



Establishment of Bushfire Hazard Management Areas on Council Land Policy

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Responsible Officer:	Manager Environmental Services
Strategic Plan Reference:	3.3 The community and Council are prepared for, and resilient to, emergency events.

1. POLICY STATEMENTS

- 1.1 The purpose of this policy is to state Council's position on the creation of new Hazard Management Areas (HMAs) on Council land for adjacent residential development and provide a framework for managing these areas.
- 1.2 Council recognises that HMAs provide a degree of protection for people in a dwelling from the potentially life-threatening consequences of radiant heat by providing separation from unmanaged vegetation.
- 1.3 Council is committed to maintaining a balance between managing bushfire risk to residential dwellings, managing additional liability and the protection of values in its bushland reserves from the impact of new HMAs.

2. DEFINITIONS

- 2.1 **Accredited Bushfire Hazard Practitioners** means a Bushfire Hazard Practitioner accredited under Part IVA of the *Fire Services Act 1979*.
- 2.2 **AS 3959:2018** means the Australian Standard for Construction of Buildings in Bushfire Prone Areas.
- 2.3 **Bushfire Hazard Management Area (HMA)** is defined in the Bushfire Prone Areas Code under the *Land Use Planning and Approvals Act 1993*. It is 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.

The Bushfire-Prone Areas Code (within the current applicable planning scheme) 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 – 2018.

- 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 AS3959-2018. 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.
- 2.5 **BAL 29** means a Bushfire Attack Level specification, as defined in AS3959:2009 Section 2.
- 2.6 Bushfire Prone Area is defined as:
 - 2.6.1 land that is within the boundary of a bushfire-prone area shown on an overlay on a planning scheme map; or
 - 2.6.2 where there is no overlay on a planning scheme map, land that is within 100m of an area of bushfire-prone vegetation equal to or greater than 1 ha.
- 2.7 **Bushfire Hazard Management Plan** means a plan drawn up using AS3959:2018 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 AS3959:2018.
- 2.8 **Council Land** is land owned and/or managed by Kingborough Council.

3. OBJECTIVE

- 3.1 To avoid reliance on Council land as a HMA for adjacent development except in exceptional circumstances.

- 3.2 To ensure that new bushfire HMAs for the benefit of residential dwellings are only established on Council land where, without such areas, existing vacant lots would be unable to be developed for a residential dwelling.
- 3.3 Where the creation of new HMAs on Council land cannot be avoided, to minimise the extent to which Council land shall be relied upon to accommodate HMAs.
- 3.4 Provide a clear process and criteria for the assessment of requests to establish new HMAs on Council land for residential dwellings.

4. SCOPE

- 4.1 This policy applies to all requests for HMAs on Council land associated with new and existing uses and developments and includes:
 - 4.1.1 Applications assessed under the current applicable planning scheme declared under the *Land Use Planning and Approvals Act 1993* and applicable to the Kingborough Municipal area.
 - 4.1.2 New building work on land classified as being bushfire prone under the provisions of the *Building Act 2016* and/or the Director of Building Control determination.

5. PROCEDURE (POLICY DETAIL)

- 5.1 Applications for new HMAs will be assessed against a set of criteria contained in the Council document 'Criteria for assessing requests to establish a Bushfire Hazard Management Areas on Council land'. A request form titled 'Request for Bushfire Hazard Management Area on Council Land' is available.

6. GUIDELINES

- 6.1 Where HMA requirements cannot be met within the private land being developed, 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 must be developed.
- 6.2 The maximum extent of the bushfire hazard management areas on Council land will be the minimum necessary to provide a buffer appropriate for a habitable building constructed to BAL-29 under AS3959:2009.
- 6.3 A development application proposing an HMA on Council land will require the consent of the Chief Executive Officer.
- 6.4 In assessing the request for a new HMA, Council will consider 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 reserves.
- 6.5 Consent of the Chief Executive Officer to create an 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.
- 6.6 Applicants requesting use of Council land are required to demonstrate that they have minimised the area required for the HMA by:
 - 6.6.1 considering alternate design and construction options.
 - 6.6.2 proposing to establish and maintain the largest possible portion of the Hazard Management Area within the property that is the subject of the request.

6.6.3 using a 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.

6.7 Where the creation of a HMA on Council land cannot be avoided, each request will be considered on its own merits with regard to:

6.7.1 the natural, social and cultural values (including recreational and visual amenity values) of the land;

6.7.2 the relevant reserve management plans and/or strategy documents, and

6.7.3 resources required to establish and maintain the HMA (accessibility of site, vegetation type etc.).

6.8 The initial establishment of the HMA will be implemented by Council at full cost to the landowner.

6.9 The annual ongoing cost of maintenance will be borne by the landowner for the first five years, after which time Council will assume ongoing responsibility for maintenance and the associated costs.

6.10 The HMA must be established after a building permit is issued and before a certificate of occupancy.

7. COMMUNICATION

7.1 The policy and the associated criteria for assessing requests for a new HMA are publicly accessible via Council's website.

8. LEGISLATION

8.1 The following legislative requirements should be considered in conjunction with this policy:

8.1.1 *Building Act 2016 and Building Regulations 2016;*

8.1.2 *Land Use Planning and Approvals Act 1993;*

8.1.3 *Fire Service Act 1979;*

8.1.4 *Local Government (Building and Miscellaneous Provisions) Act 1993;*

8.1.5 *Parks, Recreation and Natural Areas By-law No. 3 of 2021.*

9. RELATED DOCUMENTS

9.1 Criteria for assessing requests to establish a Bushfire Hazard Management Area on Council land:

9.1.1 National Construction Code of Australia 2022.

9.1.2 *AS3959:2018 Australian Standard for Construction of Buildings in Bushfire-Prone Areas.*

9.1.3 Planning Directive No. 5.1 Bushfire – Prone Areas Code.

10. AUDIENCE

10.1 Council employees and Councillors;

10.2 Developers and landowners;

10.3 Accredited Bushfire Hazard Practitioners, building surveyors, and planning consultants.

CRITERIA FOR ASSESSING REQUESTS TO ESTABLISH BUSHFIRE HAZARD MANAGEMENT AREAS ON COUNCIL LAND

To be used in conjunction with the Establishment of Bushfire Hazard Management Areas on Council Land Policy 4.13

To allow Council to assess your application for an HMA to be created on Council land, a response to criteria 3a, b, c and 4 must be submitted.

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

1. A development proposing works on Council land should not be prepared or submitted without first achieving Council consent.
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 an HMA on Council land cannot 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 AS3959:2018 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 HMAs on Council land will be detailed in a Part 5 Agreement which will be attached to the title of the private property. Alternatively, the creation of a fire easement for the protection of adjoining developments may be appropriate in limited situations where it can be demonstrated that the ongoing management measures are straight forward and do not require detailed management prescriptions.
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 for the first five years.
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 for the first five years.

8. Only where an applicant can demonstrate there are exceptional circumstances will Council consider a request that does not meet all 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 Information:

- 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 Hazard 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 may require a lease/license agreement between Council and the property owner, a permit under the relevant by-law and/or a legal agreement on the title such as a Part 5 Agreement or Fire Easement.
- 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).
- d) A template titled 'Request for Bushfire Hazard Management Area on Council Land' is available to guide applications.

Standard for vegetation management for establishment of HMAs

Where approval is granted for a HMA to be established on Council land, vegetation management for the HMA must be established and maintained in accordance with a Bushfire Hazard Management Plan endorsed by a Tasmania Fire Service 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).

[http://www.fire.tas.gov.au/userfiles/alanar/file/Nov%202019/190341%20TFS%20Building%20for%20Bushfire Hazard%20Management%20Area 5%20July.pdf](http://www.fire.tas.gov.au/userfiles/alanar/file/Nov%202019/190341%20TFS%20Building%20for%20Bushfire%20Hazard%20Management%20Area%205%20July.pdf)

The extent of vegetation clearance/disturbance for a HMA is to be not more than the minimum necessary for adequate protection from bushfire.