

1. Introduction

A package of reforms was introduced in 2015 to help protect lives and property against the threat of bushfires throughout Western Australia. These include:

- *State Planning Policy 3.7: Planning in Bushfire Prone Areas* ([SPP3.7](#));
- *Guidelines for Planning in Bushfire Prone Areas* ([Guidelines](#) and [Appendices](#)); and
- *Planning and Development (Local Planning Schemes) Regulations 2015 Part 10A – Bushfire risk management* ([deemed provisions](#)) which comprises deemed provisions relating to bushfire risk management.

2. Purpose

This Planning Bulletin has been prepared to address key issues raised by local governments, developers and landowners; and to assist with the interpretation and implementation of the above mentioned policy reforms.

This Planning Bulletin supersedes *Planning Bulletin 111/2015: Planning in Bushfire Prone Areas*.

3. Overarching Policy Intent for Planning in Bushfire Prone Areas

Strategic planning documents or proposals, subdivision and development applications within a bushfire prone area, should demonstrate a Bushfire Attack Level (BAL) of 29 or below. Proposals that on completion, are extreme and/or BAL-40 or BAL-Flame Zone will generally not be supported (subject to exemptions relating to minor or unavoidable development).

4. Policy Framework

The **Map of Bush Fire Prone Areas** (Map) identifies properties that are subject to, or likely to be subject to, bush fire attack. These areas are identified by the presence of and proximity to bushfire prone vegetation. Those areas designated as bush fire prone include a 100 metre buffer from the bushfire prone vegetation.

State Planning Policy 3.7 is the overarching policy for land use planning within bushfire prone areas, and applies to the following:

- strategic planning documents and proposals (including local planning strategies, region and local scheme amendments and structure plans);
- applications for subdivision, other than amalgamations or boundary realignments that do not result in the intensification of development or result in an increased bushfire risk;
- development applications for vulnerable and high risk land uses;
- development applications in areas where the BAL rating for the development site cannot be calculated due to the terrain; and
- development applications for habitable buildings.

A 'Habitable building' is any fully or partially enclosed structure, with at least one wall and a roof made of solid material, and used by people to:

- live (house, apartment or hostel);
- work (office, factory or hospital),
- study (school, university or library); or
- socialise or entertain (gym, theatre, restaurant or community facility).

It is possible that some developments will have habitable and non-habitable components which will need to be considered separately for the purpose of meeting this clause.

The **deemed provisions** apply to all local planning schemes, prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015*. These provisions work in conjunction with SPP 3.7, and apply to development (or use) and/or construction of habitable buildings within bushfire prone areas.

In addition to the deemed provisions, requirements relating to bushfire management can be included in a local planning scheme as supplemental provisions, or as a special control area. These requirements cannot be contrary to and cannot serve to undermine, but can stipulate requirements over and above the deemed provisions.

5. Exemptions

Exemptions from the requirements of SPP 3.7 and the deemed provisions should be applied pragmatically by the decision maker. If the proposal does not result in the intensification of development (or land use), does

not result in an increase of residents or employees; or does not involve the occupation of employees on site for any considerable amount of time, then there may not be any practicable reason to require a BAL Assessment. Exemptions may apply to infrastructure including roads, telecommunications and dams; and to rural activities, including piggeries and chicken farms which do not involve employees on site for a considerable amount of time.

The deemed provisions exempt renovations, alterations, extensions, improvements or repair of a building, and incidental uses (including outbuildings, verandas, unenclosed swimming pools, carports, patios and storage sheds). SPP 3.7 does not specify these exemptions, however where the proposal is exempt under the deemed provisions or local planning scheme and does not:

- result in the intensification of development (or land use);
- result in an increase of residents or employees;
- involve the occupation of employees on site for any considerable amount of time; or
- result in an increase to the bushfire threat;

the proposal may also be exempt from the provisions of SPP 3.7.

Exemptions also apply to single houses and ancillary dwellings on lots less than 1,100m². This exemption does not include grouped or multiple dwellings.

Bushfire construction requirements under the BCA or AS 3959 may still apply to proposals that are exempt from the requirements of SPP 3.7 and the deemed provisions.

6. Bushfire Assessment

Strategic planning proposals and documents, subdivision and development applications within a bushfire prone area, require the following information:

- a bushfire assessment (relevant to the nature and scale of the proposal);
- identification of any bushfire hazard issues; and

- an assessment against the bushfire protection criteria contained in Appendix 4 of the Guidelines.

A bushfire assessment may include a Bushfire Hazard Level (BHL) Assessment, BAL Contour Map or BAL Assessment/s, depending on the nature and scale of the proposal:

- a BHL Assessment is more appropriate where there is limited detail regarding final lot layout or location of building envelopes, such as a local planning strategy, region or local planning scheme amendment, district structure plan, or super-lot subdivision;
- a BAL Contour Map is more appropriate for a subdivision application or detailed structure plan;
- multiple BAL Assessments may be a more cost effective approach to determine the BAL ratings across a site for a smaller scale subdivision application; and
- an individual BAL Assessment is to be undertaken for new development applications.

7. Partial designation of Lot by the Bushfire Prone Area Map

Where only part of a Lot is designated as bushfire prone and the development footprint is wholly outside the part of the lot that is identified as pink on the Map (is not bushfire prone), then the landowner or developer can prepare a [BAL Assessment \(basic\)](#). The BAL Assessment (basic) is a simplified process that can only be used where the proposed development is not within 100 metres of bushfire prone vegetation, including circumstances where the lot or surrounding lots have been cleared since the last release of the Map and the Map has yet to be updated to reflect the clearing of the bushfire prone vegetation.

Where a subdivision is proposed and the building envelope is not known, the BAL assessment should (as a minimum) demonstrate a building envelope can be located on a portion of the lot that is rated as BAL-29 or less. At the development application

stage, the development should be located on the portion of the lot with the lowest BAL rating.

To avoid duplication through the various stages of the planning process, it is preferable that only one BAL assessment be prepared and used for both subdivision and development applications. Only in instances where the bushfire prone vegetation has been cleared or revegetation has occurred should a further BAL assessment be required.

8. Assessment against the Bushfire Protection Criteria

Where the bushfire assessment determines the site has a BAL rating above BAL- Low, an assessment against the bushfire protection criteria is required. To comply with SPP 3.7, a proposal or application must demonstrate compliance with the bushfire protection criteria, or that the criteria can be achieved at a subsequent stage of the planning process.

The assessment should always contain a level of detail appropriate to the nature and scale of the proposal. This assessment may be provided in the form of a new or amended bushfire management plan (BMP) or a statement against the bushfire criteria. Appendix 4 of the [Guidelines](#) explains how to address the criteria (location, siting and design of development, vehicular access and water). Appendix 5 of the Guidelines outlines the requirements of a BMP. The inclusion of the standard BMP checklist will assist the decision maker to determine if a referral to the Department of Fire and Emergency Services (DFES) is necessary. This is available from <http://www.planning.wa.gov.au/7958.asp>.

The level of assessment and corresponding BMP should reflect the scale of planning proposal. For example, a development application may only require a one page assessment, whereas a large scale subdivision would require significantly greater detail. The ongoing implementation of an approved BMP and any bushfire management measures are the responsibility of the landowner or developer of the land.

9. Four month transition for sites in bushfire prone areas

The deemed provisions relating to proposed development in a bushfire prone area do not apply if the development site hasn't been in a designated bushfire prone area for at least 4 months (78D). This period is from when a site is first designated as bushfire prone on the *Map of Bush Fire Prone Areas* and provides landowners and developers with a period in which they can adjust to the new requirements.

Similarly, where a building permit already exists or is granted during this four month period, there is no requirement to undertake a BAL assessment or development application (78F).

SPP 3.7 applies from the day the area or site is designated as bushfire prone. There is no transition period for the policy.

10. Referrals to DFES

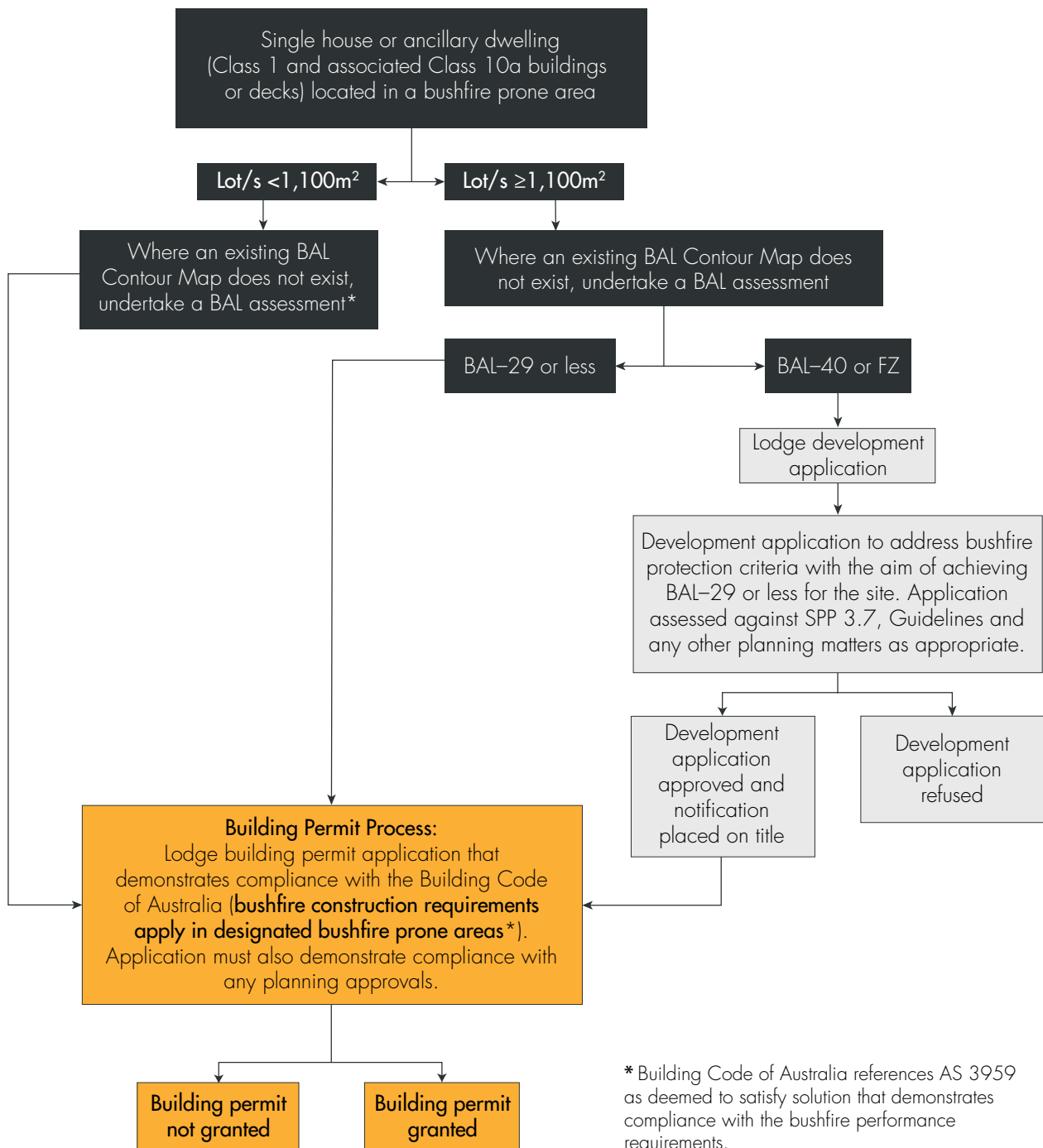
Referrals to DFES should be directed to advice@dfes.wa.gov.au in the following circumstances:

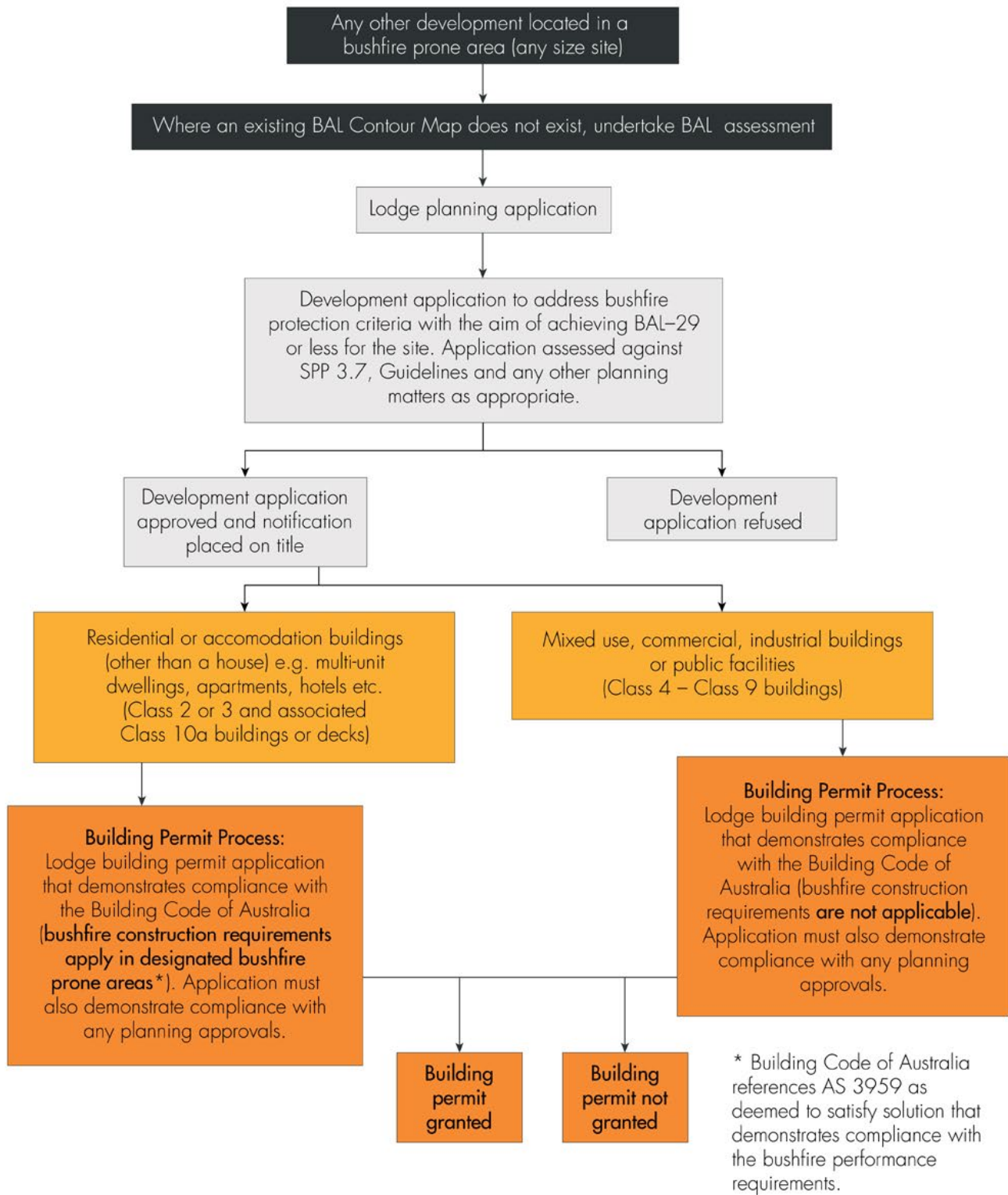
- Disagreement between DoP, landowners and/or the Local Government;
- To assist with appeals in the State Administrative Tribunal;
- Statutory planning applications within a BAL-40 or BAL-FZ, or where method 2 / performance principals have been used to address the bushfire criteria;
- All strategic planning documents/ applications, including sub-regional and district structure plans and local planning policies;
- Scheme amendments that propose 'supplemental provisions' to Part 10A Bushfire risk management provisions (deemed provisions); and
- Development applications for vulnerable, unavoidable or high risk development.

11. Further Information

Enquiries on this Planning Bulletin should be directed to Bushfire@planning.wa.gov.au or by post to:

Bushfire Policy
 Department of Planning
 Locked Bag 2506
 PERTH WA 6001





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