

Tasmanian Planning Scheme

Bushfire risks and requirements of the planning scheme

Will the zoning of my property affect how I can manage bushfire risk?

- The zoning changes within the incoming Tasmanian Planning Scheme will not change the risk of bushfire.
- Zoning does not directly limit your ability to manage bushfire risk.
- Regardless of the land zoning, it is crucial to be prepared for the bushfire season, particularly in Kingborough, which has a recognised high bushfire risk.
- Taking measures to prepare properties and establish defensible spaces that will aid in people's survival during a bushfire event.

Can I remove vegetation to manage bushfire risk without a planning permit?

- [Section 4.4.1 of the Tasmanian Planning Scheme](#) includes several exemptions for bushfire hazard management which means a planning permit may not be required.
- The transition from the current scheme to the proposed Tasmanian Planning Scheme has no changes to the exemptions for bushfire management.
- These exemptions include fire management by the Tasmanian Fire Services (TFS) as part of the TFS strategic hazard reduction program, as well as fire hazard management in accordance with a bushfire hazard management plan approved as part of a specific land use or development.
- When bushfire hazard management is not exempt and a development application is required, the requirements of all relevant standards must be met. Where impacts on vegetation are necessary to meet bushfire requirements, these impacts are generally provided for in the relevant provisions in the planning scheme.

How does the Bushfire Prone Areas Code and Overlay interact with the zoning of my property?

- The Bushfire Prone Areas Code mapping has been created by the State Government and the Tasmanian Fire Service.
- The Bushfire Prone Area Overlay in the planning scheme operates independently of zoning and triggers additional assessment requirements for subdivision, a vulnerable use or a hazardous use, unless it is listed as exempt.
- The Code does not apply to single dwellings or visitor accommodation instead bushfire requirements for these uses are dealt with under the *Building Act 2016*.
- The purpose of the code is to ensure that uses and development is appropriately designed, located, serviced, and constructed, to reduce the risk to human life and property, and the cost to the community, caused by bushfires.



Do I need a Planning Permit to rebuild or repair a dwelling if it is damaged or destroyed by a fire?

- It is not the Planning Scheme that provides the provisions for rebuilding buildings that are destroyed by fire – those provisions sit in the Land Use *Planning and Approvals Act 1993 (LUPAA)*.
- Section 12 of LUPAA provides protections for lawful existing uses and developments, regardless of zoning.
- Specifically, subsection (4) of Section 12 allows for a building (such as a house) that was lawfully built and then destroyed (for example by fire or flood,) to be rebuilt without needing an application for a planning permit (provided the destruction wasn't deliberate).
- That said, if the rebuild is substantially intensified or provided in a different location, the provision of s12(4) cannot be used.

Are there any timeline restrictions in relation to utilizing the above-mentioned clause to rebuild or repair a house?

- Section 12(5) of LUPAA specifies when existing use rights may expire. For example, if a property has not been used for a residential use for a continuous period of two years, Section 12 does not apply.
- Providing the use of the land for residential purposes does not cease for a continuous period of more than two years, existing use rights will be maintained. This needs to be determined on a case-by-case basis.
- The two-year period is set by State Government legislation and Council does not have the power to extend or override it.

If I cannot rely on Section 12 of LUPAA and need a planning permit, how will the new zonings affect my ability to rebuild my house?

- Council understands that most landowners in Kingborough wish to build or rebuild dwellings, and it would be quite unlikely that rebuilding or building a new house on land where one previously lawfully existed could not be supported.
- It's important to understand that zones such as the Rural Living Zone, Landscape Conservation Zone, and the proposed Kingborough Bushland and Coastal Living Zone all allow for dwellings to be built. However, the process for obtaining a planning permit varies across these zones. Please refer to the factsheet for a comparison of the different assessment pathways applicable to each of these zones.

