



State-wide designation of bushfire prone areas – overview

Please note the 1 May 2015 start date in this bulletin no longer applies. A revised start date will be determined by the passing of the Fire and Emergency Services Amendment Bill 2014 through Parliament and the Gazettal of designated bushfire prone areas by the FES Commissioner. A four month transition will apply from the date of Gazettal. For further information, please view the [Construction in designated bushfire-prone areas – update announcement on the Building Commission website](#).

This industry bulletin supports information contained in the previously issued [Industry Bulletin 045 – Designation of bushfire prone areas](#), which was released by the Building Commission on 7 August 2014.

The information relates to the State Government's proposed measures to mitigate bushfire risk across the State. The measures include:

- the designation by the Fire and Emergency Services Commissioner (FES Commissioner) of an area of the State as a bushfire prone area;
- new planning regulations to amend all local planning schemes in order to implement additional planning requirements for some types of development in designated bushfire prone areas; and
- amendments to the Building Regulations 2012 regarding the effect of the designation of bushfire prone areas and the role of building surveyors in certifying bushfire construction.

Designation under a power of legislation as a bushfire prone area triggers the bushfire construction requirements of the Building Code of Australia (BCA).

What are the bush fire construction requirements?

The BCA contains bushfire construction performance requirements GP5.1 (in Volume One) and P2.3.4 (in Volume Two) for the following types of buildings constructed in designated bushfire prone areas:

- a Class 1, 2 or 3 building located in a designated bushfire prone area; and/or
- a Class 10a building or a deck associated with a Class 1, 2 or 3 building located in a designated bushfire prone area.

The BCA defines designated bushfire prone area to mean land which has been designated under a power of legislation as being subject, or likely to be subject, to bushfires.

The BCA's deemed-to-satisfy provisions reference Australian Standard AS 3959 – Construction in bushfire prone areas as one way of demonstrating compliance with the BCA bushfire construction performance requirements. AS 3959 sets out:

- a process for determining the intensity of bushfire attack on a building, known as a Bushfire Attack Level (BAL); and
- solutions for providing appropriate levels of bushfire resistant construction to the building, based on its determined BAL.

Construction of residential buildings in areas which are currently designated as bushfire prone by a number of local planning schemes across the State must continue to comply with the bushfire construction requirements of the BCA.

Changes that affect the building approvals process

The BCA has contained bushfire construction requirements for designated bushfire prone areas since 1996, however amendments to the Building Regulations are being considered to clarify the mechanism that, from 1 May 2015, will trigger the BCA's bushfire construction provisions for residential buildings. This mechanism may incorporate a designation of a bushfire prone area by the FES Commissioner.

The amendments will also clarify a building surveyor's existing role in certifying compliance with the BCA's bushfire construction requirements. Building surveyors will be required to ensure that, before they sign compliance certificates for relevant buildings or decks, a BAL assessment has been undertaken. Proposed changes to the compliance certificates provide for the building surveyor to indicate whether or not the building or deck is located in a designated bushfire prone area and the assessed BAL.

To keep the process streamlined, a BAL assessment prepared for compliance with the planning regulations will suffice for the purposes of signing Building Act compliance certificates, unless the assessment is unsuitable, incorrect or outdated.

Changes are also being proposed to the building permit form that will require the permit authority to set out on the building permit the assessed BAL prepared in relation to relevant buildings and decks.

From 1 May 2015, proposed new planning regulations will amend all local planning schemes across the State to impose planning requirements for construction in bushfire prone areas. The planning regulations will be enforced as part of each local planning scheme without the need for amendments to individual schemes. These regulations are still being developed.

The 1 May 2015 start date is needed to ensure sufficient lead time for:

- relevant agencies to consult with stakeholders on draft regulations and other policies pertaining to construction in bushfire prone areas;
- communication and explanation of the finalised provisions; and
- training of practitioners to undertake BAL assessments.

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.

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