

**REPORT TITLE: HOBART INTERIM PLANNING SCHEME 2015 -
PROPOSED AMENDMENT - BUSHFIRE PRONE
AREAS OVERLAY - PSA-17-4**

REPORT PROVIDED BY: Manager Planning Policy and Heritage

1. Report Purpose and Community Benefit

- 1.1. This report considers a proposal to amend the *Hobart Interim Planning Scheme 2015* (HIPS2015) pursuant to Section 34 of the former provisions of the *Land Use Planning and Approvals Act 1993* (LUPAA).
- 1.2. The proposed amendment is to insert a Bushfire-Prone Areas Overlay map as recommended by the Tasmania Fire Service (TFS). A copy of the submission from the TFS in support of the amendment is provided in **Attachment A**.
- 1.3. The purpose of this report is to consider the initiation and subsequent certification of the proposed amendment pursuant to Sections 32 and 35 of the LUPAA.
- 1.4. The proposal benefits the community by ensuring that greater certainty is provided in the application of the Bushfire-Prone Area Code.

2. Report Summary

- 2.1. This report considers a proposal to amend the HIPS2015 to insert a Bushfire-Prone Areas Overlay map as recommended by the Tasmania Fire Service (TFS). A copy of the submission from the TFS in support of the amendment is provided in Attachment A.
- 2.2. The TFS is working with Local Government to produce and deliver the Bushfire-Prone Area mapping for Tasmania. This mapping will ultimately form part of each Council's planning scheme overlay map and will directly relate to the definition of 'bushfire-prone area' as provided in the Bushfire-Prone Areas Code.
- 2.3. Mapping for the City of Hobart has now been completed following collaborative work between the TFS and Council officers. This process has involved production of a modelled overlay that has been progressively refined based on site verification and knowledge of local land management practices.
- 2.4. The mapping will provide an authoritative and accessible information source that will simplify the assessment required to determine whether a site is located in a 'bushfire-prone area'. This improved clarity will benefit land owners, developers and permit authorities by providing certainty with respect to planning and building regulatory controls.

- 2.5. It is proposed that Council initiate an amendment to the HIPS2015 to insert a Bushfire-Prone Areas Overlay map as shown in Appendix A to **Attachment A**.

3. Recommendation

That:

1. ***Pursuant to Section 34(1) (b) of the former provisions of the Land Use Planning and Approvals Act 1993, Council resolve to initiate an amendment to the Hobart Interim Planning Scheme 2015 by inserting a Bushfire-Prone Areas Overlay map as shown in Appendix A to Attachment A.***
2. ***Pursuant to Section 35 of the former provisions of the Land Use Planning and Approvals Act 1993, Council certify that the amendment to the Hobart Interim Planning Scheme 2015 PSA-17-4 meets the requirements of Section 32 of the former provisions of the Land Use Planning and Approvals Act 1993 and authorise the General Manager and the Deputy General Manager to sign the Instrument of Certification (Attachment B).***
3. ***Pursuant to Section 38 of the former provisions of the Land Use Planning and Approvals Act 1993, Council place Amendment PSA-17-4 to the Hobart Interim Planning Scheme 2015 on public exhibition for a 28 day period following certification.***

4. Background

- 4.1. The Bushfire-Prone Areas Code was introduced into all Interim Planning Schemes in Tasmania by the Minister for Planning and Local Government through Planning Directive No.1.
- 4.2. The Bushfire-Prone Areas Code was developed collaboratively by the Director of Building Control and the TFS. Changes to the Building Regulations 2014 and the Director of Building Control's Determination – Requirements for Building in Bushfire-Prone Areas were introduced on 17 March 2016.
- 4.3. These changes resulted in the Code regulating fewer matters as standards applying to development of habitable buildings in bushfire-prone areas are now implemented as part of the building regulatory framework.
- 4.4. The Tasmania Fire Service is working with Local Government to produce and deliver the Bushfire-Prone Area Mapping for Tasmania. This mapping will ultimately form part of each Council's planning scheme overlay map and will directly relate to the definition of 'bushfire-prone area' as provided in the Bushfire-Prone Areas Code.

- 4.5. Mapping for the City of Hobart has now been completed following collaborative work between the Tasmania Fire Service and Council officers. This process has involved production of a modelled overlay that has been progressively refined based on site verification and knowledge of local land management practices.

Existing Planning Scheme Provisions

- 4.6. The purpose of the Bushfire-Prone Areas Code (E1.0) is to ensure that use 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.
- 4.7. The Bushfire Prone Areas Code contains use standards for vulnerable and hazardous uses in bushfire-prone areas and development standards for subdivision, including the provision of hazard management areas and access and water supply for firefighting purposes.
- 4.8. The Code is applied to land located within a bushfire-prone area which is defined as:
- 4.8.1. (a) *land that is within the boundary of a bushfire-prone area shown on an overlay on a planning scheme map; or*
- 4.8.2. (b) *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 1ha.*
- 4.9. As there is no bushfire-prone areas overlay on a planning scheme map currently in the HIPS2015 sub-clause (b) applies.
- 4.10. Bushfire- prone vegetation is defined as: *contiguous vegetation including grasses and shrubs but not including maintained lawns, parks and gardens, nature strips, plant nurseries, golf courses, vineyards, orchards or vegetation on land that is used for horticultural purposes.*

5. Proposal and Implementation

- 5.1. It is proposed that Council initiate an amendment to the HIPS2015 to insert a Bushfire-Prone Areas Overlay map as shown in Appendix A to **Attachment B**.
- 5.2. The mapping will provide an authoritative and accessible information source that will simplify the assessment required to determine whether a site is located in a 'bushfire-prone area'. This improved clarity will benefit land owners, developers and permit authorities by providing certainty with respect to planning and building regulatory controls.
- 5.3. By removing areas from the mapping that have been deemed to be suitably low threat by the TFS, the planning scheme amendment will

remove unnecessary costs and delays from the approvals process for applicants (e.g. costs of engaging a Bushfire Hazard Practitioner to certify an exemption, delays associated with s.54 requests).

- 5.4. The Bushfire-Prone Areas Overlay will need to be reviewed and updated periodically to ensure its accuracy as conditions evolve. This will logically form part of the review process of the Tasmanian Planning Scheme as it occurs in future years to come.
- 5.5. In the situation whereby land is rezoned to facilitate new development (e.g. a new greenfield estate), it may also be appropriate to review the Bushfire-Prone Areas Overlay as it applies to the subject site as part of the planning scheme amendment process.
- 5.6. In developing the mapping, the TFS has excluded some areas that would currently be considered as being within a 'bushfire-prone area' but which have been deemed to be suitably low threat. This was based on expert judgement in bushfire behaviour and supported by field inspections where required to verify conditions. By refining the application of the bushfire requirements in this way, the planning scheme amendment will facilitate fairer outcomes for landowners.

6. Strategic Planning and Policy Considerations

- 6.1. The proposed planning scheme amendments will assist in the achievement of the strategic objectives of the Capital City Strategic Plan 2015-2025 particularly in relation to Goal 4 Strong, Safe and Healthy Communities - 4.3 "Build community resilience, public health and safety."

7. Financial Implications

- 7.1. Funding Source and Impact on Current Year Operating Result
 - 7.1.1. The planning scheme amendments do not have any financial implications.
- 7.2. Impact on Future Years' Financial Result
 - 7.2.1. None
- 7.3. Asset Related Implications
 - 7.3.1. None

8. Legal, Risk and Legislative Considerations

- 8.1. The *Land Use Planning and Approvals Act 1993* (LUPAA) requires that planning scheme amendments must seek to further the objectives of Schedule 1 of the Act and be prepared in accordance with State Policies.

- 8.2. The objectives of the Act require use and development to occur in a fair, orderly and sustainable manner and for the planning process to facilitate economic development in accordance with the other Schedule 1 objectives.
- 8.3. It is considered that the proposed amendment meets the objectives of LUPAA as outlined in section 5.1 of the TFS report (**Attachment A**), in particular it:
- 8.3.1. Assists sound strategic planning by being consistent with a state wide approach to the issue and not prejudicing the achievement the STRLUS objectives;
 - 8.3.2. Is consistent with the objective to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land as it will support the efficient application of the Bushfire Prone Areas Code (and building regulations) by clearly identifying which land is subject to the overlay;
 - 8.3.3. Provides greater flexibility to address changes in local environmental, social and economic circumstances in a manner that will not facilitate any loss of biodiversity or any other impacts on natural values and will improve clarity with respect to what land is considered bushfire-prone to avoid application of the planning/building regulations to land that has been deemed to be suitably low threat;
 - 8.3.4. The mapping will support the application of planning and building requirements for bushfire protection, the key purpose of which are to reduce risk to life and property. The scheme amendment will accordingly support the aim of securing a safe environment for working, living and recreation consistent with Part 2 Objective (f).
- 8.4. The proposed amendment to the Planning Scheme does not introduce any new development standards, rather, it will improve the application of the Bushfire-Prone Areas Code. The amendment will accordingly not facilitate the loss of productive agricultural land, nor the degradation of coastal land or water resources. The scheme amendment is accordingly not considered to be in conflict with any of the existing State Policies. It is considered that the proposed amendment is consistent with the objectives of the State Coastal Policy due to the spatial separation from the coast in terms of both distance and development between the two.
- 8.5. S32(e) of the *former provisions* of LUPAA require that planning scheme amendments must avoid the potential for land use conflicts in adjacent planning scheme areas. The proposed amendment provides clarity in the application of the Bushfire-Prone Areas Code and does not contain any new development standards that may result in any land use conflict.

- 8.6. S32(f) of the *former provisions* of LUPAA require that planning scheme amendments must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms. The proposed amendment is part of a state wide approach to the mapping of bushfire prone areas and will not result in any adverse impact on use and development in the region.
- 8.7. Section 30O of LUPAA requires that an amendment to an interim planning scheme is as far as practicable, consistent with the regional land use strategy. As outlined in section 5.3 of the TFS report (Attachment A) the proposed amendment is consistent with the STRLUS policy: *MRH 1.4 Include provisions in planning schemes for use and development in bushfire prone areas based upon best practice bushfire risk mitigation and management.*

9. Environmental Considerations

- 9.1. The scheme amendment is intended to clarify the application of the Bushfire-Prone Areas Code and will not facilitate any loss of biodiversity or any other impacts on natural values.

10. Community and Stakeholder Engagement

- 10.1. Council has requested that reports which recommend the initiation of planning scheme amendments address the need to conduct a public meeting or forum to explain the proposed amendments and also outline the explanatory information to be made available. These are addressed below:
- 10.1.1. It is not considered that a public forum is necessary to explain the proposed amendment to the public as it is relatively straight forward and self-explanatory.
- 10.1.2. The following information will be made available on the website: a copy of this report and a copy of the formal amendment document.
- 10.2. Council will have the opportunity to recommend to the Tasmanian Planning Commission modifications or refusal of the amendment after the 28 day public advertising period.

11. Delegation

- 11.1. Delegation rests with the Council.

As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.



James McIlhenny
**MANAGER PLANNING POLICY AND
HERITAGE**

Date: 16 August 2017
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Attachment A: TFS Report and Maps
Attachment B: Instrument of Certification