general information only and should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations you should obtain independent legal advice.

December 2015

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