

ITEM 9

POST EXHIBITION - WOLLONGONG DCP 2009: CHAPTER E16 BUSH FIRE MANAGEMENT AND BUSH FIRE PRONE LANDS MAPPING

On 27 June 2022, Council resolved to exhibit an updated Wollongong Development Control Plan 2009 Chapter E16 Bush Fire Management and updated Bush Fire Prone Land mapping. The draft amended Development Control Plan chapter and updated mapping were exhibited between 20 July and 22 August 2022. Council did not receive any submissions as a result of the exhibition period.

Council was advised on 30 July 2024 that the Commissioner of the Rural Fire Service had endorsed the revised Bush Fire Prone Land map.

The certification of the map enables Council to finalise the revised DCP chapter. It is recommended that the amended Wollongong Development Control Plan 2009 Chapter E16: Bush Fire Management be adopted.

RECOMMENDATION

The revised and updated Wollongong Development Control Plan 2009: Chapter E16 Bush Fire Management be adopted, and a notice be placed on Council's website.

REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

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

ATTACHMENTS

- 1 Wollongong DCP 2009: Chapter E16 Bush Fire Management
- 2 Endorsed Bush Fire Prone Lands Map

BACKGROUND

Wollongong Development Control Plan 2009 commenced on the 3 March 2010 and includes Chapter E16 Bush Fire Management. The Chapter was previously updated on 7 September 2013.

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 vegetation 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 pastoral lands and paddocks at West Dapto and other rural properties. The vegetation listed under Category 3 has not previously been mapped as Bush Fire Prone. However, dry paddock grass can still support grass fires that can place houses and property at risk.

On 27 June 2022, Council considered a report to exhibit the draft Bush Fire Prone Land mapping and an amended Wollongong DCP 2009 Chapter E16 Bushfire Management. The Wollongong DCP 2009 Chapter was amendment largely to reflect the introduction of Category 3 Vegetation and Planning for Bush Fire Protection 2019 and other associated legislative changes.

The amended Chapter E16 Bushfire Management and draft Bush Fire Prone Land mapping were exhibited between 20 July and 22 August 2022. No submissions were received.

Following the public exhibition of the draft Bush Fire Prone Lands mapping, it was forwarded to the NSW Rural Fire for review, endorsement and certification as per the requirements of the *Guide for Bush Fire Prone Land Mapping (2015)*. The guide assists with the drafting of Bush Fire Prone Land mapping which is compliant with the *Rural Fires Act 1997* (NSW) and the *Environmental Planning and Assessment Act 1979* (NSW). Whilst the Bush Fire Prone Land map is produced by Council, certification of the mapping is the responsibility of the Commissioner of the NSW RFS. The RFS required various minor amendments to the map, and various iterations of the map were reviewed by the RFS in consultation with Council staff.

On 30 July 2024, Council was advised that the mapping had been certified by the RFS Commissioner (Attachment 2).

PROPOSAL

Council did not receive any submissions during the public exhibition of the amended Bush Fire Prone Land mapping and draft Wollongong Development Control Plan 2009 Chapter E16 Bush Fire Management. The Consultation and Communications section of this report discusses the public exhibition process undertaken.

On 19 July 2024, the Commissioner of the NSW RFS certified the Bush Fire Prone Land mapping. As a result, Council is required to update the publicly available map. The certified metadata and shapefiles have been requested from NSW RFS to enable Council's mapping and section 10.7 Planning Certificates to be updated.

As Council did not receive submissions during the public exhibition and the Bush Fire Prone Land mapping has been certified by the Commissioner of the NSW RFS, it is recommended that Council adopt exhibited Wollongong DCP 2009 Chapter E16 Bushfire Management (Attachment 1). The format of the DCP chapter has been updated to reflect Council's new DCP format. Minor amendments have been made to update references to more recent State legislation and guidelines.

CONSULTATION AND COMMUNICATION

The draft DCP Chapter E16 Bush Fire Management and the draft Bush Fire Prone Lands mapping was exhibited between 20 July and the 22 August 2022. The exhibition was made available through Council's engagement website <https://our.wollongong.nsw.gov.au>, and hard copies at Council's Libraries and Council's Administration Building Customer Service and was forwarded to the operating Neighbourhood Forums.

Notice of the exhibition was given in the Illawarra Mercury on Wednesday 20 July 2022, in Council's Community Update page.

The webpage received 75 visits. A total of 37 document were downloaded by 12 visitors.

No submissions were made through the engagement webpage or via separate submissions in response to the public exhibition of the updated DCP Chapter E16 Bush Fire Management and Bush Fire Prone Land Mapping.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong Our Future 2032 Community Strategic Plan Objectives "Our natural environments are protected, and our resources will be managed effectively" and "Development is well planned and sustainable, and we protect our heritage" under the Community Goal "We value and protect our environment". The report specifically delivers on the following –

Community Strategic Plan 2032		Delivery Program 2022-2026	
Strategy		Service	
1.5	Maintain the unique character of the Wollongong Local Government Area, whilst balancing development, population growth and housing needs	Land Use Planning	

CONCLUSION

The Wollongong DCP 2009 Chapter E16 Bush Fire Management and the associated Bush Fire Prone Land mapping has been revised to provide consistency with Planning for Bush Fire Protection 2019, the updated Bush Fire Prone Lands mapping requirements and Australian Standard AS 3959 – 2018 Construction of buildings in bushfire-prone areas.

The draft Wollongong DCP 2009 Chapter E16 Bush Fire Management and draft Bush Fire Prone Land mapping was exhibited between 20 July and 22 August 2022. Council did not receive any submissions during the exhibition period.

As required under NSW Rural Fire Services' Guide of Bush Fire Prone Land Mapping and Section 10.3 of the *Environmental Planning and Assessment Act 1979*, the draft mapping was sent to the Commissioner of the NSW Rural Fire Service for certification. The Commissioner certified the Bush Fire Prone Land mapping on the 19 July 2024.

It is recommended that Wollongong Development Control Plan be adopted, to reflect the certified Bush Fire Prone Land Mapping and a notice be placed on Council's website advising of the adoption.



Part E General Controls – Environmental Controls

Chapter E16 Bush Fire Management

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DOCUMENT CONTROL

Rev No.	Adoption Date	In Force Date	Revision Details
1	26 August 2013	7 September 2013	Amendments to reflect Clause 21 Environmental Planning & Assessment Regulation 2000.
2	12 August 2024	TBA	Amendments to reflect NSW Rural Fires Act 1997, including updated Planning for Bush Fire Protection 2019 and additional Vegetation Category 3.

Chapter E16 Bush Fire Management

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 *Planning for Bush Fire Protection* and Addendum, 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.

Bush fire prone land is described as Category 1 Category 2 or, Category 3 vegetation. Figure 2 depicts bush fire vegetation (Category 1, 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 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 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 rainforests, 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 light yellow buffer on the map) is also

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captured by the Bush Fire Prone Land Map due to the likelihood of bushfire attack.

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.

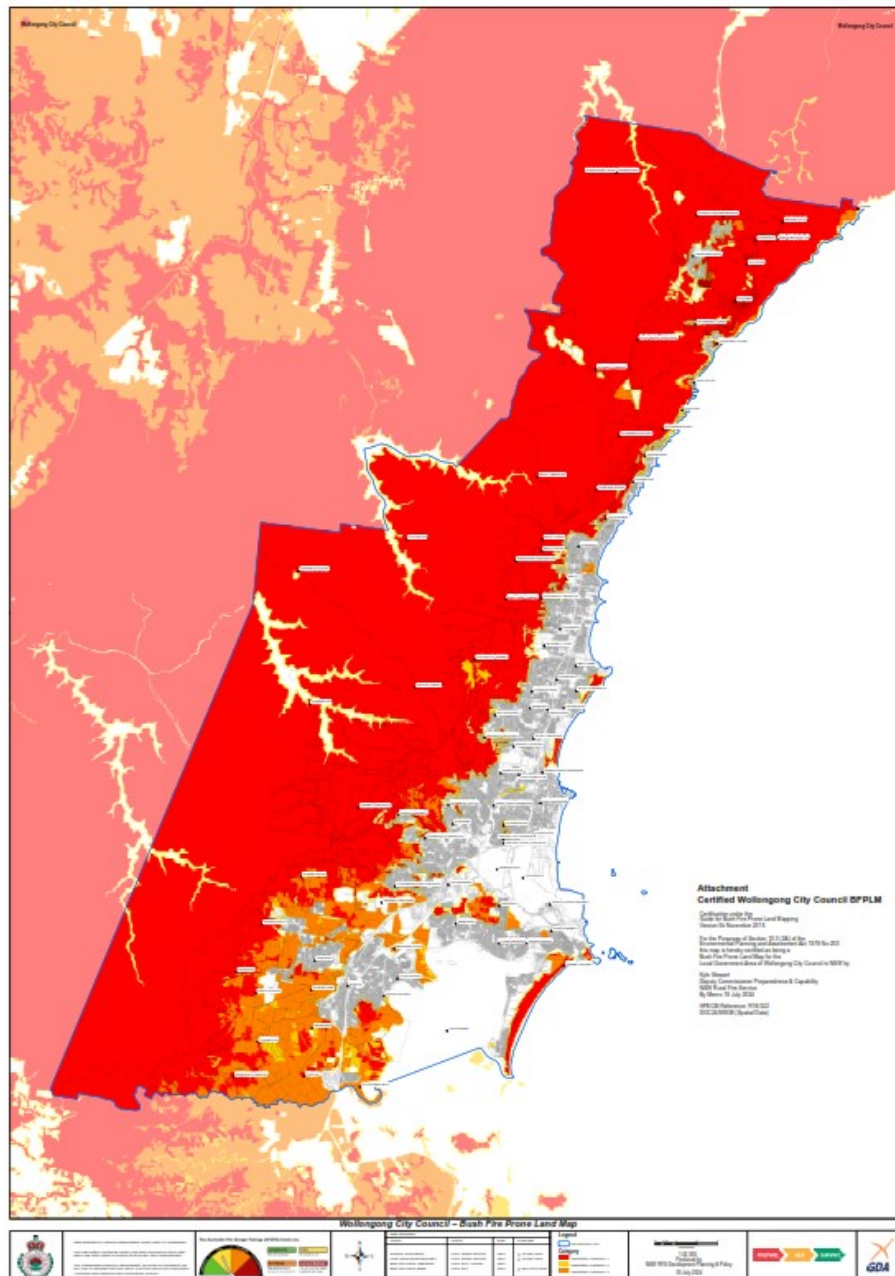


Figure 1 – Bush Fire Prone Land Map

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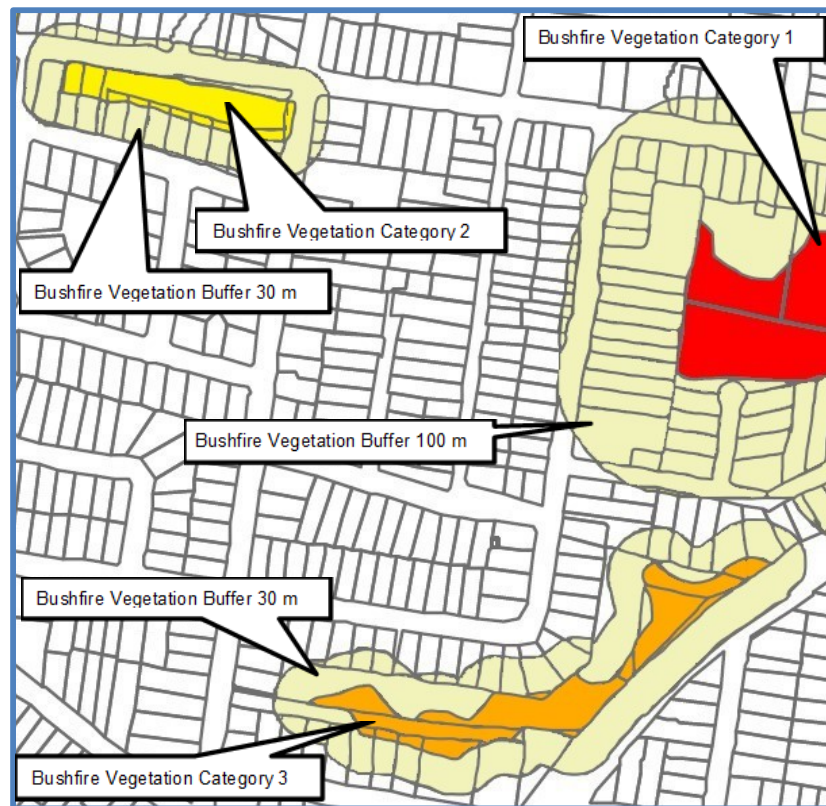


Figure 2 – Vegetation Categories and Buffer Distances

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 *Planning for Bush Fire Protection 2019*.
- 4) *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 2019* 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 a performance based solution is proposed or the application can not comply with the *Planning for Bushfire Protection 2019*, the application will be referred to the NSW Rural Fire Service 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 2019* and Australian Standards AS3959 – 2018 *Construction of Buildings in Bushfire-prone Areas*.

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- 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 Authority from the NSW Rural Fire Service, under Section 100B of the *Rural Fires Act 1997* (NSW) 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*, Clause 47 of the *NSW Rural Fires Regulation 2022* 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 2019*.

5. CLASS 5 – 8 BUILDINGS AND CLASS 10 BUILDINGS OF THE NATIONAL CONSTRUCTION CODE

- 1) The National Construction Code (NCC) 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 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 aim and objectives of *Planning for Bush Fire Protection 2019* guidelines apply in relation to other matters such as access, water and services and emergency and evacuation planning.

- 2) Under Section 8 of the *Planning for Bush Fire Protection 2019*, the following classes of buildings in the BCA are subject to compliance with the requirements of the *Planning for Bush Fire Protection 2019*:
 - 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)
 - 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 a dwelling.

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- 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. 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 SFPP 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 – 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 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: <https://www.rfs.nsw.gov.au/resources/publications/building-in-a-bush-fire-area> and <https://www.rfs.nsw.gov.au/resources/publications/building-in-a-bush-fire-area/general/single-dwelling-application-kit>.

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 – 2018 Construction of Buildings in Bushfire-prone Areas* may be obtained from Standards Australia website at www.standards.org.au.

