

Establishment of Bushfire Hazard Management Areas on Council Land Policy

POLICY STATEMENT	<p>1.1 The purpose of this policy is to provide a framework for managing requests to incorporate Council owned or managed land into new bushfire Hazard Management Areas (HMAs) for private property.</p> <p>1.2 Kingborough Council recognises that HMAs are an important mechanism for mitigating the risk and providing a degree of protection for people and property from the life threatening consequences of bushfires. Council also has a commitment to maintain a balance between managing bushfire threat and protecting the natural values of its bushland reserves from the impact of new HMAs.</p>
DEFINITIONS	<p>2.1 AS 3959:2009 Australian Standard for Construction of Buildings in Bushfire-Prone Areas.</p> <p>2.2 Bushfire Hazard Management Area (HMA) is defined in the Bushfire Prone Areas Code Tasmania under the <i>Land Use Planning and Approvals Act 1993</i>. Hazard Management Area means the area between a habitable building or building area and bushfire-prone vegetation, which provides access to a fire front for firefighting, which is maintained in a minimal fuel condition and in which there are no other hazards present which will significantly contribute to the spread of a bushfire.</p> <p>HMAs will provide a degree of protection for people from the life threatening consequences of radiant heat by providing separation from unmanaged vegetation. HMAs whilst designed to enhance the ability of buildings to withstand bushfire attack in no way form a guarantee against the loss of life or property as a result of bushfire.</p> <p>The Bushfire-Prone Areas Code requires HMAs to be established and maintained between the bushfire prone vegetation and the building at a distance equal to, or greater than the separation distance specified for the Bushfire Attack Levels (BAL) in AS 3959 – 2009 <i>Construction of Buildings in Bushfire Prone Areas</i>.</p> <p>2.3 Separation distances for HMAs are defined in Table 2.4.4 AS 3959 – 2009 <i>Construction of Buildings in Bushfire Prone Areas</i>.</p> <p>2.4 Bushfire Attack Level (BAL) is a numerical value which relates to heat exposure levels (the severity of radiant heat) that a site may experience during a bushfire. BAL are derived from Australian Standards 3959-2009 and are measured in increments of radiant heat expressed in kilowatts per metre squared.</p> <p>The Australian Standard for Construction of Buildings in Bushfire Prone Areas AS3959:2009 divides bushfire prone areas into six bushfire attack levels (BAL), based on the severity of the building’s potential exposure to ember attack, radiant heat and direct flame contact:</p> <ul style="list-style-type: none"> • BAL-LOW - very low risk • BAL-12.5 - low risk • BAL-19 -moderate risk • BAL-29 -high risk • BAL-40 -very high risk • BAL-FZ -extreme risk (Flame Zone) <p>The subdivision of land in bushfire prone areas requires a BAL assessment to ensure that each lot within the subdivision is able to provide a safe and compliant site for building.</p>

	<p>Once a Bushfire Attack Level has been determined for a site (by a qualified practitioner following the method outlined in <i>Australian Standard for Construction of Buildings in Bushfire-Prone Areas AS3959:2009</i>), appropriate building construction and design requirements can be determined. Developments that are closer to bushfire-prone vegetation will be assessed as having a higher Bushfire Attack Level (BAL) and as a result, more rigorous building construction standards will be required.</p> <p>2.5 Bushfire Prone Area is defined in the <i>Building Regulations 2014</i> (as amended) as:</p> <p>a) Land other than land that is within the boundary of an area shown as being not bushfire-prone on a planning scheme map or on an overlay on a planning scheme map; and</p> <p>b) Where there is no area shown as being not bushfire-prone on a planning scheme map or on an overlay on a planning scheme map, land that is within 100m of an area of bushfire-prone vegetation equal to or greater than one hectare.</p> <p>2.6 Bushfire Hazard Management Plan</p> <p>A plan drawn up using AS3959:2009 that describes the architectural and land management requirements for a development to achieve an acceptable level of bushfire risk management. Bushfire Hazard Management Plans are drawn up by practitioners accredited by Tasmania Fire Service in the use of AS3959:2009.</p>
<p>OBJECTIVE</p>	<p>3.1 To avoid the use of public land in Council’s care and control for private use as a HMA.</p> <p>3.2 Where the creation of HMAs on Council land cannot be avoided, to minimise the extent to which Council owned land shall be used or relied upon for asset protection purposes to accommodate HMAs.</p> <p>3.3 Provide a clear and transparent process and criteria that enable a consistent approach to the assessment of requests to establish HMAs on Council owned and managed land for the benefit of adjoining dwellings.</p>
<p>SCOPE</p>	<p>4.1 This policy applies to all requests for HMAs on Council owned or managed land associated with new and existing uses and developments and includes:</p> <p>a) Development and Use applications assessed under the Kingborough Planning Scheme 2000, Kingborough Interim Planning Scheme 2015 or any subsequent planning scheme declared under the <i>Land Use Planning and Approvals Act 1993</i> and applicable to the Kingborough Municipal area.</p> <p>b) New building work on land classified as being bushfire prone under the provisions of the <i>Building Act 2016</i> and/or the Director of Building Control determination.</p>
<p>PROCEDURE (POLICY DETAIL)</p>	<p>5.1 Applications for new HMAs will be assessed against a set of criteria contained in the related Council document: <i>‘Criteria for processing requests to establish Hazard Management Areas on Council land’</i>.</p> <p>5.2 From time to time Council may vary the criteria that apply to requests to establish Hazard Management Areas on Council land as the need arises (in response to changes in legislation etc.).</p>
<p>GUIDELINES</p>	<p>6.1 Where possible, all HMAs should be contained within the property being developed, irrespective of the presence of an existing Council maintained HMA within a reserve adjoining the subject property, unless in accordance with an existing Bushfire Management Plan for the reserve.</p> <p>6.2 Where HMA requirements cannot be met within the private land being developed, private property owners must use an alternate bushfire protection design as a Deemed-to-Satisfy solution that meets the requirements of the National Construction Code to achieve an acceptable level of bushfire risk management for construction of a building to BAL 29 standard before Council will consider establishing a HMA on Council owned or managed land.</p> <p>6.3 Council consent will be required to implement a Hazard Management Area on Council owned or managed land. A development proposing works on Council owned or managed land should not be prepared, or submitted without first achieving the consent of Council.</p>

	<p>6.4 Council will give consideration to the need to balance the management of the threat of bushfires to human life and assets with the need to protect the ecological, cultural and recreational values of its bushland reserves.</p> <p>6.5 Consent to create a HMA on council land will not be provided (other than in exceptional circumstances) for developments other than a new single habitable building on an undeveloped title created prior to 2015.</p> <p>6.6 Before Council will give consideration to requests to clear vegetation on Council owned or managed land for incorporation into a Hazard Management Area for private property, property owners are required to demonstrate that they have:</p> <ol style="list-style-type: none"> a) explored all other options (design and construction solutions, creation of escape routes, etc.). b) established and maintained a Hazard Management Area within the lot that is the subject of the request. c) used an alternate bushfire protection design as a Deemed-to-Satisfy Solution that meets the requirements of the National Construction Code to achieve an acceptable level of bushfire risk management for construction of a building to BAL 29 standard. <p>6.7 Where the creation of a HMA on Council land cannot be avoided (such as where the topography of a site is a limiting factor), each request will be considered on its own merits with regard to:</p> <ol style="list-style-type: none"> a) the natural and cultural values (including recreational and visual amenity values) of the land, b) the relevant reserve management plans and/or strategy documents, and c) resources required to establish and maintain the HMA. <p>Note: increased or unanticipated costs associated with building in a bushfire prone area or the size of a block limiting the area available for creation of a HMA are not considered valid reasons to require creation of HMA on Council land.</p> <p>6.8 Costs associated with the establishment and maintenance of Hazard Management Areas on Council land are to be borne by the private property owner.</p>
COMMUNICATION	<p>7.1 This policy will be made available to the general public on the Council website and at the Customer Services counter.</p> <p>7.2 The following stakeholders have a direct interest in this policy and should be notified of any amendments through direct communications:</p> <ul style="list-style-type: none"> • Council staff • Development applicants • Bushfire Hazard Practitioners, building surveyors, development advisors and Consultants
LEGISLATION	<p>8.1 HMAs are required to ensure that potential bushfire fuel surrounding a building in a bushfire prone area is minimised. The creation of HMAs for new buildings in Bushfire Prone Areas is regulated across Tasmania under the Tasmanian State Planning Provisions and the <i>Building Act 2016</i> and <i>Building Regulations 2014</i> (until the implementation of the Tasmanian Planning Scheme at which time the requirements of the Building Regulations 2016 take effect).</p> <p>Other relevant legislation:</p> <ul style="list-style-type: none"> • Kingborough Interim Planning Scheme 2015 • <i>Building Regulation 2014 (Amended)</i> • <i>Land Use Planning and Approvals Act 1993</i> • <i>Fire Service Act 1979</i> • <i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>
RELATED DOCUMENTS	<p>9.1 National Construction Code of Australia</p> <p>9.2 AS3959:2009 <i>Australian Standard for Construction of Buildings in Bushfire-Prone Areas.</i></p>

	<p>9.3 Bushfire- prone Areas Code, Tasmanian Planning Commission, Department of Justice, Tasmania</p> <p>9.4 Planning Directive No. 5.1 Bushfire – Prone Areas Code</p> <p>9.5 Guidelines for Development in Bushfire Prone Areas of Tasmania. Tasmania Fire Service. 2005</p> <p>9.6 Kingborough Council Parks, Recreation and Natural Areas By-Law 2011</p> <p>9.7 Kingborough Council Biodiversity Offset Policy</p> <p>9.8 Tasmanian Vegetation Fire Management Policy (State Fire Management Council)</p>
AUDIENCE	<p>10.1 Kingborough Council Councillors</p> <p>10.2 Kingborough Council staff</p> <p>10.3 Development applicants</p> <p>10.4 Consultants</p> <p>10.5 Tasmanian Planning Commission</p> <p>10.6 Community</p> <p>10.7 Tasmania Fire Service Bushfire Planning and Policy Unit</p>

Criteria for processing requests to establish Hazard Management Areas on Council land:

To be used in conjunction with the *Policy on the Establishment of Bushfire Hazard Management Areas on Council land (Kingborough Council Policy No. 4.13)*.

The following details outline how Council will manage requests to establish HMAs on Council owned or managed land:

1. A development proposing works on Council owned or managed land should not be prepared, or submitted without first achieving the consent of Council.
2. Council will ensure that the Bushfire Attack Level and the HMA proposed are in proportion with the natural constraints of the land (such as topography).
3. Where the creation of HMAs on Council land cannot physically be avoided the inclusion of any Council land in a HMA is conditional upon:
 - a) the HMA being required for the development of a new building, or an extension to an existing building, for a lot existing prior to 1 July 2015. Bushfire HMAs required for new subdivisions or for alterations or additions to an existing building lodged after this date will not be provided on Council land. Developments for titles created after 1 July 2015 must rely upon Performance Solutions alone to provide bushfire protection to a building.
 - b) the siting and building design of the proposed building shall be such that all practical attempts will be made to minimise the extent of any vegetation clearing on Council land.
 - c) the maximum extent of the HMA on Council land will be the minimum necessary to provide a buffer appropriate for protection of a building constructed to BAL 29 under AS3959:2009 unless exceptional circumstances (as described in point 8 below) can be established.
4. The initial establishment of a HMA on Council land will be implemented by Council as per an agreed plan, with all costs to be borne by the private property owner. Authority to establish and maintain HMA's on Council land will be detailed in a Part 5 Agreement which will be attached to the title of the private property.
5. HMAs on Council land will only be established following the issue of a building permit and the commencement of building works but prior to the issue of a certificate of occupancy.
6. Payment of the cost associated with the establishment and ongoing maintenance of HMAs on Council owned land will be the responsibility of the private property owner.
7. Ongoing vegetation management work associated with the maintenance of HMAs on Council land will be supervised and/or carried out by Council employees in accordance with a formal agreement with Council, with all costs to be borne by the private property owner.
8. Only where an applicant can demonstrate there are exceptional circumstances will Council consider a request that does not meet all of the requirements (1 to 4 above). Exceptional circumstances may apply to developments with an existing title, in a location which is zoned residential and where the natural constraints of the land mean that it is not possible to build anywhere else on the subject lot.

In such cases it is the responsibility of the applicant to provide supporting evidence to substantiate their request which must then be reported to and approved by the Council.

Additional notes for property owners seeking permission to establish a Hazard Management Area on Council Land:

- a) Applicants for new developments are advised to seek advice on the requirements for Hazard Management Areas through the Bushfire Hazard Management Plan process *prior* to having concept plans drawn up for new buildings. If the Bushfire Management Plan process indicates that it may be necessary to incorporate Council owned or managed land in the creation of a Hazard Management Area it is important to discuss this with Council before a final concept plan is written for the development site.
- b) Permission to establish a HMA on Council land requires a lease/licence agreement between Council and the property owner.
- c) The applicant is responsible for gaining all necessary statutory approvals, including all required documentation and associated costs (i.e. planning, legal, environmental and building).

Standard for vegetation management for establishment of HMAs

- a) Where approval is granted for a HMA to be established on Council owned or managed land, vegetation management for the HMA must be conducted in accordance with a Bushfire Hazard Management Plan endorsed by a TFS accredited person (in the case of a new development) or otherwise follow recommendations to maintain fuel in a 'low condition' – as per TFS Guidelines (Building for Bushfire – Hazard Management Areas, 2016).
- b) The extent of vegetation clearance/disturbance for a HMA is to be not more than the minimum necessary for adequate protection from bushfire.