



## Bushfire Hazard Management Areas on Council Land Policy

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### 1. PURPOSE

This Policy establishes a transparent, consistent and balanced framework for the establishment and ongoing management of bushfire Hazard Management Areas (HMAs) on Council land.

The policy seeks to:

- Improve bushfire safety outcomes for communities, property and individuals;
- Protect environmental, cultural, recreational and amenity values of public land;
- Prevent the private appropriation or de facto loss of public open space through the designation of HMAs on Council land;
- Minimise Council's long-term liability, financial exposure and insurance risk associated with the ongoing maintenance of HMAs; and
- Ensure that property owners meet BAL rating requirements within the boundaries of their properties, without reliance on Council Land outside of those boundaries, unless there is a significant public purpose or benefit to permitting reliance on Council Land.

### 2. OBJECTIVE

The objective of this policy is to ensure that HMAs are not established on Council-owned or managed land except in very limited and justified circumstances. In the event an HMA is permitted to be established on Council land, the HMA must be appropriately designed and managed and not result in environmental, financial or governance impacts for Council.

### 3. SCOPE

This policy applies to all development on Council Land within bushfire prone areas, including Council Land subject to amendments to planning permit, Part V Agreements and Covenants

This policy does not apply to:

- a) Development by, or on behalf of, council on Council land;
- b) Where the HMA is over, or partially over, a public road which is maintained as a road in a low-fuel state;
- c) HMAs extending into land owned and managed by another public body;
- d) Land subject to an existing planning permit issued prior to the effective date of this Policy, where an HMA on Council land formed part of the application for permit;



- e) Land subject to a pre-existing Part V Agreement or restrictive covenant on title that authorises the use of Council land as a HMA; or
- f) Non-habitable buildings, including sheds and garages.

## 4. DEFINITIONS

The following definitions apply to this Policy and Procedure:

|                                                |                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Accredited Bushfire Hazard Practitioner</b> | Means a practitioner holding appropriate qualifications and insurances and accredited in accordance with the <i>Fire Service Act 1979 (Tas.)</i> .                                                                                                                                                              |
| <b>Bushfire Attack Level (BAL)</b>             | Means the bushfire attack level as defined in AS 3959 – Construction of Buildings in Bushfire-Prone Areas, being a measure of potential exposure to ember attack, radiant heat and direct flame contact, expressed in kilowatts per square metre.<br>BAL-29 is the minimum standard required under this Policy. |
| <b>Bushfire Hazard Management Area (HMA)</b>   | Means the area between a habitable building or building area and bushfire-prone vegetation that provides access to a fire front for firefighting, is maintained in a minimal fuel condition, and contains no hazards that would significantly contribute to bushfire spread.                                    |
| <b>Bushfire Hazard Management Plan (BHMP)</b>  | Means a certified plan demonstrating compliance with BAL requirements.                                                                                                                                                                                                                                          |
| <b>Bushfire-prone area</b>                     | Land that is within the boundary of a bushfire-prone area shown on an overlay on a planning scheme map; or<br>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.                                               |
| <b>Chief Executive Officer</b>                 | Means the person appointed as the General Manager under section 61 of the <i>Local Government Act 1993 (Tas.)</i> and their delegate                                                                                                                                                                            |
| <b>Council</b>                                 | Means Clarence City Council.                                                                                                                                                                                                                                                                                    |
| <b>Council land</b>                            | Means all land owned, vested in or under the management or control of Council.                                                                                                                                                                                                                                  |
| <b>Private Land</b>                            | Private land means land not owned, vested in or under the management or control of Clarence City Council.                                                                                                                                                                                                       |

## 5. POLICY STATEMENT



Council's position is that Bushfire Hazard Management Areas for private land must not rely on Council Land.

The establishment of HMAs on Council Land will only be considered where **all** of the following criteria are met:

- a) The CEO determines that there is an overwhelming public benefit to do so.
- b) No feasible alternative exists to achieve BAL-29 compliance or higher within private land.
- c) The broader public interest, including environmental, recreational and governance considerations, is not adversely affected.
- d) The HMA is restricted to the minimum extent necessary to achieve BAL-29 or higher rating in accordance with Table 2.6 of AS 3959:2018 (or any subsequent version);
- e) All establishment, management and ongoing maintenance costs are met by the benefitting landowner; and
- f) The benefitting landowner enters into and complies with any agreement Council may consider necessary.

## **6. PRINCIPLES**

The following principles underpin this Policy:

- a) Risk-based decision-making – Bushfire risk mitigation measures must be proportionate to demonstrated risk and supported by credible evidence.
- b) Minimisation of impact on Council Land – Council-owned or managed land is a public asset and must not be unreasonably diminished, burdened or used for private benefit through the establishment of HMAs.
- c) Environmental and cultural stewardship – Bushfire risk management must be balanced with the protection of environmental, cultural, recreational and landscape values.
- d) Equity and consistency – Requests to establish HMAs must be assessed consistently to ensure equitable outcomes across applicants and communities.
- e) User-pays principle – Landowners who benefit from HMAs on Council land are responsible for all associated costs and obligations.



## **7. POLICY ELEMENTS**

### **7.1 Authority and Discretion**

This Policy informs the exercise of Council's powers as landowner and, where relevant, as planning authority under the Land Use Planning and Approvals Act 1993 (Tas.).

The Chief Executive Officer holds primary responsibility for determining whether Council landowner consent will be granted in relation to the establishment of a Bushfire Hazard Management Area on Council Land, unless legislation requires determination by Council.

Nothing in this Policy fetters or limits the lawful discretion of the Chief Executive Officer or Council under applicable legislation.

### **7.2 Development criteria**

- a) BAL-29 or higher compliance must be demonstrated as unachievable within the boundaries of the private property.
- b) In assessing this requirement, Council will consider whether compliance could be achieved within the property boundaries through changes to the proposed development.
- c) The inability to achieve compliance due to the size, scale, layout or cost of a proposed development will not justify reliance on Council Land.
- d) HMAs must be limited to the smallest practicable area required to achieve BAL-29 or higher compliance.

### **7.3 Environmental and amenity considerations**

In the event an HMA on Council land is considered, Council will assess the impacts of any proposed HMA with regard to:

- a) Removal or degradation of threatened species habitat, native vegetation or ecological communities.
- b) Conflict with the objectives of any applicable Reserve Management Plan, Strategy or adopted land management framework.
- c) Impact on cultural heritage values.
- d) Impact to recreational use, access or public enjoyment of the land.
- e) Impact to landscape character or visual amenity in a manner inconsistent with the purpose of the land; or
- f) Increase in the extent of Council Land required to be maintained in a low-fuel state beyond what is necessary for broader community safety.



#### **7.4 Cost recovery and maintenance**

- a) In the event a HMA on Council land is approved all costs associated with the establishment and ongoing maintenance of HMAs must be borne by the benefiting landowner in perpetuity.
- b) Works on the Council Land must be undertaken by, or under the supervision of, Council or its authorised contractors.

#### **7.5 Process Requirements**

- a) No works may commence without the appropriate approvals or consents, where required.
- b) HMAs must be fully implemented to the satisfaction of Council, prior to the issue of an occupancy certificate.

### **8. RELATIONSHIP TO COUNCIL STRATEGIC PLAN**

This policy supports the Clarence City Council Strategic Plan 2021–2031 by contributing to:

- Safer and more resilient communities.
- Responsible stewardship of public land and natural assets; and
- Sound governance and risk management in land-use decision-making.

### **9. RELATED DOCUMENTS**

- AS3959:2018 Australian Standard for Construction of Buildings in Bushfire-Prone Areas.
- Bushfire- prone Areas Code, Tasmanian Planning Commission, Department of Justice, Tasmania.
- Guidelines for Development in Bushfire Prone Areas of Tasmania. Tasmania Fire Service. 2005.
- National Construction Code of Australia 2019.
- Planning Directive No. 5.1 Bushfire – Prone Areas Code.
- Tasmanian Vegetation Fire Management Policy 2017 (State Fire Management Council).



## 10. ADMINISTRATIVE ARRANGEMENTS

### Approvals

|                      |                       |                               |          |
|----------------------|-----------------------|-------------------------------|----------|
| <b>Council</b>       | XX XXX XXXX           | <b>Minute<br/>(Reference)</b> |          |
| <b>CEO</b>           | XX XXX XXXX           |                               |          |
| <b>Review period</b> | Minimum every 3 years |                               |          |
| <b>Date 1</b>        | XXX XXXX              | <b>Date 2</b>                 | XXX XXXX |
| <b>Group Head</b>    |                       | <b>ECM<br/>Reference</b>      |          |

### Table of amendments

| <b>No.</b> | <b>Date</b> | <b>Brief Details</b> |
|------------|-------------|----------------------|
|            |             |                      |

