



Our Ref: D14409
Your Ref: DA 10.20

Thomas Pucci
Shire of Wyndham-East Kimberley
Planning@swek.wa.gov.au

Dear Mr Pucci

**RE: VULNERABLE LAND USE - LOT 25 PORT WARRENDER ROAD, MITCHELL PLATEAU
– NGAUWUDU SAFARI CAMP**

I refer to your email dated 31 August 2020 regarding the submission of a revised Bushfire Management Plan (BMP) (Version 1), prepared by Bushfire Prone Planning and dated 25 August 2020, and updated site plan and floor plans of the staff accommodation units provided on 29 September 2020, for the above development application.

It should be noted that this advice relates only to *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7) and the *Guidelines for Planning in Bushfire Prone Areas* (Guidelines). It is the responsibility of the proponent to ensure that the proposal complies with all other relevant planning policies and building regulations where necessary. This advice does not exempt the applicant/proponent from obtaining necessary approvals that may apply to the proposal including planning, building, health or any other approvals required by a relevant authority under other written laws.

Assessment

- DFES notes that the BMP provided on 31 August 2020 has not been amended to reflect the reduced scope of the proposed development identified by the updated site plan.
- DFES has not assessed the proposal based on the Department of Planning, Lands and Heritage Tourism Position Statement. DFES considers that the position statement provides for a lower level of protection from bushfire risk compared to SPP 3.7 and the Guidelines.
- The current provisions of SPP3.7 and the Guidelines do not provide for tourism land uses to be considered differently to any other vulnerable land use and, as such, DFES have assessed the proposal against SPP 3.7 and the Guidelines.
- Tourism land uses, such as short stay accommodation, are considered a vulnerable land use as prescribed by section 5.5.1 'Vulnerable Land Uses' of the Guidelines.
- Vulnerable land uses located in designated bushfire prone areas require special consideration, especially as this accommodation type generally cannot achieve any level of construction under AS3959 and visitors may be unfamiliar with their surroundings and bushfire impacts.
- It is recognised that full compliance with SPP 3.7 and the Bushfire Protection Criteria in the Guidelines cannot always be met for tourism proposals as many are intrinsically linked to the natural landscape values of an area and/or the remoteness of the location, resulting in insufficient separation distances from bushfire hazards or the omission of safe secondary access and egress.
- Consequently, and in accordance with our advisory role, DFES have highlighted in the assessment below the residual bushfire risks associated with the tourism development and compliance with the bushfire protection criteria to aid decision making.

1. Policy Measure 6.5 a) Preparation of a BAL contour map

Issue	Assessment	Action
BMP Methodology	The BMP does not align with the (revised) scope of the proposed development. The BMP should be amended to delete reference to the formerly proposed additional Eco-tents, clarify the intent of providing an on-site refuge building, and to ensure alignment with the Development Application.	Modification of the BMP required.
Vegetation Management	<p>DFES notes that management to a low-threat status in accordance with AS3959 affords a lower level of protection than that specified for an Asset Protection Zone (APZ) by Schedule 1 of the Guidelines. Clearing of trees including within riparian areas and groundcover will be required to validate the BAL-ratings.</p> <p>Clearing of vegetation is subject to approval by the Wunambal Gaambera Aboriginal Corporation. The BMP states in Table 6.1 that a landowner (developer) action is to maintain the APZ to the standard established by the Guidelines <i>as far as practical and acceptable to the Wunambal Gaambera landowners</i>. Based on the information provided in the BMP, DFES is not confident that clearing to an APZ standard will be undertaken, particularly riparian vegetation along the creek line.</p> <p>Whilst photography provided to support areas currently managed to low threat does indicate reduced <i>ground</i> fuel loads in the vicinity of the Eco-tents, only photo ID 4f is currently deemed to be a 'cultivated garden'. Where fuel loads are to be retained the BMP should address how moisture content and flammability is to be managed.</p> <p>Furthermore, a Landscape Management Plan (LMP) should be prepared to identify trees to be removed and ongoing management measures to an APZ standard in accordance with Schedule 1. The LMP would remove ambiguity as to the extent of clearance required and provide an enforceable mechanism. The LMP should additionally clarify who would be responsible for the ongoing management of land both inside and outside the lease area.</p>	Modification to the BMP is required.

Issue	Assessment	Action
Vegetation Classification - Riparian Vegetation	<p>Riparian areas associated with the creek west of the Subject Site cannot be substantiated as Class B Woodland or currently managed to low threat in accordance with AS3959 with the limited information and photographic evidence available.</p> <p>DFES does not consider this riparian vegetation to be open woodland, based on height and crown cover density.</p> <p>If unsubstantiated, the vegetation classification should be revised to apply the worst-case scenario as per AS3959, or the resultant BAL ratings may be inaccurate.</p>	Modification to the BMP is required.
Construction to AS3959 Building Standards	<p>Given the BMP recommends compliance to the AS3959 building standards <i>as far as practical</i> it is assumed that the Restaurant/Office building may not be able to be retrofitted to fully comply with BAL-12.5. It is further understood that Eco-tents (whether existing or proposed) are unable to meet these construction standards. Whilst the Staff Accommodation Blocks plans identify Region C Terrain Category 2 cyclonic areas engineering, construction to AS3959 is not stated.</p> <p>It is recommended that the Restaurant/Office and Staff Accommodation be constructed to utilise all of the elements of AS3959 that apply to the appropriate Bushfire Attack Level (BAL). This is consistent with Clause 78E(i) of the LPS Regulations that requires the decision-maker to have regard to the bushfire construction requirements of the Building Code.</p>	Comment

2. Policy Measure 6.5 c) Compliance with the Bushfire Protection Criteria

Element	Assessment	Action
Bushfire Protection Criteria	The BMP has not provided a response to the bushfire protection criteria contained in the Guidelines and has responded to the acceptable solutions contained in the Tourism Land Use Position Statement.	Comment
Location and Siting & Design	<p>A1.1 & A2.1 – not demonstrated</p> <p>The BAL ratings cannot be validated for the reason(s) outlined in the above table.</p> <p>The ability to obtain relevant vegetation clearing consents from the Wunambal Gaambera Aboriginal Corporation to establish and; thereafter, maintain the nominated APZ to a Schedule 1 standard as contained in the Guidelines should be evidenced.</p>	Modification of the BMP required.

Element	Assessment	Action
Vehicular Access	<p>P3 – does not comply</p> <p>The intent of Element 3: Vehicular Access cannot be demonstrated at this location through the acceptable solutions. The significant increase of vulnerable occupants presents an increased risk to people that needs to be mitigated, particularly with consideration of the remoteness of the location and singular access legacy road design passing through an extreme bushfire hazard.</p> <p>DFES notes that the BMP has proposed an on-site refuge as a performance principle-based solution to meet the intent of Element 3. DFES does not accept a refuge as a suitable alternative to two access routes. In particular, the proposed refuge has not demonstrated how the performance principle for Element 3 (P3) has been achieved. P3 states: <i>The internal layout, design and construction of public and private vehicular access and egress in the development to allow emergency and other vehicles to move through it easily and safely at all times.</i></p> <p>The proposed refuge does not address how safe and efficient evacuation of patrons, whilst simultaneously providing a safe operational environment for emergency services, can be achieved.</p>	Comment
Water	<p>P4 – insufficient information</p> <p>The intent of Element 4: Water has not been demonstrated through the acceptable solutions. P4 states:</p> <p><i>The subdivision, development or land use is provided with a permanent and secure water supply that is sufficient for firefighting purposes.</i></p> <p>The BMP identifies that a minimum 50,000 litre dedicated water supply should be provided. It is unclear whether an assessment has been undertaken as to the reliability of the supply sourced from the rock pool in the creek, or how the minimum 50,000 litre dedicated water supply has been determined. The scale of the proposed development and nomination of rooftop sprinkler systems for the Eco-tents and the Restaurant/Office would appear to warrant a greater capacity. DFES notes that AS2419 requires a minimum 4 hours supply at 10 litres per second that equates to 144,000 litres.</p> <p>The location and capacity of the additional tank(s) and fire hose reels needs to be identified and respond to the available hose lengths and achieve BAL-29 or below. The capacity of the existing dedicated tank should be consistently referenced in the BMP and Risk Management Plan (stated as both 22,000 and 22,500 litres).</p>	Modification of the BMP required.

3. Policy Measure 6.6.1 Vulnerable land uses

Issue	Assessment	Action
Bushfire Emergency Evacuation Plan	<p>The referral has included a '<i>Bushfire Emergency Plan</i>' for the purposes of addressing the policy requirements. Consideration should be given to the Guidelines Section 5.5.2 'Developing a Bushfire Emergency Evacuation Plan'. This contains detail regarding what should be included and will ensure the appropriate content is detailed when finalising the EEP to the satisfaction of the Shire.</p>	Comment.
Refuge Building	<p>An onsite refuge is not a substitute for two access routes which provides safe and efficient access and egress for the community, while simultaneously providing a safe operational environment for emergency services personnel.</p> <p>Please note that the bushfire shelter building should be designed to accommodate all likely occupants including staff and visitors, as well as withstand bushfire attack in the form of wind, smoke, embers, radiant heat and flame contact.</p> <p>Should be endorsed by the Local Emergency Management Committee (LEMC) and registered on the local governments Local Emergency Management Arrangements (LEMA)</p> <p>The applicant should be responsible for maintaining the on-site refuge for compliance with ABCB Design and Construction of Community Bushfire Refuges Handbook (2014) and AS3959 Construction of Buildings in Bushfire Prone Areas to the satisfaction of the local government. Notwithstanding that the BMP has demonstrated that the radiant heat flux will not exceed 10kW/m², the proponent is encouraged to consider the feasibility of constructing the Restaurant/Office to achieve the above refuge standard.</p> <p>Prior to occupation of the development, a final inspection of the on-site bushfire refuge should be undertaken by a suitably qualified fire engineer with fire risk assessment expertise accredited with Engineers Australia. The Fire Engineer should provide certification to the satisfaction of the local government that works have been completed in accordance with the requirements of the National Construction Code and the ABCB Design and Construction of Community Bushfire Refuges Handbook (2014) and AS3959 Construction of Buildings in Bushfire Prone Areas.</p>	Comment.

	<p>Prior to occupation of the development, an on-site Bushfire Maintenance Plan should be prepared by a suitably qualified fire engineer with fire risk assessment expertise accredited with Engineers Australia, and must include:</p> <ul style="list-style-type: none"> a) details of maintenance requirements; and b) details of annual testing requirements for operational compliance. <p>The annual testing of the on-site bushfire refuge shall include lodgement of a compliance certification by a suitably qualified fire engineer to the local government two months prior to the commencement of the bushfire season.</p>	
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Recommendation –not supported due to non-compliance

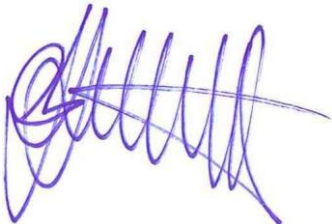
It is acknowledged that this site has been developed prior to the introduction of the bushfire policy framework. However; the development application is not supported as it does not meet the intent of Element 3: Vehicular Access. The proposal is intensifying land use in a bushfire prone area on a non-compliant road which passes through an extreme bushfire hazard.

Should the Shire be of a mind to approve this development it is critical that the bushfire management measures within the BMP are refined, to ensure they are accurate and can be implemented to reduce the vulnerability of the development to bushfire. The BMP requires modification for the following reasons:

1. The development design has not demonstrated compliance to –
 - Element 1: Location
 - Element 2: Siting and Design
 - Element 3: Vehicular Access
 - Element 4: Water
2. The BMP does not reflect the reduced scope of the proposed development identified by the updated site plan provided to DFES on 29 September 2020.

If you require further information, please contact Joel Gajic, Senior Land Use Planning Officer on telephone number 9395 9739.

Yours sincerely



Craig Scott
A/DIRECTOR LAND USE PLANNING

13 October 2020

CC mail@swek.wa.gov.au