Tasmanian Planning Scheme

As many will be aware, Councils are currently preparing their draft Local Provision Schedules (‘LPS’), which will provide the local content component of the Tasmanian Planning Scheme (‘TPS’). Once a Council’s LPS has been assessed and approved by the Tasmanian Planning Commission, the TPS will be enacted for that Council area.

The transition to the TPS will be staggered across the state, with the timing ultimately dependent on the Tasmanian Planning Commission’s assessment and hearing process. More information on the TPS can be found on the TPC website.

The introduction of the TPS will have implications for the building regulations for bushfire. At present, the relevant building regulations for bushfire are contained in Part 1A of the Building Regulations 2014. It is important to be aware that once the TPS is active in a Council area, Part 5 of the Building Regulations 2016 will also be enacted and will supersede the 2014 regulations.

Furthermore, the 2016 regulations will call up a new version of the Director’s Determination – Requirements for Building in Bushfire-Prone Areas. This is yet to be released by the Director of Building Control.

Mapping Update

TFS in consultation with Councils has now prepared draft bushfire-prone areas mapping for over 50% of Local Government Areas. It is anticipated that all Councils will have a final draft overlay by mid-year 2018.

Formal implementation of the mapping as a planning scheme overlay will occur incrementally over the course of 2018-19 as individual Councils transition into the Tasmanian Planning Scheme. A number of Councils intend to implement their overlay sooner by amending their current interim planning scheme – Hobart and Clarence Councils have taken this approach.

AS 3959 Revision

Following public exhibition of the draft revisions to AS 3959 - which closed on 22 November 2017 - the Standards Committee is finalising the draft for ballot of the new edition of the main construction manual. If deadlines are met, the new edition will be incorporated into NCC 2019. Practitioners will need to move to the new standard in time and there will be further information released when the edition is published.
Private Bushfire Shelters

TFS has recently prepared a brief publication outlining its position on private bushfire shelters ('bunkers') to provide guidance to the community and industry. This information is available online at the [TFS website](#).

In summary, TFS’s view is that there is no conclusive evidence that demonstrates private bushfire shelters are safe to use and these structures should never be relied upon as an alternative to leaving early or as a stand-alone safety solution. If a private bushfire shelter is considered, there are a range of important design considerations that must be considered.

Bushfire Hazard Advisory Note No.1-2014

The Chief Officer has issued a number of Bushfire Hazard Advisory Notes (BHAN) which provide technical guidance to bushfire hazard practitioners. The content of BHANs must be adhered to.

Bushfire hazard practitioners (BFP) were advised in November 2017 of version 3.0 of BHAN 1-2014, which came into effect on 8th November 2017. They key change is that it is no longer considered acceptable to assume vegetation is low threat on residential lots that exceed 1,500sqm.

TFS is aware that some BFPs have continued to issue exemptions on the basis of the now retired BHAN 1-2014 version 2.0. Where such instances are identified, the Chief Officer may impose sanctions on the BFP.

REMINDER: It is incumbent on all BFPs to maintain their knowledge of the requirements of the Accreditation System and the relevant planning and building requirements.

Frequently Asked Questions

The following provides TFS’s position on a range of frequently asked questions.

What standard of water and access is required for alterations/extensions to existing buildings?

Regulation 11E of the Building Regulations 2014 requires that additions and alterations do not restrict any existing vehicular access to buildings or firefighting water supplies. Where the works increase gross floor area by more than 20m², Regulation 11E(2)(b) requires that “where an existing water supply” or “where property access” are not available, then they are provided in accordance with the Director’s Determination – Requirements for Building in Bushfire-Prone Areas.

TFS’ view is that this regulation recognises that there may be situations where there is an existing non-compliant property access and water supply. In these scenarios, an assessment must be undertaken to determine if the property access and firefighting water supply are of a standard, configuration and condition to provide a comparable outcome to that of the Director’s Determination – Requirements for Building in Bushfire-Prone Areas.

Alternatively, there is potential to seek a Performance Solution if adequate justification can be provided.

How are building surveyors meant to verify a hazard management area has been established?

Some building surveyors have reported being uncomfortable when required to verify whether or not a hazard management area (HMA) has been implemented in accordance with a bushfire hazard management plan (BHMP).

TFS’ view is that building surveyors must determine whether the construction of a building has complied with the approved design plans, which includes the BHMP. Bushfire hazard practitioners (BFP) must provide sufficient detail on the BHMP to enable verification by the
building surveyor. This means that the location and dimensions of the HMA are clearly depicted on the BHMP and there is sufficient information describing the required fuel management. A BHMP which is compliant with BHAN N0.4 – 2016 will satisfy this requirement.

Where there remains doubt or uncertainty, the building surveyor should seek clarification from the relevant BFP. However, TFS does not consider it appropriate for BFPs to certify that a HMA has been implemented, as this is the role of the building surveyor.

Referral should be made to TFS (bfp@fire.tas.gov.au) where there is dispute, or the work of a BFP is in question.

What is required to facilitate maintenance of hazard management areas on adjoining land for building work?

In some cases hazard management areas (HMA) for new building work requires vegetation management on an adjoining title. In these situations, it is imperative that there is reasonable surety for the long-term condition of the HMA.

In most cases this means entering into a formal arrangement to secure the rights of the benefitting landowner to maintain the required HMA in perpetuity. This arrangement must be capable of facilitating the desired outcome regardless of changes in land ownership.

The normal approach is to secure a Part 5 Agreement under the Land Use Planning & Approvals Act 1993 as a condition of planning permit approval. Other options include an easement or covenant under the Land Titles Act 1980. The suitability of these mechanisms needs to be considered by the bushfire hazard practitioner (BFP) in consultation with the affected landowners and relevant council.

In some instances, reasonable surety can be achieved through less-formalised means. For example; an existing council-maintained firebreak, or council hazard abatement program may be relied on where council confirms in writing the intention to manage the hazard to the required standard.

TFS is aware of instances where developers have cleared vegetation on adjoining land to achieve a desired Bushfire Attack Level for the purposes of assessment yet there has been no formal arrangement to facilitate the ongoing maintenance of the HMA. BFPs have a duty to advise their clients of the inadequacy of this solution and should not be certifying compliance. Building surveyors should not issue an occupancy certificate until a formal arrangement for the management of the HMA is in place.

A developer has obtained a planning permit only to discover that the approved development cannot achieve the Deemed-to-Satisfy minimum separation from bushfire hazard required under the building regulations. What can be done?

This issue highlights the importance of both building designers and their clients being aware of bushfire requirements at the planning permit stage.

The most likely outcome is a redesign, which may require a new or amended development application. Seeking a Performance Solution is another possibility, however this may add significant cost and may not deliver a building that meets the client’s expectations.

In addition, TFS has the view that the risk of failure associated with BAL-40 and BAL-FZ is not justified purely on the basis of failure to obtain planning consent. In general, TFS will not support BAL-40 or BAL-FZ outcomes without a thorough risk analysis being provided.