



AS 3959 BAL assessments during the extended transition of the previous Building Code

The purpose of this bulletin is to clarify the use of Australian Standard AS 3959 Construction of buildings in bushfire-prone areas (AS 3959) for BAL assessments during the extension of the transition for the previous edition of the Building Code.

The Building Regulations 2012 (the Regulations) were recently amended to extend the transitional arrangements that allow the use of the previous edition of the Building Code for a further twelve months. ([Industry Bulletin 129 – Building Amendment Regulations \(No. 3\) 2020](#))

This means that until 30 April 2021 a building permit applicant may choose to comply with either the 2019 edition of the Building Code of Australia (BCA) or the 2016 edition that was in effect on the 12 March 2018, being BCA 2016 Volume One Amendment 1 and BCA 2016 Volume Two.

What this means for bush fire building requirements

The extended transitional arrangements mean that building permit applications that specify BCA 2016 can continue to use the 2009 edition of AS 3959 as the deemed-to-satisfy solution while building permit applications that specify BCA 2019 must use the 2018 edition of AS 3959 as the deemed-to-satisfy solution.

Mixing provisions from different Building Codes or referenced standards

It is important to note that the edition of the Building Code being specified for the building permit application must be used in its entirety. This includes all relevant provisions and specific versions of referenced standards. 'Cherry picking' provisions between different editions of the BCA or versions of referenced standards is not permitted as a deemed-to-satisfy solution. As such, the use of a version of a document other than the one referenced in the specified edition of the BCA requires the development of a performance solution.

A performance solution is required if using AS 3959-2018 in conjunction with BCA 2016

The bush fire planning framework has been using the 2018 edition of AS 3959 for BAL assessment since 1 May 2019. This means that there is likely to be an increase in the number of building permit applicants who wish to use a BAL assessment completed in accordance with the 2018 edition of AS 3959 in situations where the building permit application will be specifying BCA 2016 as the relevant edition of the Building Code.

While the 2018 edition of AS 3959 may be suitable for use in some circumstances as it is referenced in a later edition of the BCA, its use for building permit applications that specify BCA 2016 can only be considered as part of an appropriately documented and assessed performance solution.

Applicants and/or builders who intend to use a BAL assessment in accordance with the 2018 of AS 3959 for an application that specifies BCA 2016 should discuss this with the relevant building surveyor prior to the submission of a building permit application.

Building surveyors are reminded that performance solutions for bush fire must be nominated on the certificate of design compliance and include details of the assessment methods used for demonstrating how the performance solution meets the BCA bush fire performance requirements.

Related industry bulletins

The following are related industry bulletins that may assist in preparing building permit applications for buildings in bush fire prone areas.

[Industry Bulletin 104 – Bushfire construction details for housing](#)

[Industry Bulletin 103 – Indicative BAL ratings in bushfire risk assessments](#)

[Industry Bulletin 102 – Performance Solutions for housing projects](#)

Disclaimer – The information contained in this fact sheet is provided as general information and a guide only. It 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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