



Shire of  
**Nannup**  
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# **Agenda**

Council Meeting to be held  
on Thursday 25 October 2012  
Commencing at 4.15pm

# Agenda

1. **DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
2. **RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**  
(previously approved)
3. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
4. **PUBLIC QUESTION TIME**
5. **APPLICATIONS FOR LEAVE OF ABSENCE**
6. **PETITIONS/DEPUTATIONS/PRESENTATIONS**
7. **DECLARATIONS OF INTEREST**

The Shire President will read out any declarations received relating to financial, proximity or impartiality interests and ask for any further declarations to be made.

Members should make any declarations at the start of the meeting but may declare an interest before the resolution of any agenda item.

8. **CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

That the Minutes of the Ordinary Council Meeting of the Shire of Nannup held in Council Chambers on 27 September 2012 be confirmed as a true and correct record.

9. **ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**
10. **REPORTS BY MEMBERS ATTENDING COMMITTEES**

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**11. REPORTS OF OFFICERS**

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**12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

- (a) OFFICERS
- (b) ELECTED MEMBERS

**13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**14. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

**15. CLOSURE OF MEETING**

# **DEVELOPMENT**

# **SERVICES**

AGENDA NUMBER: 11.1

SUBJECT: Final adoption of Amendment No.12 to Local Planning Scheme No. 3:  
Designated Bush Fire Prone Areas and Bush Fire Management

LOCATION/ADDRESS: Whole of Shire

NAME OF APPLICANT: Shire of Nannup

FILE REFERENCE: TPL1

AUTHOR: Steve Thompson – Consultant Planner

REPORTING OFFICER: Robert Jennings – Chief Executive Officer

DISCLOSURE OF INTEREST: Edge Planning & Property receive planning fees  
for advice to the Shire therefore declare a Financial Interest – Section 5.70 of  
the Local Government Act 1995

DATE OF REPORT: 15 October 2012

- Attachments:
1. Schedule of Submissions (initial consultation period)
  2. Schedule of Submissions (second consultation period)
  3. Submissions (third consultation period)
  4. Schedule of Submissions (third consultation period)
  5. Scheme Amendment No. 12 provisions publicly advertised (third consultation period)

## **BACKGROUND:**

### *1. Purpose*

The purpose of Amendment No. 12, to *Shire of Nannup Local Planning Scheme No. 3 (LPS3)*, is to provide a statutory head of power to designate bush fire prone areas and to introduce statutory provisions to reduce bush fire risk when considering proposals and support efforts on an on-going basis.

In relation to designating bush fire prone areas, Amendment No. 12 proposes to provide a statutory head of power to the *Bush Fire Hazard Strategy - Shire of Bridgetown-Greenbushes and Shire of Nannup* considered in item 11.2 of this agenda. This will require new habitable buildings or additions to habitable buildings to comply with *Australian Standard AS3959-2009 Construction of Buildings in Bushfire Prone Areas*.

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**2. Council resolutions**

At the Council Meeting of 24 March 2011, the Council passed the following motion, at minute No 8575:

“That Council agree in pursuance of Section 75 of the Planning and Development Act 2005 to initiate an amendment to the Shire of Nannup Local Planning Scheme No. 3 by, adding provisions to designate a Bushfire Prone Area over the whole Shire outside the Nannup Townsite area.”

At the Council Meeting of 28 July 2011, the Council passed the following motion, at minute No 8652:

“That Council agree to the changes to the Scheme Amendment 12 as described in Attachment 1 and raised during the public submission period, as shown in the attached table of submissions and therefore due to the substantial change to the amendment document advertise the proposed Scheme Amendment 12, to Local Planning Scheme No 3, for a further 42 day public advertising period.”

At the Council Meeting of 15 December 2011, the Council passed the following motion, at minute No 8720:

“That Council propose a second round of consultation.”

The resolution of 15 December 2011 should have read “third” and not “second”.

**3. EPA decision and community/stakeholder consultation**

The Environmental Protection Authority (EPA) on 18 April 2011 determined that the scheme amendment should not be assessed via an environmental impact assessment. The EPA decision effectively gave its “environmental clearance” to Amendment 12.

Following the receipt of the EPA decision, the Shire sought public comment on Amendment 12 for over a six week period (27 April - 10 June 2011), meeting the requirements of the *Town Planning Regulations* through:

- writing to relevant State Government and servicing agencies;
- placing public notices in local papers;
- details being on the Shire’s website; and
- having information available at the Shire office.

Additionally, a Community Information Forum was held on 24 May 2011, at which over 20 people from the community attended.

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The Shire received 10 submissions on Scheme Amendment No. 12 through the initial consultation which are summarised in the Schedule of Submissions in Attachment 1. These were considered by Council at its meeting on 28 July 2011.

Following the Council resolution on 28 July 2011, the revised documentation was re-advertised for community and stakeholder comment between 8 August – 30 September 2011 (54 days). The Shire received 5 submissions in the second round of consultation which are summarised in the Schedule of Submissions in Attachment 2.

Following the Council resolution on 15 December 2011, Scheme Amendment No. 12 has been advertised for a third time in August and September 2012. The Shire administration held off undertaking the third round of community consultation on Scheme Amendment No. 12 until Strategen's Bush Fire Hazard Strategy was suitable for public release. Two submissions were received in the third round of consultation which are provided in Attachment 3 and summarised in Attachment 4.

#### *4. Planning and building context*

##### Planning for Bush Fire Protection Guidelines (Edition 2)

The Western Australian Planning Commission (WAPC) and the Fire and Emergency Services Authority (FESA) have developed the "Planning for Bush Fire Protection Guidelines" (Edition 2, May 2010). These guidelines are designed, in part, for local governments to use to assess the risk of bushfire hazard in a proposed development or subdivision. The focus of these guidelines is "ensuring that bush fire hazards are considered in planning decisions at all stages of the planning process to avoid increased fire risk to life and property through inappropriately located or designed land use and development." (page 1)

Page 4 of the guidelines, in part, states:

"Bush fire prone areas may be designated by the local government. In designated bush fire prone areas, all new habitable buildings must comply with AS3959. For the purposes of the guidelines, all areas with a moderate or extreme bush fire hazard level are considered to be bush fire prone areas for planning new subdivisions and developments and for building controls." (page 4).

Appendix 1 of the Guidelines sets out the methodology for determining bush fire hazard levels.

##### Local Planning Scheme No. 3

Clause 10.2 of LPS3 sets out several matters to consider when dealing with applications for Council's approval of a proposed development:

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- (d) any approved Statement of Planning Policy of the Commission;
- (g) any Local Planning Policy adopted by the Council under the provisions of clause 2.4;
- (n) whether the land to which the application relates is unsuitable for the proposal by reason of it being, or likely to be, subject to bush fire or any other risk; and
- (q) whether the proposed means of access to or egress from the site are adequate.

Currently, LPS3 set out that habitable buildings in some Special Rural and Special Use zones must be constructed to AS3959-2009. Most parts of the municipality do not however have this requirement.

State Planning Policy 3.4 - Natural Hazards and Disasters

Local government must have regard to this Policy in the preparation or amendment of local planning schemes, strategies and policies, and when providing comment and advice that deal with applications that may be affected by natural hazards. The Policy should be used by local government to determine those areas that are most vulnerable to bushfire and where development should not be recommended. It authorises the WAPC to prepare guidelines for protection from hazards which should be considered in the determination of proposals.

Building Code of Australia

The Building Code of Australia (BCA), Parts P2.3.4 and 3.7.4, controls the building of dwellings in declared bushfire prone areas. The BCA is satisfied if the dwelling or habitable building complies with Australian Standard AS3959-2009 Construction of Buildings in Bushfire Prone Areas.

*Bush Fire Hazard Strategy - Shire of Bridgetown-Greenbushes and Shire of Nannup*

The Shire of Nannup and the Shire of Bridgetown-Greenbushes appointed Strategen to prepare a bushfire hazard assessment for both municipalities (refer to item 11.2 of this agenda). This classifies areas either as a "Low" or "Moderate to Extreme" bush fire hazard level. The assessment will be a valuable tool for various local government functions including ranger, building and planning services.

**COMMENT:**

It is recommended that Council grant final adoption to Scheme Amendment No. 12 subject to minor modifications set out in the officer recommendation.

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Following three rounds of community and stakeholder consultation, the Shire has received a total of two objections which were made in the first round of consultation by Ms Cheryle Brown and Mr Kevin Bird. These have previously been provided to Councillors and these and other earlier submissions can again be provided on request. No objections were made in the second and third rounds of consultation. There was however widespread support from State Government agencies along with support from the Shire of Bridgetown-Greenbushes and the Shire of Manjimup. Considering the extensive consultation that occurred on Scheme Amendment No. 12 on three occasions, which resulted in only two objections, it can only be assumed that there is community acceptance to designating bush fire prone areas and introducing provisions to reduce bush fire risk.

With the process now extending 18 months to this point, key changes since the Council initiated (adopted) Scheme Amendment No. 12 on 24 March 2011 have included the preparation of the *Bush Fire Hazard Strategy - Shire of Bridgetown-Greenbushes and Shire of Nannup* (the "Strategy"). Initially, the Strategy had not been prepared and in its absence, the bush fire prone area was proposed to be for the whole Shire outside of the Nannup townsite and then it was proposed as the entire municipality. The preparation of the Strategy now defines bush fire prone areas based on an assessment in accordance with *Planning for Bush Fire Protection Guidelines (Edition 2)*. Additionally, the Shire administration has drafted provisions to reduce bush fire risk when considering proposals and to support efforts on an on-going basis.

Minor suggested modifications, outlined in the officer recommendation are proposed to the version that was publicly advertised in the third round of consultation set out in Attachment 5. The suggested changes are minor and reflect the "coming together" of the preparation of the Strategy to complement the proposed statutory provisions to address relevant and recent comments of the Department of Planning and a refinement by the Shire administration.

Scheme Amendment 12 is consistent with wide ranging strategies and policies. If approved by the Minister for Planning and then gazetted, Amendment 12 will assist to reduce bushfire risk to residents and visitors.

The effect of Scheme Amendment 12 includes that:

- if a property owner wishes to build or extend a habitable building in an area designated as "moderate" or "extreme" hazard in the Shire wide hazard assessment, they will be subject to the relevant bushfire prone requirements pursuant to the Building Code of Australia, Australian Standard 3959 – 2009 (or any updates) and Planning for Bush Fire Protection Guidelines (Edition 2) or any updates. This, in part, will require

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a higher standard of house construction unless a low fuel area ("circle of safety") is extended;

- if a proponent disputes or seeks to lower the hazard level on their land which is set out in the Shire-wide Bushfire Hazard Assessment Plan, the proponent is to arrange at their cost a Bushfire Attack Level (BAL) assessment and a statement/report from a suitably qualified and/or experienced practitioner to address the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2) or any updates. This will generally be addressed at the building permit stage. No planning application will continue to be required for single dwellings throughout the municipality (except if the dwelling proposes to vary LPS3 setbacks for the zone or if the site is located within a Heritage Area);
- where the local government has accepted a recommendation for a lower hazard level, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated and agreed BAL;
- where a Fire Management Plan has been endorsed by the local government and/or by FESA, the affected land owners will be responsible for the ongoing implementation of the "land owners' responsibilities" as specified in that Fire Management Plan; and
- it sets out a range of matters that require the local government to consider in assessing proposals and matters that need to be addressed by proponents.

It is highlighted that under the *Planning and Development Act 2005* the amendment now cannot be stopped by Council. Given the amendment gained EPA "environmental clearance" and has been publicly advertised, the Minister for Planning (and not the Council) will make the final decision on Amendment 12. Outlined below is part of section 87 of the *Planning and Development Act*:

**87. Approval and publication of scheme or amendment**

- 1) Subject to section 83, after advertisement under section 84 and compliance with sections 85 and 86, a local planning scheme prepared or adopted, or an amendment to a local planning scheme prepared or adopted, by a local government is to be submitted to the Minister for the approval of the Minister.
- 2) The Minister may, in relation to a local planning scheme or amendment submitted to the Minister under subsection (1) —
  - a) approve of that local planning scheme or amendment;
  - b) require the local government concerned to modify that local planning scheme or amendment in such manner as the Minister specifies before the local planning scheme or amendment is resubmitted for the Minister's approval under this subsection; or

- c) refuse to approve of that local planning scheme or amendment.

The WAPC will next assess the scheme amendment request with the final decision made by the Minister for Planning.

**STATUTORY ENVIRONMENT:**

Planning and Development Act, Town Planning Regulations, LPS3 and State Planning Policy 3.4 Natural Hazards and Disasters.

**POLICY IMPLICATIONS:**

The declaration of a designated bush fire prone area will enable the implementation of AS3959-2009. This includes addressing low fuel areas and a higher standard of building construction for properties with a moderate or extreme bush fire hazard level.

**FINANCIAL IMPLICATIONS:**

Public advertising was a budgeted cost.

**STRATEGIC IMPLICATIONS:**

Approval and implementation of Scheme Amendment 12 will assist to reduce bushfire risk to residents and visitors.

**VOTING REQUIREMENTS:** Simple Majority.

**RECOMMENDATION:**

That Council:

1. In pursuance of Section 75 of the *Planning and Development Act 2005* grant final adoption of Amendment No. 12 to the *Shire of Nannup Local Planning Scheme No. 3* by inserting a new Part in the Scheme as follows:

**PART 13 - DESIGNATED BUSHFIRE PRONE AREAS AND BUSH FIRE MANAGEMENT**

- 13.1 The Bushfire Hazard Assessment Maps designate specific hazard levels throughout the municipality either as a "low", "moderate" or "extreme" hazard. The Bushfire Hazard Assessment Maps form part of the Scheme for the purposes of Part 13.
- 13.2 The Bushfire Hazard Assessment Maps may be amended from time to time. They are to be held at the local government office.

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- 13.3 Construction and/or additions to habitable buildings throughout the municipality in areas classified as “moderate” or “extreme” hazard, irrespective of whether or not a planning approval of the local government is required, will be subject to the relevant bushfire prone requirements pursuant to the Building Code of Australia, Australian Standard 3959 – 2009 (or any updates) and Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.
- 13.4 If a proponent disputes or seeks to lower the hazard level of their land set out in the Bushfire Hazard Assessment Maps, the proponent is to arrange a Bushfire Attack Level (BAL) assessment and a statement/report from a suitably qualified and/or experienced practitioner to address the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.
- 13.5 Upon receipt of the site specific BAL assessment and statement/report referred to in Clause 13.4, the local government may accept a recommendation for a lower hazard level for the site than set out in the Bushfire Hazard Assessment Maps.
- 13.6 Where the local government has accepted a recommendation for a lower hazard level referred to in clause 13.5, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated and agreed BAL. The local government may require the landowner to arrange a re-assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner’s expense) to ensure reduction measures are maintained at the nominated and agreed BAL.
- 13.7 Where a landowner accepts the hazard level of their land set out in the Bushfire Hazard Assessment Maps referred to in clause 13.1, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated BAL. The local government may require the landowner to arrange an assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner’s expense) to ensure reduction measures are maintained at the nominated BAL.
- 13.8 In considering proposals (including applications for planning approval, subdivision applications and structure plans) where there are bush fire risks, the local government is to have regard to –
- a) State Planning Policy 3.4 Natural Hazards and Disasters;
  - b) Planning for Bush Fire Protection Guidelines (Edition 2) or any updates;

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- c) any advice obtained from the Fire and Emergency Services Authority of Western Australia; and
  - d) any other planning consideration the local government considers relevant.
- 13.9 The local government may impose conditions to reduce bush fire risk to people and/or property including –
- a) the provision of a fire fighting water supply;
  - b) the provision of fire services access;
  - c) the preparation of a Fire Management Plan in accordance with the Planning for Bush Fire Protection Guidelines (Edition 2), or any updates, and implementation of specific fire protection measures set out in the plan; and
  - d) the implementation of measures to ensure that prospective purchasers are aware of the relevant scheme provisions, Fire Management Plan and publications addressing fire safety.
- 13.10 Where a Fire Management Plan has been endorsed by the local government and/or the Fire and Emergency Services Authority of Western Australia, the affected land owners will be responsible for the ongoing implementation of the “land owners” responsibilities as specified in that Fire Management Plan.”
2. Adopt the recommendations in Attachments 1, 2 and 4 relating to submissions and thank individuals and agencies who made a submission.
3. Refer Scheme Amendment No. 12 to the Western Australian Planning Commission and seek final approval by the Honourable Minister for Planning.

## Schedule of Submissions – Amendment No.12 to LPS No.3 (initial consultation)

No.	Name & Address of Submitter	Summary of Submissions	Comments	WAPC Recommendation
	<p>Kevin Bird</p> <p>Balingup Road NANNUP WA 6275</p>	<p>A) <i>"I am disappointed in the officer's presentation on the proposal to implement Nannup Shire as a Bushfire Prone Area, by not admitting that all rural houses would be subject to a maximum extension size of 25% of floor area. If a larger extension is planned a BAL assessment will have to be done and the whole house upgraded to meet AS3959. Had not a question been raised from the floor concerning this matter it seems the officers would have glossed over this important issue. This issue alone should result in postponement of any decision being made until all homeowners are notified of the impact of this new policy."</i></p> <p>B) <i>"To discriminate between rural and town housing is wrong. The officers claimed that houses within the town boundary are safe because there is a fire fighting appliance in town. May I remind those officers of the recent fires in Roleystone where numerous appliances were present where backup from rotary and fixed wing water bombers could not stop over 70 homes from being destroyed and many more damaged. That fire did not come from a rural area but started within urban development, a similar set of circumstances could occur in Nannup and to claim that one appliance could safeguard the town is unrealistic."</i></p> <p>C) <i>"To place the onus on the builder to ensure that the site assessment and</i></p>	<p>A) Noted the position is 50 sq. metres or 25% of the floor area whichever is the smaller, the additions only need to be constructed to the new standard and the rest of the dwelling can remain as is.</p> <p>B) Noted The reason is not to do with town or rural it is to do with the lot size there is not sufficient room to comply on urban zoned lots, the rural lots are larger and therefore have room to comply. Where council considers there is a threat in the town site this can be addressed by other means. Also existing lots can be built on, this thus removes any likely liability on the council from claim by existing lot owners</p> <p>C) Noted The builder is only responsible for</p>	

		<p><i>upgrade to comply with AS3959 with no follow up after key hand over is foolish. The BAL is only as strong as the weakest link. The builder has no control over garden structures, location and type of garden furniture, plastic shade sales etc. And indeed the use of woodchip mulch, the later being direct cause of the fires in Canberra 2000."</i></p> <p><i>D) "Possibly the greatest threat to a house under ember attack is the vehicle parked in the carport under the main roof. When that petrol tank explodes, that house will be destroyed irrespective of its construction material or compliance. The majority of houses lost at the Lake Clifton and Roleystone fires were double brick."</i></p> <p><i>E) "The current strategy of forced evacuations means that with no-one to put out spot fires the house is doomed and to think that AS3959 is going to make it fire proof is wrong. If this is implemented the perception from the public will be that it is, promoting a false sense of security."</i></p>	<p>compliance up to handover the owner is then the responsible party and they have to comply from then on. None of the houses in lake Clifton where built to AS3959 and like everything it is an attempt to improve the likely hood of survival not a guarantee.</p> <p>D)Noted Most of the houses are actually burnt as a result of ember attack (small burning particles) being blown into or onto flammable material, the fuel tank of the car is not practically vulnerable in ember attack, Things like the evaporative air conditioner (which are treated under 3959) caused a number also embers going into gardens against wall and untreated grass and bush too close to the house etc.</p> <p>E)Noted Life is and always will be the first responsibility of the Fire fighters and is not a reason not to implement this code which is designed to make the house a safer place to take refuge or to be more likely to survive should the occupants decide to evacuate. The cost will only be borne by future owners you can design the house to have no extra cost if you have sufficient land surrounding the proposed house 100 metres, many of the rural holding can comply with this requirement. This is an Australian standard and for a shire with a large interface with forest I believe it is justified</p>	
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		<p>F) <i>"This proposal will have major consequences for the community of Nannup and should be subject to a referendum to be held with the Local Government elections in October. This is an academic response to a bureaucratic problem where the cost is borne by the homeowner for no practical outcome. I urge the Councillors to delay any decision until the outcome of a referendum is known."</i></p>	<p>F)Noted</p>	
	<p>Cheryle Brown Address withheld</p>	<p>A) Does not believe that the wider impact of designating the whole of the Shire of Nannup as a Bushfire Prone Area has been fully considered.</p> <p>B) <i>"What may be good for our neighbouring Shires is not necessarily the best option for the Nannup Shire, and causes concern when this reasoning is used to support an initiative."</i></p> <p>C) <i>"With Council struggling to balance its 2011-2012 budget and ratepayers facing a major increase in rates to finance the budget shortfall, it would be prudent for Council to look at opportunities to INCREASE its rates base, rather than instigating initiatives that will dramatically reduce or hinder property developments and the subsequent rates base increase."</i></p> <p>D) <i>"The increased cost of building new residences to Bushfire Prone Area standards will result in a 20%-40% increase in the cost of building in Nannup compared to other nearby (non-BFPA) communities. This will price</i></p>	<p>A) Noted</p> <p>B) The reasoning is based on the amount of interface with forest and other bushland where houses are built, Council by adopting this are accepting an Australian standard as a means to providing the safest possible environment for the residents</p> <p>C) while there can be a cost increase if the land owner does not have the required land this is modest for most common sites BAL 12.5 and 19. The cost is not significant against the combined cost of house and land and will help ensure new resident are not scared away for m areas like Nannup due to the fear of Bushfire</p> <p>D) the cost of a BAL 19 house is in the order of 6% more than a standard home the neighbors Busselton Augusta Margaret river and Bridgetown Greenbushes are all compliant</p>	

		<p><i>purchasing a property for a residential building in Nannup out of reach of the potential buyer market. Why would a potential resident choose to buy and build in Nannup at higher building costs over other nearby regional Shires which do not currently have the "Fire Prone Area: standards in place. This will hinder the Nannup Shire's ability to expand its rates base and the local economy's ability to grow and prosper."</i></p> <p>E) <i>"It was stated that the Scheme is only applicable to new building development applications, however the question raised at the meeting of the impact on extensions to existing properties was addressed. The comment was made that extensions 'could possibly' come under the same guidelines as extensions to buildings in the Flood Prone area – being that an extension of more than 25% of the existing building would automatically come under the new policy. However there appeared to be little knowledge by the officer or the information as to how this would work. The cost &amp; conditions of building and extension up to the BFPA Standards would be increased in comparison to a standard extension with no beneficial to reducing fire prone status of the property as the existing structure would not need to comply? Shouldn't the wider Nannup community be made aware that future extensions to their properties could become dramatically more expensive once these Standards are implemented?"</i></p> <p>F) <i>"The amendment provides a false sense of security to property owners who would consider a home built to Bushfire Prone Area standards will withstand any</i></p>	<p>or in the processes of doing so</p> <p>E) the position is 50 sq. metres or 25% of the floor area whichever is the smaller, the additions only need to be constructed to the new standard and the rest of the dwelling can remain as is</p> <p>F) the current practice of allowing the construction of homes from Cedar and upwards is a greater risk to the shire than imposing</p>	
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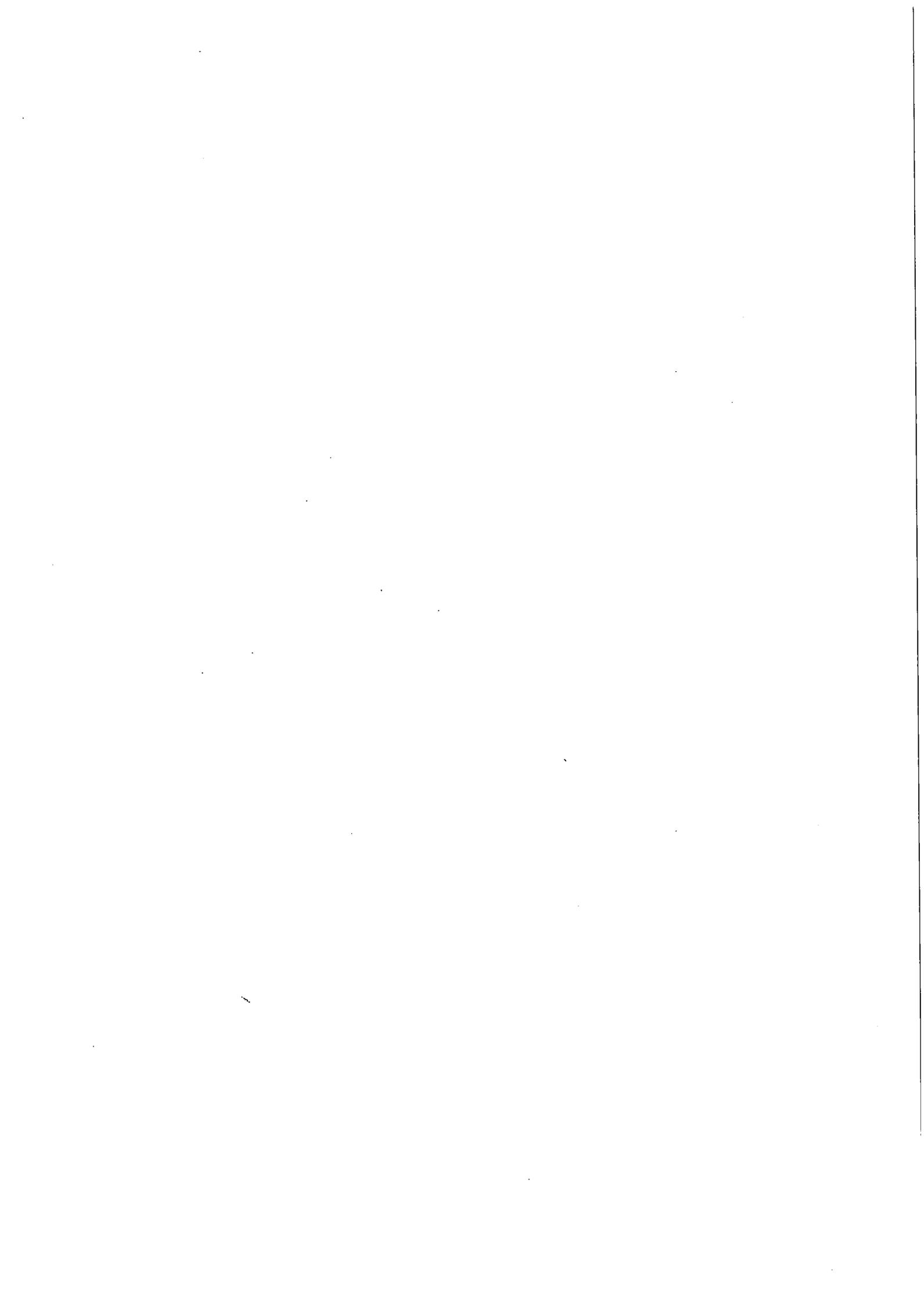
		<i>fire attack.”</i>	this and the onus is on the owner to ensure that they comply in future	
Shire of Bridgetown – Greenbushes PO Box 271 BRIDGETOWN WA 6255	A) <i>“As you are aware, the Shire of Bridgetown-Greenbushes and the Shire of Nannup are jointly finalising the Consultant’s Brief for a Bushfire Protection Strategy for both local authorities, with the finding to guide future bushfire management measures.”</i>  B) <i>“Please be advised that the Shire of Bridgetown-Greenbushes supports Amendment No.12 as a pro-active and practical response to managing bushfire threats.”</i>	A) Noted  B) Noted		
Western Australian Planning Commission  6 <sup>th</sup> Floor Bunbury Tower 61 Victoria Street BUNBURY WA 6230	A) Noted Council’s intent to advertise the Amendment	A) Yes, advertising period was from 27 April – 10 June 2011		
Fire & Emergency Services Authority  PO Box 1288 BUNBURY WA 6231	A) Assessed against WAPC SPP.34 Natural hazards and disasters.  B) No objections to the Amendment.	A) Noted and no further comment		

	<p>Department of Environment and Conservation</p> <p>PO Box 1693 BUNBURY WA 6231</p>	<p>A) <i>"It is the expectation of DEC that the planning system will appropriately address any environmentally planning issues associated with this proposal."</i></p> <p>B) No objections to the Amendment.</p>	<p>A) Noted.</p> <p>B) Noted</p>	
	<p>Department of Local Government</p> <p>GPO Box R1250 PERTH WA 6844</p>	<p>A) <i>"Given that the Department does not have jurisdiction in matter relating to planning it is not appropriate for this Department to comment."</i></p>	<p>A) Noted and no further comment.</p>	
	<p>Main Roads</p> <p>PO Box 5010 BUNBURY WA 6231</p>	<p>A) No objections to the Amendment</p>	<p>A) Noted and no further comment</p>	
	<p>Water Corporation</p> <p><a href="mailto:Kevin.Powell@watercorporation.com.au">Kevin.Powell@watercorporation.com.au</a></p>	<p>A) No objections to the Amendment</p>	<p>A) Noted and no further comment</p>	
	<p>Department of Water</p> <p><a href="mailto:Carol.ANDERSON@water.wa.gov.au">Carol.ANDERSON@water.wa.gov.au</a></p>	<p>A) No objections to the Amendment</p>	<p>A) Noted and no further comment</p>	

**Shire of Nannup Local Planning Scheme No. 3**  
**Scheme Amendment No. 12 – Schedule of Submissions (additional consultation)**

Note: All submissions are noted, however the terminology of “Dismiss”, “Upheld”, or “Partially Upheld” is typically used for recommendations to the Western Australian Planning Commission (WAPC). In the Council’s Recommendation column, if a submission is only “Noted”, it does not make it clear to the WAPC whether the Council agrees or does not agree with the submission. If a submission is “Upheld”, it means that Council agrees that the amendment should be modified as a result of the submission. If a submission is “Dismissed”, it means that no modifications are recommended.

No.	Name and Address of Submitter	Summary of Submissions	Council’s Comments	Council’s Recommendation
1	Kevin Powell Water Corporation <a href="mailto:Kevin.Powell@watercorporation.com.au">Kevin.Powell@watercorporation.com.au</a>	No objection to the Amendment.	That the submission be noted.	That the submission be dismissed.
2	Roy Winslow Shire of Manjimup PO Box 1 Manjimup WA 6258	No comment.	That the submission be noted.	That the submission be dismissed.
3	Richard Bloor Department of Education 151 Royal Street, East Perth WA 6004	No objection to the Amendment.	That the submission be noted.	That the submission be dismissed.
4	Carol Anderson Department of Water <a href="mailto:Carol.ANDERSON@water.wa.gov.au">Carol.ANDERSON@water.wa.gov.au</a>	No objection to the Amendment.	That the submission be noted.	That the submission be dismissed.
5	Tim Clynh Shire of Bridgetown – Greenbushes PO Box 271 BRIDGETOWN WA 6255	A) Support Amendment 12 given it is a pro-active and practical response to managing bushfire threats.  B) The Shire of Bridgetown-Greenbushes and the Shire of Nannup are jointly finalising the Consultant’s Brief for a Bushfire Protection Strategy for both local authorities, with the finding to guide future bushfire management measures.	That the submission be noted.	That the submission be dismissed.





Government of Western Australia  
Fire & Emergency Services Authority

SHIRE OF NANNUP RECEIVED			
Ref: TPL1-12		No. 2012 1126	
24 SEP 2012			
CEO MCS WM MDS	AO EO CDO CR:	LIB PUB	FMO YO RE
CR: Wendy			



South Western Highway  
BUNBURY WA 6230  
PO Box 1288 BUNBURY WA 6231  
Telephone (08) 9780 1900  
Facsimile (08) 9725 4230  
Email fesa@fesa.wa.gov.au  
www.fesa.wa.gov.au

Your Ref: FRC 7& TPL1/11  
Our Ref: BY01859-03

24 September 2012

Chief Executive Officer  
Shire of Nannup  
PO Box 11  
NANNUP WA 6275

Dear Sir

**RE DRAFT BUSH FIRE HAZARD STRATEGY – SHIRE OF BRIDGETOWN-  
GREENBUSHES AND SHIRE OF NANNUP AND SCHEME AMENDMENT  
NO. 12 TO SHIRE OF NANNUP LOCAL PLANNING SCHEME NO.3**

Please be advised that with reference to Section 2.3 of the 'Planning for Bush Fire Protection Guidelines -Edition 2, FESA is satisfied that associated documentation including the context of the Local Planning Scheme Amendment No. 3 – Amendment 17, provides satisfactory evidence that the general principles that underpin the guidelines can be achieved and implemented at some subsequent stage in the planning process.

Should you require further information please contact our Regional office on 9780 1900.

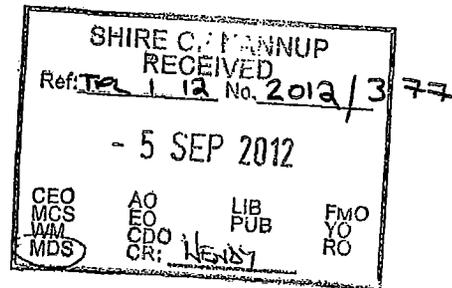
Yours faithfully

DOUG VAN BAVEL  
LAND USE PLANNING OFFICER



Government of Western Australia  
Department of Planning

Your Ref: FRC 7 & TPL 1/11  
Our Ref: TPS/0577/1  
Enquiries: Jacob Clements



31 August 2012

Attention: Robert Jennings  
Shire of Nannup  
15 Adam Street  
PO Box 11  
Nannup, WA, 6275

**RE: DRAFT BUSHFIRE HAZARD STRATEGY - SHIRE OF BRIDGETOWN-  
GREENBUSHES AND SHIRE OF NANNUP AND SCHEME AMENDMENT NO. 12 to  
SHIRE OF NANNUP LOCAL PLANNING SCHEME NO. 3**

I refer to your letter dated 6 August 2012, seeking comments from the Department of Planning regarding the above mentioned proposals.

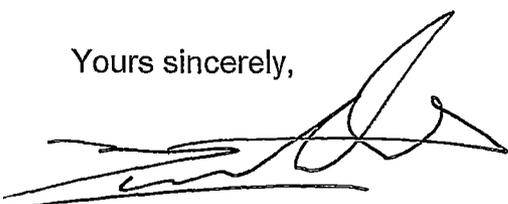
The South West Planning branch provides the following advice relating specifically to the proposed Scheme Amendment:

1. (13.1) – The example maps included in the Bushfire Hazard Strategy do not support this statement.
2. (13.2) – Reference to Bushfire Hazard Assessment Plans should be changed to 'Bushfire Hazard Assessment Maps' to accord with the terminology used by the Bushfire Hazard Strategy. Reference to 'medium' should be changed to 'moderate' for the same reason.
3. (13.3) – reword as follows: "The Bushfire Hazard Assessment Maps may be amended from time to time. They are to be held at the local government office".
4. (13.4) – If the whole Shire is bushfire prone, then AS3959 applies to the whole Shire. Change 'medium' to 'moderate'. What are the 'relevant bushfire prone requirements?'. How is the BAL arrived at?
5. Reference to standards applicable in areas identified as having an extreme fire hazard are potentially misleading in that the 'Planning for Bushfire Protection Guidelines' do not promote new development, or the intensification of development, in these areas.
6. It is noted that you have addressed building or extensions to lots affected by bushfire prone designation in proposed Clause 13.4, however, consideration should also be given to alterations.

7. Consideration should be given to non-residential buildings in which workers, occupiers or visitors may be exposed to a bushfire hazard to be assessed as if it was a residential development or other buildings not covered by AS 3959 (refer to 6.5.13 in Mundaring's draft Scheme - attached).
8. Consideration should be given to having a clause regarding the update of FMP's. Conditions can change over time and being able to update the FMP may be desirable. A period of update and/or review every 3 years could be an option.

If you have any queries in relation to this matter please contact Jacob Clements at this office on 9791 0577.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Matt Cuthbert', written over a horizontal line.

Matt Cuthbert  
Senior Project Planner  
South West Planning

- 6.5.12 Subdivision and development within the Bush Fire Hazard Special Control Area shall comply with all relevant Acceptable Solutions set out in Appendix 2 of the *Planning for Bush Fire Protection Guidelines (2010)*. Where a proposed subdivision or development does not comply with one or more Acceptable Solutions set out in Appendix 2 of the *Planning for Bush Fire Protection Guidelines (2010)*, the proposed subdivision or development shall be assessed by the Shire in accordance with the relevant Performance Criteria and the relevant procedures for such assessment set out in the *Planning for Bush Fire Protection Guidelines (2010)*. In determining an application for development that does not comply with one or more Acceptable Solutions set out in Appendix 2 of the *Planning for Bush Fire Protection Guidelines (2010)*, the Shire shall have regard to the advice of the Shire's Chief Bush Fire Control Officer.
- 6.5.13 Non-residential buildings, in which workers, occupiers or visitors may be exposed to bushfire hazard, within the Special Control Area shall be assessed in accordance with clause 6.5.11, as if it were residential development.
- 6.5.14 In its determination of any application for planning approval, and in providing a recommendation in relation to subdivision, the Shire is to have particular regard to:
- (a) State Planning Policy 3.4 Natural Hazards and Disasters;
  - (b) the potential hazards occasioned by the vegetation, topography and prevailing winds during the bush fire season, and the extent (if any) to which any change in land use may increase such hazards;
  - (b) the design and siting of buildings, works and access with reference to the performance standards set out in the *Planning for Bush Fire Protection Guidelines* and Australian Standard 3959, *Construction of Buildings in Bushfire-Prone Area*;
  - (c) avenues of escape in the event of a bush fire, and the level of hazard associated with any vehicular access facilities;
  - (d) practicability of reducing the risk associated with bush fire events, including fire breaks, reduction in fuel load and roof/wall irrigation systems;
  - (e) the effects of any proposed fire protection measures on the amenity and environmental values of the locality, including but not limited to landscape values, Local Natural Areas and soil stability;

**Shire of Nannup Local Planning Scheme No. 3**  
**Scheme Amendment No. 12 – Schedule of Submissions(3<sup>rd</sup> round of consultation)**

**Note:** All submissions are noted, however the terminology of “Dismiss”, “Upheld”, or “Partially Upheld” is typically used for recommendations to the Western Australian Planning Commission (WAPC). In the Council’s Recommendation column, if a submission is only “Noted”, it does not make it clear to the WAPC whether the Council agrees or does not agree with the submission. If a submission is “Upheld”, it means that Council agrees that the amendment should be modified as a result of the submission. If a submission is “Dismissed”, it means that no modifications are recommended.

No.	Name and Address of Submitter	Summary of Submissions	Council’s Comments	Council’s Recommendation
1	Doug Van Bavel Fire & Emergency Services Authority PO Box 1288 Bunbury WA 6231	The Amendment and associated Bush Fire Hazard Strategy are consistent with the principles of “Planning for Bush Fire Protection Guidelines (Edition 2)”.	That the submission be noted.	That the submission be dismissed.
2	Matt Cuthbert Department of Planning 6 <sup>th</sup> Floor, 61 Victoria Street Bunbury WA 6230	Various modifications to increase consistency between the Amendment and associated Bush Fire Hazard Strategy. Additional advice includes including non-residential buildings and inserting a clause regarding updating Fire Management Plans.	<p>Since the Council’s resolution on 15 December 2011, the draft <i>Bush Fire Hazard Strategy - Shire of Bridgetown-Greenbushes and Shire of Nannup</i> has been submitted to the Shire. When the Council adopted (initiated) Amendment 12 on 24 March 2011, the Strategy had not been prepared and in its absence, the bush fire prone area was proposed to be for the whole Shire outside of the Nannup townsite and then it was proposed for the entire municipality. The preparation of the Strategy now defines bush fire prone areas based on an assessment in accordance with <i>Planning for Bush Fire Protection Guidelines (Edition 2)</i>. With the recent preparation and submission of the Strategy, it is agreed there is a need to increase consistency between the Amendment and Strategy.</p> <p>Other advice has merit, including for non-residential development, although it is suggested this be reconsidered following implementation and review of designating bush fire prone areas.</p>	That the submission be upheld in part, with changes to provisions 13.1 – 13.4 as outlined in points 1 – 4 of the submission.



**TOWN PLANNING SCHEME No 3**  
(District Scheme)  
**AMENDMENT No 12**

Designation of Bush Fire Prone Areas

November 2011

**PLANWEST**

(WA) PTY LTD A.B.N. 77 665 477 168

**CONSULTANTS IN PLANNING,  
DESIGN AND MANAGEMENT**

**PLANNING & DEVELOPMENT ACT 2005**

**RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME**

**Shire of Nannup**

**LOCAL PLANNING SCHEME No 3**

**AMENDMENT No 12**

RESOLVED that the Council in pursuance of Section 75 of the Planning and Development Act 2005 amend the above Local Planning Scheme by:

Adding provisions to designate a Bushfire Prone Area over the whole Shire of Nannup Local Planning Scheme No 3 area.

Dated this ..... day of .....20...

.....  
Chief Executive Officer

.....  
Date

FILE NO.....

PART OF AGENDA.

**MINISTER FOR PLANNING AND INFRASTRUCTURE**

**PROPOSAL TO AMEND A SCHEME**

- |  |  |
|--|--|
| 1. LOCAL AUTHORITY:                      | Shire of Nannup  |
| 2. DESCRIPTION OF LOCAL PLANNING SCHEME: | Local Planning Scheme No. 3  |
| 3. TYPE OF SCHEME:                       | District Zoning Scheme   |
| 4. SERIAL NUMBER OF AMENDMENT:           | Amendment No. 12   |
| 5. PROPOSAL                              | To add a new Part to designate the whole Shire of Nannup as a Bushfire Prone Area. |

**REPORT BY: Shire of Nannup**

**1 INTRODUCTION**

The Shire of Nannup seeks the WA Planning Commission's support and the Hon. Minister's approval to a Scheme Amendment that seeks to add a new Part to designate the whole Shire of Nannup as a Bushfire Prone Area.

**2 BACKGROUND**

The Shire of Nannup Scheme No 3 was gazetted on 14 March 2007 and has been the subject of eleven amendments.

The West Australian Planning Commission (WAPC) and the Fire and Emergency Services Authority (FESA) have developed a set of guidelines for local governments to use to assess the risk of bushfire hazard in a proposed development. The objective of these guidelines is to protect life and property from bushfires. These guidelines are the *Planning for Bush Fire Protection Guidelines, edition 2, May 2010*.

The Building Code of Australia (BCA), Parts P2.3.4 and 3.7.4, controls the building of houses in declared bushfire prone areas. The BCA is satisfied if the house complies with Australian Standard *AS3959 Construction of Buildings in Bushfire Prone Areas*.

In the Local Planning Scheme No.3 for Nannup Shire, buildings in some Special Rural Zone areas with bushfire hazards must be constructed to AS3959. Other areas in bush fire prone areas do not carry this requirement. It is the purpose of this Amendment to apply these guidelines over the whole of the Shire of Nannup.

The Council has prepared a draft Local Planning Policy (LPP) under the provisions of the Scheme. A copy of this LPP is included in **Attachment 1**. It is likely that this LPP will be adopted as an interim measure until this Amendment is finalised.

Whilst the LPP has been prepared and adopted under the provisions of the Scheme it is necessary that the Scheme also be amended to ensure that the provisions of the LPP are adhered to.

Other Councils have established that a LPP is not always supported by the State Administrative Tribunal (SAT) in appeal cases. The SAT has previously determined appeals against a Council that has based its decision on an adopted LPP.

### **3 STATUTORY ENVIRONMENT**

The Planning and Development Act 2005 is the basis of the Shire's Local Planning Scheme (LPS3) and the State's Statement of Planning Policy 3.4 Natural Hazards and Disasters (SPP3.4).

#### **The Shire's Local Planning Scheme No.3**

In Clause 10.2, three of the several matters to consider when dealing with applications for Council's approval of a proposed development are:

- (g) any Local Planning Policy adopted by the Council under the provisions of clause 2.4.....,
- (n) whether the land to which the application relates is unsuitable for the proposal by reason of it being or likely to be subject to – bushfire or any other risk.
- (q) whether the proposed means of access to, or egress from, the site are adequate.

#### **State Planning Policy 3.4 - Natural Hazards and Disasters**

Local government must have regard to this Policy in the preparation or amendment of town planning schemes, strategies and policies, and when providing comment and advice that deal with applications that may be affected by natural hazards (clause 2).

The Policy applies throughout Western Australia and to the preparation and assessment of matters by the WAPC (clause 3) and to local planning schemes and their amendment (clause 4). It should be used by governments to determine those areas that are most vulnerable to bushfire and where development should not be recommended (clause 5). It authorises the WAPC to prepare guidelines for protection from hazards which should be considered in the determination of proposals (clause 6).

The WAPC/FESA publication *Planning for Bushfire Protection guidelines* has a method in Appendix 1 to assess the level of the hazard from a bushfire in a particular area. It authorises local government to identify hazards:

*Bush fire prone areas may be designated by the local government. In designated bush fire prone areas, all new habitable buildings must comply with AS3959. For the purposes of the guidelines, all areas with a moderate or extreme bush fire hazard level are considered to be bush fire prone areas for planning new subdivisions and developments and for building controls. (page.4).*

The Act, LPS3 and SPP3.4 give Council the power to designate a bush fire prone area. Once the local government designates an area to be bushfire prone, the area will be required to comply with AS3959 and a higher standard of house construction (Class 1 buildings under the BCA).

### **4 LOCAL PLANNING MANUAL**

The WA Planning Commission has prepared an example of a Special Control Area to deal with bush fire management provisions in its Local Planning Manual (March 2010). However it is evident that a SCA over the whole Shire is not practical and an alternative method of designating bush fire prone areas is preferred.

## **5 EXEMPTION OF SINGLE DWELLINGS FROM PLANNING APPROVAL**

Consistent with the Model Scheme Text, Clause 8.2 (b) of the Scheme exempts the need for planning approval for a single house except where the proposal; -

- (i) requires the exercise of a discretion by the local government under the scheme to vary the provisions of the Residential Planning Codes;
- (ii) is located in a Heritage Area designated under the Scheme;
- (iii) requires the exercise of a discretion by the Council under the scheme to vary the setback provisions of a specific zone.

In order to minimise duplicated local government assessment through requiring both a planning application and a building licence for single dwellings, Scheme Amendment No. 12 does not require modifications as to when a planning approval for a single house is required. No planning application will continue to be required for single dwellings throughout the municipality (except if the dwelling proposes to vary LPS3 setbacks for the zone or if the site is located within a Heritage Area). If a proponent disputes the hazard assessment level in the Shire-wide bushfire hazard assessment, it will be addressed at the building licence stage.

## **6 FORMAT OF PROPOSED PROVISIONS**

The main objective of this Amendment is to designate areas of the Shire as 'Bushfire Prone' to ensure that the Australian Standards 3959 are made obligatory. Habitable buildings need to meet AS3959 – 1999 where the hazard level is "medium" or "extreme" and not "low".

In order to do this a new Part will be inserted in the Scheme that refers to a plan that designates the 'Bushfire Hazard Assessment Plan' of the Shire. This plan will sit outside the Scheme and may be amended from time to time.

This Plan shall be referred to as Designated Bushfire Prone Area Plan and be made available at the Shire office for inspection.

The provisions will include the following clauses;

### **'PART 13 - DESIGNATED BUSHFIRE PRONE AREAS AND BUSH FIRE MANAGEMENT**

- 13.1 The entire municipality is a Designated Bushfire Prone Area.
- 13.2 A Bushfire Hazard Assessment Plan will designate specific hazard levels throughout the municipality either as a 'low', 'medium' or 'extreme' hazard. The Bushfire Hazard Assessment Plan forms part of the Scheme for the purposes of Part 13.
- 13.3 The Bushfire Hazard Assessment Plan may be amended from time to time as part of a relevant Local Planning Policy or Policies (Clause 2.4). The Bushfire Hazard Assessment Plan is to be held at the local government office.
- 13.4 Construction and/or additions to habitable buildings throughout the municipality in areas classified as 'medium' or 'extreme' hazard, irrespective of whether or not a planning approval of the local government is required, will be subject to the relevant bushfire prone requirements pursuant to the Building Code of Australia, Australian Standard 3959 –

1999 (or any updates) and Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.

- 13.5 If a proponent disputes or seeks to lower the hazard level of his land set out in the Bushfire Hazard Assessment Plan, the proponent is to arrange a Building Attack Level (BAL) assessment and a statement/report from a suitably qualified and/or experienced practitioner to address the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.
- 13.6 Upon receipt of the site specific BAL assessment and statement/report referred to in Clause 13.5, the local government may accept a recommendation for a lower hazard level for the site than set out in the Bushfire Hazard Assessment Plan.
- 13.7 Where the local government has accepted a recommendation for a lower hazard level referred to in clause 13.6, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated and agreed BAL. The local government may require the landowner to arrange a re-assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner's expense) to ensure reduction measures are maintained at the nominated and agreed BAL.
- 13.8 Where a landowner accepts the hazard level of his land set out in the Bushfire Hazard Assessment Plan referred to in clause 13.2, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated BAL. The local government may require the landowner to arrange an assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner's expense) to ensure reduction measures are maintained at the nominated BAL.
- 13.9 In considering proposals (including applications for planning approval, subdivision applications and structure plans) where there are bush fire risks, the local government is to have regard to-
- a) State Planning Policy 3.4 Natural Hazards and Disasters;
  - b) Planning for Bush Fire Protection Guidelines (Edition 2) or any updates;
  - c) any advice obtained from the Fire and Emergency Service Authority; and
  - d) any other planning consideration the local government considers relevant.
- 13.10 The local government may impose conditions to reduce bush fire risk to people and/or property including –
- a) the provision of a fire fighting water supply;
  - b) the provision of fire services access;
  - c) the preparation of a Fire Management Plan in accordance with the Planning for Bush Fire Protection Guidelines (Edition 2), or any updates, and implementation of specific fire protection measures set out in the plan; and

- d) the implementation of measures to ensure that prospective purchasers are aware of the relevant scheme provisions, Fire Management Plan and publications addressing fire safety.

13.11 Where a Fire Management Plan has been endorsed by the local government and/or the Fire and Emergency Services Authority of Western Australia, the affected land owners will be responsible for the ongoing implementation of the 'land owners' responsibilities' as specified in that Fire Management Plan.'

## **7 CONCLUSION**

In view of the consistency of this Amendment with State policy, the Amendment will be advertised for submissions on receipt of clearance from the Environmental Protection Authority.

# PLANNING AND DEVELOPMENT ACT 2005

## Shire of Nannup

### LOCAL PLANNING SCHEME No. 3

### AMENDMENT No 12

The Nannup Shire Council under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby amends the above Local Planning Scheme by:

1 Inserting a new Part in the Scheme as follows;

#### **'PART 13 - DESIGNATED BUSHFIRE PRONE AREAS AND BUSH FIRE MANAGEMENT**

- 13.1 The entire municipality is a Designated Bushfire Prone Area.
- 13.2 A Bushfire Hazard Assessment Plan will designate specific hazard levels throughout the municipality either as a 'low', 'medium' or 'extreme' hazard. The Bushfire Hazard Assessment Plan forms part of the Scheme for the purposes of Part 13.
- 13.3 The Bushfire Hazard Assessment Plan may be amended from time to time as part of a relevant Local Planning Policy or Policies (Clause 2.4). The Bushfire Hazard Assessment Plan is to be held at the local government office.
- 13.4 Construction and/or additions to habitable buildings throughout the municipality in areas classified as 'medium' or 'extreme' hazard, irrespective of whether or not a planning approval of the local government is required, will be subject to the relevant bushfire prone requirements pursuant to the Building Code of Australia, Australian Standard 3959 – 1999 (or any updates) and Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.
- 13.5 If a proponent disputes or seeks to lower the hazard level of his land set out in the Bushfire Hazard Assessment Plan, the proponent is to arrange a Building Attack Level (BAL) assessment and a statement/report from a suitably qualified and/or experienced practitioner to address the requirements of the Planning for Bush Fire Protection Guidelines (Edition 2) or any updates.
- 13.6 Upon receipt of the site specific BAL assessment and statement/report referred to in Clause 13.5, the local government may accept a recommendation for a lower hazard level for the site than set out in the Bushfire Hazard Assessment Plan.
- 13.7 Where the local government has accepted a recommendation for a lower hazard level referred to in clause 13.6, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated and agreed BAL. The local government may require the landowner to arrange a re-assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner's expense) to ensure reduction measures are maintained at the nominated and agreed BAL.

- 13.8 Where a landowner accepts the hazard level of his land set out in the Bushfire Hazard Assessment Plan referred to in clause 13.2, the landowner will be responsible for permanent hazard reduction measures to maintain the nominated BAL. The local government may require the landowner to arrange an assessment and a statement/report from a suitably qualified and/or experienced practitioner as required (at the landowner's expense) to ensure reduction measures are maintained at the nominated BAL.
- 13.9 In considering proposals (including applications for planning approval, subdivision applications and structure plans) where there are bush fire risks, the local government is to have regard to -
- a) State Planning Policy 3.4 Natural Hazards and Disasters;
  - b) Planning for Bush Fire Protection Guidelines (Edition 2) or any updates;
  - c) any advice obtained from the Fire and Emergency Service Authority; and
  - d) any other planning consideration the local government considers relevant.
- 13.10 The local government may impose conditions to reduce bush fire risk to people and/or property including -
- a) the provision of a fire fighting water supply;
  - b) the provision of fire services access;
  - c) the preparation of a Fire Management Plan in accordance with the Planning for Bush Fire Protection Guidelines (Edition 2), or any updates, and implementation of specific fire protection measures set out in the plan; and
  - d) the implementation of measures to ensure that prospective purchasers are aware of the relevant scheme provisions, Fire Management Plan and publications addressing fire safety.
- 13.11 Where a Fire Management Plan has been endorsed by the local government and/or the Fire and Emergency Services Authority of Western Australia, the affected land owners will be responsible for the ongoing implementation of the 'land owners' responsibilities' as specified in that Fire Management Plan.'

**PLANNING & DEVELOPMENT ACT 2005**

**Shire of Nannup**

**LOCAL PLANNING SCHEME No. 3**

**AMENDMENT No. 12**

**ADOPTION**

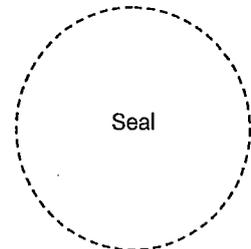
Adopted by resolution of the Council of the Shire of Nannup at the meeting of the Council held on the ..... day of .....20.....

.....  
SHIRE PRESIDENT .....  
Date

.....  
CHIEF EXECUTIVE OFFICER .....  
Date

**FINAL APPROVAL**

Adopted for final approval of the Shire of Nannup at the meeting of Council held on the ..... day of ..... 20..... and the Common Seal of the Shire of Nannup was hereunto affixed by the authority of a resolution of the Council in the presence of:



.....  
SHIRE PRESIDENT .....  
Date

.....  
CHIEF EXECUTIVE OFFICER .....  
Date

**RECOMMENDED/SUBMITTED FOR FINAL APPROVAL**

.....  
Delegated under S. 16 of PD Act 2005 .....  
Date

**FINAL APPROVAL GRANTED**

.....  
MINISTER FOR PLANNING .....  
Date

## LPP 019 Designation of Bush Fire Prone Area

### BACKGROUND

For the protection of life and property from bushfires the West Australian Planning Commission (WAPC) and the Fire and Emergency Services Authority (FESA) developed a set of guidelines for local governments to use to assess the risk of bushfire hazard in a proposed development. These guidelines are the *Planning for Bush Fire Protection guidelines, edition 2, May 2010.*

The Building Code of Australia (BCA), Parts P2.3.4 and 3.7.4, controls the building of houses in declared bushfire prone areas. The BCA is satisfied if the house complies with Australian Standard AS3959 Construction of Buildings in Bushfire Prone Areas.

In the Local Planning Scheme No.3 for Nannup Shire, buildings in some Special Rural Zone areas with bushfire hazards must be constructed to AS3959. Other areas with bush fire hazards do not carry this requirement. Consequently, this policy is meant to apply to the whole of the Shire of Nannup.

### STATUTORY ENVIRONMENT

The Planning and Development Act 2005 is the basis of the Shire's Local Planning Scheme (LPS3) and the State's Statement of Planning Policy 3.4 Natural Hazards and Disasters (SPP3.4).

**The Shire's Local Planning Scheme No.3.** In Clause 10.2, two matters to consider when dealing with applications for Council's approval of a proposed development are:  
(n) whether the land to which the application relates is unsuitable for the proposal by reason of it being or likely to be subject to – bushfire or any other risk.  
(q) whether the proposed means of access to, or egress from, the site are adequate.

### Statement of Planning Policy 3.4 Natural Hazards and Disasters.

Local government must have regard to this policy in the preparation or amendment of town planning schemes, strategies and policies, and when providing comment and advice that deal with applications that may be affected by natural hazards (clause 2). The Policy applies throughout Western Australia and to the preparation and assessment of matters by the WAPC (clause 3) and to planning schemes and their amendment (clause 4). It should be used by governments to determine those areas that are most vulnerable to bushfire and where development should not be recommended (clause 5). It authorises the WAPC to prepare guidelines for protection from hazards which should be considered in the determination of proposals (clause 6).

The WAPC/FESA publication Planning for Bushfire Protection guidelines has a method in Appendix 1 to assess the level of the hazard from a bushfire in a particular area.

It authorises local government to identify hazards:

*Bush fire prone areas may be designated by the local government. In designated bush fire prone areas, all new habitable buildings must comply with AS3959. For the purposes of the guidelines, all areas with a moderate or extreme bush fire hazard level are considered to be bush fire prone areas for planning new subdivisions and developments and for building controls. (p.4).*

The Act, LPS3 and SPP3.4 give Council the power to designate a bush fire prone area.

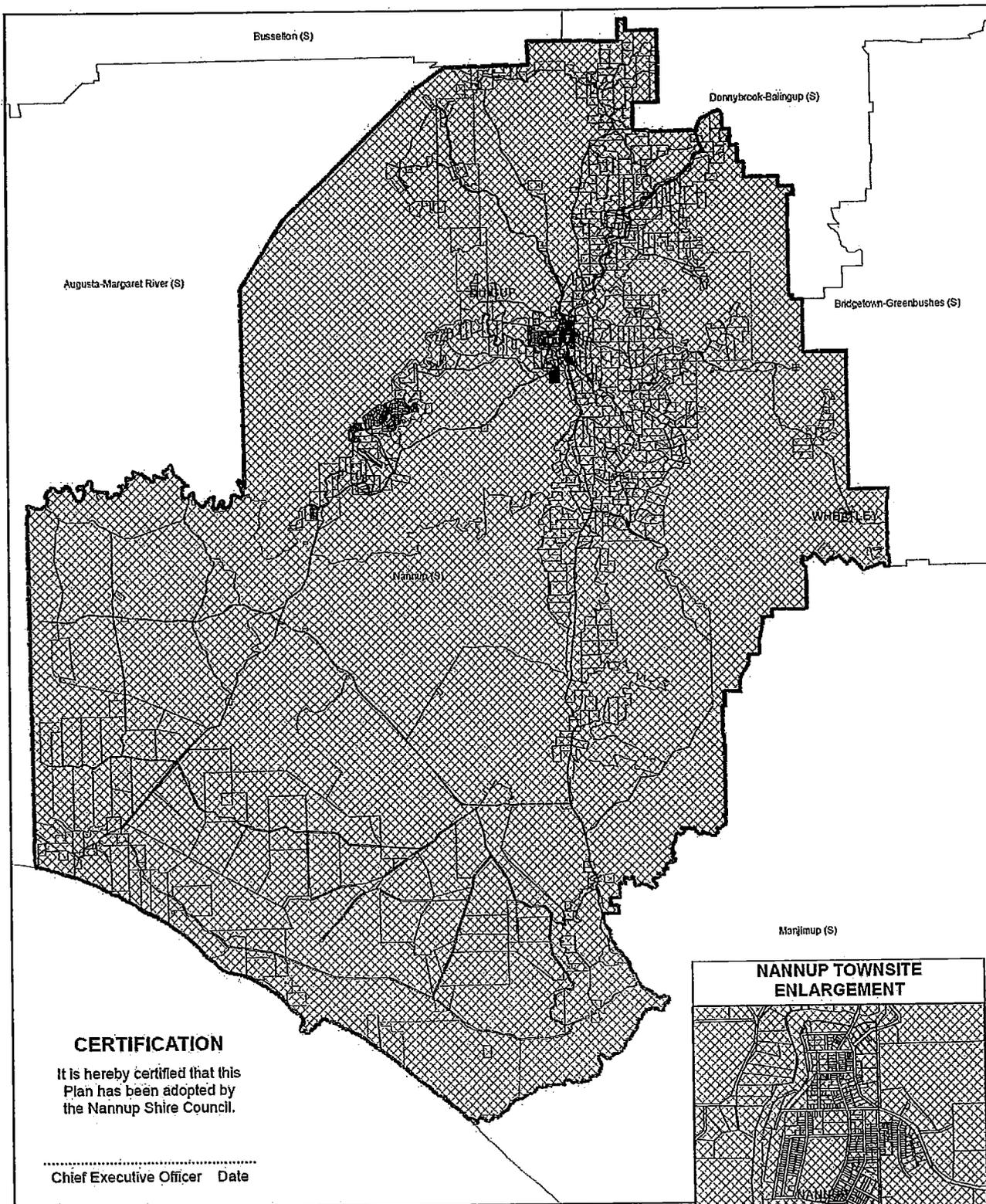
**Policy Implications:** The declaration of a bush fire prone area will implement AS3959 and a higher standard of house construction in areas that may be affected by a bushfire.

#### **POLICY**

Council shall designate land in the Shire to be a bush fire prone area in circumstances where:

1. a residential building is proposed to be constructed on land that contains or adjoins an area of forest of 1 hectare or more,
2. the proposed residential building is within 100 metres of a forest, and
3. the forest is of the vegetation type described as forest in Table 1 and Figure 1 of Appendix 1 in the WAPC/FESA publication *Planning for Bush Fire Protection guidelines , edition 2, May 2010.*

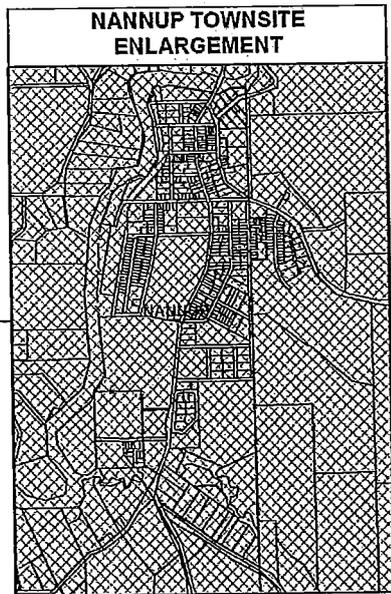
S. Collie  
Chief Executive Officer.



**CERTIFICATION**

It is hereby certified that this Plan has been adopted by the Nannup Shire Council.

.....  
 Chief Executive Officer    Date



**BUSHFIRE HAZARD ASSESSMENT PLAN**

SCALE 1:250,000  
 (at A3)

- Legend**
-  Designated Bushfire Prone Area
  -  Shire of Nannup Boundary

July 2011