

ITEM 3

PUBLIC EXHIBITION - REVIEW OF CHAPTER 16: BUSH FIRE MANAGEMENT OF WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

On 15 December 2009, Council endorsed the Wollongong Development Control Plan (DCP) 2009. The DCP came into force on the 3 March 2010, following the commencement of the Wollongong Local Environmental Plan (WLEP) 2009.

The DCP includes Chapter E16: Bush Fire Management. Chapter E16 has been reviewed and updated to provide consistency with Planning for Bush Fire Protection 2019, the updated Bush Fire Prone Lands mapping requirements and Australian Standard AS3959 – 2018 Construction of Buildings in Bushfire-prone Areas. This report recommends Council endorse the reviewed documents for public exhibition.

RECOMMENDATION

- 1 The Draft Wollongong Development Control Plan (2009) Chapter E16: Bush Fire Management and the Draft Wollongong Bush Fire Prone Lands maps be exhibited for a minimum of 28 days.
- 2 A further report outlining the submissions received from the public exhibition process with recommendations regarding progression of the draft DCP amendment be prepared for Council's consideration.

REPORT AUTHORISATIONS

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Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

ATTACHMENTS

- 1 Draft Wollongong DCP Chapter E16: Bush Fire Management
- 2 Draft Bush Fire Prone Lands Maps

BACKGROUND

The Wollongong DCP 2009 commenced on the 3 March 2010 and includes Chapter E16: Bush Fire Management.

Since this time, the NSW Government, under the *NSW Rural Fires Act 1997*, adopted the Planning for Bush Fire Protection 2019 (commenced 1 March 2020) and introduced a third Bush Fire Prone Land mapping category. The additional category for Bush Fire Prone Land is Category 3 vegetation - Grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands, with an additional 30 metre buffer.

The new category applies to pasture lands and paddocks at West Dapto and other rural properties. These properties have not been previously mapped as Bush Fire Prone, however dry paddock grass can still support a grass fire that can impact houses and property.

State and Federal Inquiries into the 2019/20 bush fire season

The 2019/2020 fire season was described as 'some of the worst in the world and in recorded history'. In response the NSW and Federal Governments undertook Inquiries. At this stage, the recommendations from the Inquiries do not necessitate further amendments to the DCP chapter, however the following information is provided as context for ongoing work in this policy area.

NSW Inquiry

The NSW Bush Fire Inquiry was tasked with understanding what made the season different to those previous and to make recommendations for future improvements to how NSW prepares and responds to bush fires. The Final Report was completed on the 31 July 2020 and 76 recommendations were made.

The NSW Government accepted all recommendations for implementation by the NSW RFS and Resilience NSW. Resilience NSW prepares quarterly reports on the implementation of 148 recommendations and sub-recommendations. The December 2021 quarterly report indicates that 57 recommendations had been completed and 91 were in progress.

Council officers reviewed the Final Report for recommendations that focus on land use planning and development controls. The Inquiry findings discuss the role of the *Environmental Planning and Assessment Act (NSW) 1979* and linkages to the NSW Rural Fire Service's Planning for Bush Fire Protection (PBP). When land is designated as bush fire prone, the PBP document must be applied at a strategic level, in the preparation of Local Environmental Plans or Planning Proposals that apply to such land, and at a specific development level. Therefore, PBP is triggered when a planning proposal or a development application is submitted to the consent authority. The NSW Bush Fire Inquiry found, as such, planning legislation and instruments had limitations in terms of bush fire protection.

The primary recommendations in the Final Report that have the potential to impact upon planning requirements are Recommendation 27 and Recommendation 28. The recommendations are -

Recommendation 27

That Government commit to shifting to a strategic approach to planning for bush fire, and develop a new NSW Bush Fire Policy similar to the NSW Flood Prone Land Policy in order to accommodate changing climate conditions and the increasing likelihood of catastrophic bush fire conditions; to build greater resilience into both existing and future communities; and to decrease costs associated with recovery and rebuilding.

The December 2021 quarterly report prepared by Resilience NSW indicates that this action is in progress and has a target date of Quarter 1 of 2024 for completion.

Recommendation 28

That Government, acknowledging that a strategic approach to planning for bush fire will take time, and in order to protect, prepare and build resilience into existing communities better, should immediately -

- Prepare, in association with the insurance sector, a model framework and statutory basis for the establishment of an enforcement, compliance and education program which adopts a risk-based approach to routine inspection of local bush fire prone developments to ensure that every local development on bush fire prone land is prepared for future bush fire seasons in accordance with bush fire protection standards of the day, that account for worsening conditions.*
- Ensure local government is resourced to enable effective audit, enforcement and compliance powers in respect of local developments and assets on bush fire land.*
- Consider the introduction of subsidies for property owners to undertake site mitigation works to reduce bush fire risk and work with the Insurance Council of Australia to develop an agreed set of measures to insure against with a view to risk reductions resulting in lower insurance premiums.*
- Review vegetation clearing policies to ensure that the processes are clear and easy to navigate for the community, and that they enable appropriate bush fire risk management by individual landowners without undue cost or complexity.*

The December 2021 quarterly report prepared by Resilience NSW indicates that parts 1 and 4 of this action have been completed and parts 2 and 3 are in progress, with part 2 being indicated as on-going and part 3 has a target date of Quarter 4 in 2024 for completion.

At this stage these 2 recommendations do not require amendments to DCP Chapter E16.

Federal Royal Commission

A Royal Commission into National Natural Disaster Arrangements was established by the Federal Government, focused on all types of natural disaster that occur within Australia. Due to the intensity of the 2019-2020 bush fire season, many of the submissions received related to this event. The Royal Commission found climate change is driving less predictable and more intense weather events including

bush fires. The Royal Commission released their findings on 28 October 2020 which were tabled in Federal Parliament on 30 October 2020. The inquiry focused on National natural disaster arrangements, which included all tiers of government. The report included 80 recommendations relating to all phases of disaster management: mitigation, preparedness, response, and recovery.

Council officers reviewed the recommendations given in the Royal Commission's report. Recommendation under Chapter 19 of the report concerns matters relating to land-use planning and building regulation. The recommendations concerned the communication of natural hazard risk information to individuals, guidance to insurer-recognised retrofitting and mitigation, mandatory consideration of natural disaster risk in land use planning decisions and the National Construction Code.

The NSW Government advised they either support or support in principle each of the recommendations directed to States and Territories, and noted those recommendations directed to the Commonwealth. At the time of drafting this report the NSW Government was still considering a formal response.

Should the State and Federal Government's make further updates to Planning for Bush Fire Protection or planning controls, then further future amendments may need to be made to the DCP Chapter E16.

PROPOSAL

The updates to DCP Chapter E16 are editorial amendments to improve the clarity for developers, consultants, the community, and Council staff when carrying out development upon bush fire prone land.

The Chapter has been updated in line with the introduction of Planning for Bushfire Protection 2019, updated bushfire mapping, which includes the introduction of Category 3 Vegetation - Grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands and an associated 30 metre buffer and to reference the updated Australian Standard AS3959 – 2018 Construction of Buildings in Bushfire-prone Areas.

The proposed amendments are identified and recorded in the attached draft DCP Chapter E16 through tracked changes. Content proposed to be deleted appears as black text with a strikethrough. Content proposed to be added / amended appears as highlighted yellow text. An example has been provided below to provide clarity.

Test proposed to be removed	Text to be removed
Text proposed to be added / amended	New text added to document

CONSULTATION AND COMMUNICATION

The proposed amendments to the Bush Fire Prone Lands Maps have been made in consultation with the NSW Rural Fire Service.

If Council endorses the draft amendment to the DCP, the public exhibition will include -

- Notification in the local newspapers of the exhibition dates.
- The draft material being placed on Council's website with opportunity for comment.
- Physical copies available in the Wollongong library.

Following the exhibition period, submission will be reviewed and reported to Council with further recommendations regarding progression of the DCP chapter.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goal “We value and protect our environment”. It specifically delivers on the following -

Community Strategic Plan	Delivery Program 2018-2022	Operational Plan 2021-22
Strategy	4 Year Action	Operational Plan Actions
1.3.1 Manage land uses to strengthen urban areas and improve connectivity to train stations and key arterial routes.	1.3.1.1 Impacts from development on the environment are assessed, monitored and mitigated.	Engage with other tiers of government, the development/building industry and the broader community to achieve improved development outcomes.

RISK MANAGEMENT

The revised DCP Chapter E16 will provide more clarity to Council and industry regarding Bush Fire Management requirements. The exhibition process will allow the community to provide further input to the chapter.

CONCLUSION

The Wollongong DCP Chapter E16: Bush Fire Management has been reviewed following internal and external consultation. It is recommended that the draft DCP chapter and associated Bush Fire Prone Lands Maps be exhibited for community and industry input.



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1 INTRODUCTION

This chapter of the DCP provides guidance and controls for all development upon land classified as being bush fire prone within the City of Wollongong Local Government Area (LGA).

This chapter of the DCP should be read in conjunction with Wollongong Local Environmental Plan 2009 (ie including the Bush Fire Prone Maps), the NSW Rural Fire Service ~~document publication~~ *Planning for Bush Fire Protection 2006* and Australian Standard AS3959 – 2018 *Construction of Buildings in Bushfire-prone Areas*.

Additionally, any Development Application involving the erection of a detached dwelling-house, alterations and additions to an existing dwelling-house within bush fire prone land must also address the requirements contained in the NSW Rural Fire Service publication titled *Building in Bush Fire Prone Areas – Guidelines for Single Dwelling Development Applications*.

2 WHAT IS BUSH FIRE PRONE LAND?

2.1 General

Figure 1 illustrates the Bush Fire Prone Land map applying to the whole of the City of Wollongong-LGA. This map can be viewed on Council's website.

<http://maps.wollongong.nsw.gov.au/dekhopublic/?bookmark=Bushfire+Prone+Information>

Bush fire prone land is described as Category 1 ~~or~~, Category 2 ~~or~~, Category 3 vegetation. Figure 2 depicts bush fire vegetation (Category 1, and Category 2 ~~and~~ Category 3) and the associated buffer distances.

If either the mapped vegetation or the buffer intersects a property, then the property is considered to be bush fire prone land.

2.2 Category 1 Vegetation

Category 1 vegetation appears as orange ~~red~~ on the map and represents forests, woodlands, heathlands, pine plantations and ~~forested~~ wetlands. Land within 100 metres of this category (indicated by the ~~light yellow~~ **red** buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bushfire attack.

2.3 Category 2 Vegetation

Category 2 vegetation appears as yellow on the map and represents ~~grasslands, scrublands s rainforests, open woodlands and mallee~~ **and lower risk vegetation parcels. Lower risk vegetation parcels consist of:**

- Remnant vegetation;
- Land within ongoing land management practices that reduce bush fire risk. These areas must be subject to a plan of management or similar that demonstrates that the risk of bush fire is offset by strategies that reduce bush fire risk and include:
 - Discreet urban reserve/s;
 - Parcels that are isolated from larger uninterrupted tracts of vegetation and known firepaths;
 - Shapes and topographies which do not permit significant upslope fire runs towards development;
 - Suitable access and adequate infrastructure to support suppression by fire fighters;
 - Vegetation that supports a lower likelihood of ignition because the vegetation is surrounded by development such that ignition in any part of vegetation has a high likelihood of detection.

Land within 30 metres of this category (ie as indicated by the ~~red~~ **light yellow** buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bushfire attack.

Part E – General Controls – Environmental Controls

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2.4 Category 3 Vegetation

Category 3 vegetation appears as dark orange on the map and represents grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands

Land within 30 metres of this category (ie as indicated by the light yellow buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bushfire attack.

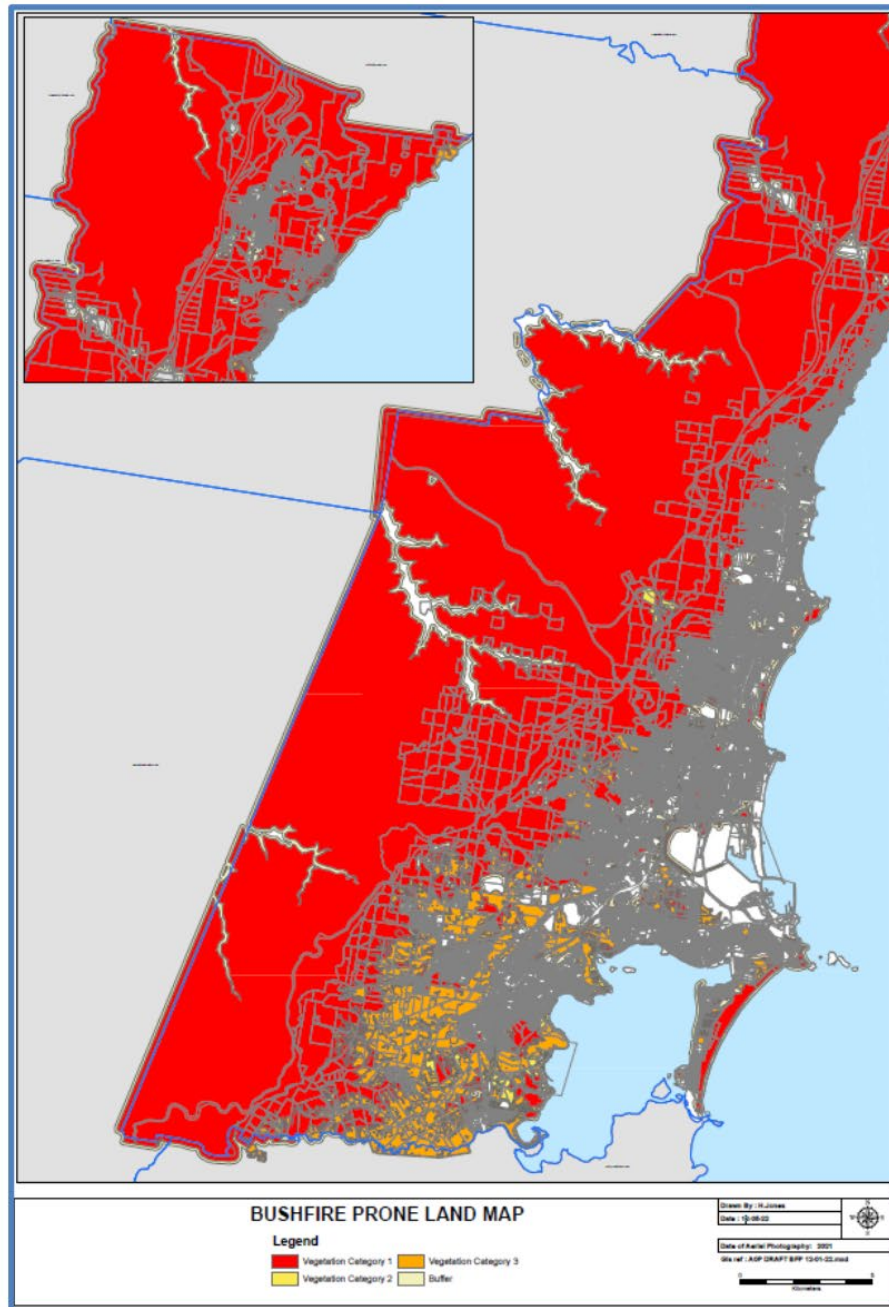
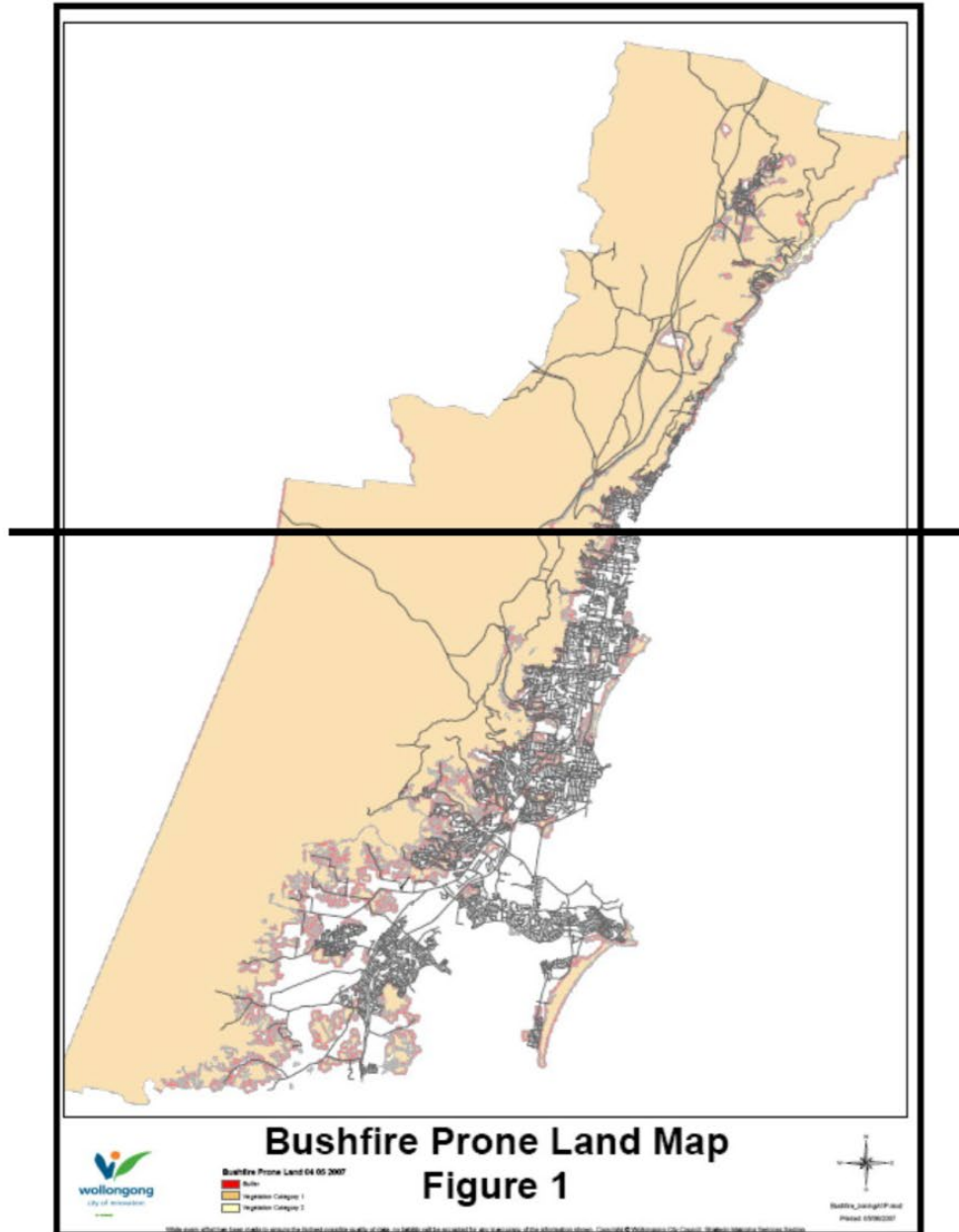


Figure 1: Bush Fire Prone Land Map



<http://maps.wollongong.nsw.gov.au/dekhopublic/?bookmark=Bushfire+Prone+Information>

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Figure 2: Vegetation Categories and Buffer Distances

3 DEVELOPMENT CONTROLS

1. If any part of a proposed development falls within an area that has been mapped as bush fire prone (Category 1, 2, 3 or buffer), then the applicant must consider bush fire risk as part of the Development Application process.
2. The application must be accompanied by a Bush Fire Risk Assessment report.
3. The Bush Fire Risk Assessment report must be in accordance with the requirements of Appendix 2 of the *Planning for Bush Fire Protection 2006 2019* guidelines.
4. *Australian Standard AS3959 – 2009 Construction of Buildings in Bush Fire-prone Areas* *Planning for Bush Fire Protection 2019* and the NSW Rural Fire Service publication *Building in Bush Fire Prone Areas – Guidelines for Single Dwellings Applications* should be used for any detached dwelling-house or alterations and additions to a dwelling-house.
5. Developments that meet the acceptable solutions of the *Planning for Bush Fire Protection 2006 2019* guidelines can be determined by the consent authority (i.e. Council).
6. Applications should include buildings that are sited and designed to minimise the risk of bush fire attack which discourages the requirement to build at BAL-Flame Zone and BAL-40. If an alternate a performance based solution is proposed or the application can not comply with the *Planning for Bushfire Protection 2006 2019* guidelines, the application will be referred to the NSW Rural Fire Service Fire Control Centre for comment prior to the determination of the application by Council.
7. Any proposed modification to a development consent granted for a development upon bush fire prone land must comply with the requirements of the *Planning for Bush Fire Protection 2006 2019* guidelines and Australian Standards AS3959 – 2009 *2018 Construction of Buildings in Bushfire-prone Areas*.
8. Any landscape plan must be prepared in accordance with Appendix 4 of *Planning for Bush Fire Protection 2019* and the NSW Rural Fire Service publication *Standards for Asset Protection Zones*.
9. The landscape plan must identify the following:
 - a. Location and species type of all existing and proposed trees and shrubs within the proposed asset protection zone(s).
 - b. Proposed trees and shrubs to be removed as part of the asset protection zone (APZ).
 - c. Proposed trees and shrubs to be retained as part of the asset protection zone (APZ).

4 INTEGRATED DEVELOPMENT

1. Bush Fire Safety Approval Authority from the NSW Rural Fire Service, under section 100B of the Rural Fires Act 1997 is required for the following types of development:
 - a. Subdivision of land that could be used for residential or rural residential purposes.
 - b. Development of bush fire prone land for a special fire protection purpose as identified under Section 100B(6) of the NSW Rural Fires Act 1997, Section 46 of the NSW Rural Fires Regulation 2013 and Section 6 of *Planning for Bush Fire Protection 2019* (e.g. educational establishments, senior living self-care or residential care facilities etc.).
2. Any Integrated Development Application must be accompanied by a Bush Fire Risk Assessment report prepared by a suitably qualified bush fire consultant.
3. The Bush Fire Risk Assessment report must be in accordance with the requirements of Appendix 2 of *Planning for Bush Fire Protection 2006 2019* guidelines.

5 CLASS 5 – 8 BUILDINGS AND CLASS 10 BUILDINGS OF THE BUILDING CODE OF AUSTRALIA

1. The Building Code of Australia (BCA) does not provide any bush fire specific performance requirements and hence, AS3959 and National Association of Steel-Framed Housing (NASH) Standard does not apply as a set of 'deemed to satisfy' provisions, however compliance with AS3959

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and the NASH Standard must be considered when meeting the aims and objectives of Planning for Bush Fire Protection.

Whilst bush fire is not captured in the NCC for Class 5-8 buildings, The general fire safety provisions contained in the BCA are taken as acceptable solutions but the aim and objectives of *Planning for Bush Fire Protection 2006* 2019 guidelines apply in relation to other matters such as access, water and services and emergency and evacuation planning and landscaping/vegetation management.

2. Under Appendix 1 Section 8 of the *Planning for Bush Fire Protection 2006* 2019 guidelines, the following classes of buildings in the BCA are subject to compliance with the requirements of the *Planning for Bush Fire Protection 2006* 2019 guidelines:
 - a. Class 5 – 8 buildings (i.e. offices, factories, warehouses, public car parks and other commercial or industrial facilities);
 - b. Class 10a Buildings (i.e. sheds); and
 - c. Class 10b Buildings (i.e. fences, retaining or free standing walls, masts, antennae, swimming pools or the like); and
 - d. Class 10c Buildings (i.e. private bush fire shelter).
3. Where a Class 10a building is constructed in proximity to another residential class of building, the Class 10a building must meet the requirements of that class or be located no less than 6 metres away from the main building a dwelling.
4. Class 10b buildings such as fences should be made on hardwood or non-combustible material, however in circumstances where the fence is within 6m of a building or in areas of BAL 29 or greater the fence should be made of non-combustible material only. Are required to be non-combustible and Where an aboveground swimming pool is erected, it should not adjoin or be attached directly onto a wall of a building of Class 1 – 4 of SEPP Class 9.
5. In this respect, any Development Application for a Class 5 – 8 Building must be accompanied by a Bush Fire Risk Assessment report. This report must be prepared by a suitably qualified and experienced bush fire consultant.
6. Any Development Application for a Class 10 Building must be supported by a Bush Fire Risk Assessment report. This report is recommended to be prepared by a suitably qualified and experienced bush fire consultant, rather than the property owner.

6 CONSTRUCTION CERTIFICATE APPLICATIONS FOR DEVELOPMENTS WITHIN BUSH FIRE PRONE LAND

1. Construction Certificate applications for development upon land classified as bush fire prone land are assessed in accordance with AS3959 – 2009 2018 *Construction of Buildings in Bushfire-prone Areas*. Therefore, an applicant must provide a schedule of compliance with the applicable construction standards in accordance with section 3 of AS3959. This schedule will form part of the approval documentation and the applicant will be required to comply with it during the course of construction.

7 ASSET PROTECTION ZONES ON COUNCIL MANAGED LANDS

1. Generally APZs proposed on lands to be dedicated to Council will not be accepted. Where a Development Application proposes an APZ on land to be dedicated to Council, it will be assessed on a case by case basis and must have regards for/to:
 - a. Accessibility of land.
 - b. Minimisation of ongoing maintenance.
 - c. Identification of the responsible party for the identified maintenance e.g. use of positive covenants on adjoining properties.
 - d. The intended use/purpose of dedicated land. This will have bearing on acceptability of the proposal e.g. APZ on sporting fields which are maintained by Council for general public use. Natural creek lines and bushland reserves are not appropriate.

- e. Council's preferred management option for APZs in new subdivisions is a perimeter road networks with the balance/additional APZ components within private land.

8 REFERENCE MATERIAL / DOCUMENTS

The NSW Rural Fire Service *Planning for Bush Fire Protection 2006*²⁰¹⁹ guidelines and the NSW Rural Fire Service publication *Building in Bush Fire Areas – Guidelines for Single Dwelling Applications* can be viewed on the NSW Rural Fire Service website under the heading *Single Dwelling Application Kit* via the following link: http://www.rfs.nsw.gov.au/dsp_content.cfm?CAT_ID=900

The NSW Rural Fire Service publication *Standards for Asset Protection Zones* can be viewed on the NSW Rural Fire Service website via the following link: https://www.rfs.nsw.gov.au/_data/assets/pdf_file/0010/13321/Standards-for-Asset-Protection-Zones.pdf The Australian Standard AS3959 – 2009²⁰¹⁸ *Construction of Buildings in Bushfire-prone Areas* may be obtained from Standards Australia website at www.standards.org.au

