

## **STATEMENT OF GAIL DENISE MCGOWAN**

**I, MS GAIL DENISE MCGOWAN, of 140 William Street, Perth, Western Australia, Director General, do say as follows:**

1. This statement has been prepared in response to Notice to Give Information No. NTG-HB2-400 (**Notice**) issued by the Royal Commission into National Natural Disaster Arrangements.
2. This statement addresses the matters set out in paragraphs [1] to [8] of the Notice. The information in this statement has been obtained by me through an examination of the records held by the Department of Planning, Lands and Heritage or from the advice of officers employed therein, in addition to information provided from officers employed by a number of other State Government departments.

### **Employment history, qualifications and professional experience**

3. I am the Director General of the Department of Planning, Lands and Heritage. I was appointed to that role in June 2017. From April 2014 to June 2017, I was the Director General of the former Department of Planning.
4. I hold the following qualifications:
  - a. a Bachelor of Arts (Education Studies and Communication Studies) from Murdoch University; and
  - b. a Post Graduate Diploma in Public Policy from Murdoch University.
5. My role involves the development of land use planning solutions to shape the future of Western Australia, through the provision of expertise in land use planning to the Minister for Planning and the Western Australian Planning Commission.
6. I have worked in the public sector for over twenty five years. Some of my previous roles include the Assistant Director General of the Department of Industry and Resources, the Deputy Director General of the Department of State Development, and the Director of Policy and

Education at the Department of Consumer and Employment Protection. I was also a policy advisor and Chief of Staff to Federal and State Ministers across some 16 portfolio areas including vocational education and training, labour relations, environment, community services, seniors, parliamentary and electoral affairs, women's interests, Attorney General and justice.

#### **Response to Notice**

7. **Attached** to this Statement and marked "**GDM1**" is a document setting out the Department of Planning, Lands and Heritage response to paragraphs [1] to [8] of the Notice.
8. The information contained in answers to the questions posed in the five scenarios set out in the Notice is of a general nature only and should not be taken to be legal advice, and should not be relied upon as a substitute for obtaining information and advice relevant to a person's specific circumstances.

**Signed:**

A handwritten signature in black ink, appearing to be 'J. [unclear]', written over a horizontal line.

**Date:** 16/06/2020



## Royal Commission into National Natural Disaster Arrangements

### GDM1

#### Western Australia

#### Scenario 1: The Homeowner

*Physical/Environmental: Person H is a homeowner in a rural-urban interface area. H's property of 2000m<sup>2</sup> borders a forested bushland area. The property contains a single-level house of 200m<sup>2</sup> which was built in the 1970s and has not been assessed for natural hazard resilience. The property has a number of native plants and trees present between H's house and the edge of the property, to within 5m of the house.*

*Known regulatory overlays: The property is identified under a bushfire risk overlay.*

*Additional factors: One edge of the property borders a state forest. Another edge borders bushland of the same type on a private property.*

Question	Activity A	Activity B:	Activity C	Activity D:	Activity E:
	H is not planning on altering their property. (I.e. are there any obligations on an individual in the absence of them making any changes to their property?)	H would like to build a single-story extension of 50m <sup>2</sup> onto their house.	H would like to upgrade or rebuild their house to a 'flame zone' Bushfire Attack Level as defined under Australian Standards AS 3959.	H would like to upgrade or rebuild their house but comply with only the minimum requirements under the applicable laws and regulations.	H would like to clear vegetation and trees to create a break of 30 metres between their house and the bordering bushland to reduce bushfire risk.
<b>1. Which planning and development laws, standards, or other regulatory instruments apply (excluding those that do not relate to natural hazard risk management)?</b>	<p><b>(i) Department of fire and Emergency Services (DFES)</b></p> <p>H would need to comply with the local government firebreak notice issued under s.33 of the <i>Bush Fires Act 1954</i>.</p> <p>The requirements of these notices are determined by each local government and the requirements (if any) to establish firebreaks or an asset protection zone around buildings is a matter for</p>	<p><b>(i) Planning approval framework:</b></p> <p>Additions are exempt from the need to prepare a BAL assessment, under Part 10A of Schedule 2 'Bushfire Management' of the <i>Planning and Development (Local Planning Schemes) Regulations 2015 (PDLPS Regulations)</i> However, if development approval is required for other reasons under the local planning scheme, then under State Planning Policy 3.7 Planning in Bushfire Prone Areas, if the development is proposed to be in an area of BAL-12.5 or above, the</p>	<p><b>(i) Planning approval framework:</b></p> <p>If the house is to be located in an area with a BAL rating of BAL-Flame zone, then development approval is required under <i>Part 10a of Schedule 2 in the PDLPS Regulations</i></p> <p>If the house is located in an area of BAL-29 or below and the house owner is voluntarily building to a BAL-Flame zone standard, then development approval may be required, depending on provisions within the local planning scheme. If development approval is required, then the new house will need to adhere to the bushfire planning provisions.</p>	<p><b>(i) Planning approval framework:</b></p> <p>If the house is proposed to be located in an area with a BAL rating of BAL-Flame zone, then development approval is required under <i>Part 10a of Schedule 2 in the PDLPS Regulations</i></p> <p>If the development is located in an area of BAL-29 or below, then development approval may be required by the local planning scheme and the development will need to adhere to the bushfire planning provisions of State Planning</p>	<p><b>(i) Environmental framework:</b></p> <p>If the vegetation and trees are native vegetation, the clearing provisions of the EP Act, Part V Division 2, apply. If clearing is required under section 33 of the Bushfires Act (firebreak notice), H is then exempt from the requirement for a clearing permit.</p>



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	<p>local government to determine.</p>	<p>development will need to adhere to the bushfire planning policy provisions of State Planning Policy 3.7 and the Guidelines for Planning in Bushfire Prone Areas. If development approval is not required, then no bushfire planning provisions apply.</p> <p><b>(ii) Building approval framework</b> An extension is considered to be 'building work'<sup>1</sup> under the <i>Building Act 2011</i> (WA) (<b>Building Act</b>). All building work needs a building permit (unless exempted)<sup>2</sup> and is required to comply with the applicable building standards<sup>3</sup>, namely the Building Code of Australia (BCA).</p> <p>As H's extension is to be built in a designated bushfire prone area, the BCA bushfire requirements apply to the extension unless it is demonstrated that the extension meets an exemption set out the</p>	<p>Note: There is a presumption against approving development within an area of BAL-Flame zone. Development can still be approved in such areas; however, the goal is to locate the development in an area of BAL-29 or below if possible. In this instance, if there is an area of BAL-29 or below on the lot, then the new house should be built in this area if possible.</p> <p><b>(ii) Building approval framework</b> Upgrading (improving) or rebuilding H's house is considered to be 'building work'<sup>5</sup> under the <i>Building Act</i>. All building work needs a building permit (unless exempted)<sup>6</sup> and is required to comply with the applicable building standards<sup>7</sup>, namely the BCA.</p> <p>As H's upgrade (improvement) is occurring to a house located in a designated bushfire prone area, the BCA bushfire requirements apply to the upgrade (improvement), unless it is demonstrated that the improvement meet any of the exemptions set out in the Building Regulations<sup>8</sup>.</p>	<p>Policy 3.7: Planning in Bushfire prone areas.</p> <p>Minimum requirements in accordance with the acceptable solutions of the Guidelines for Planning in Bushfire Prone Areas will be provision of an APZ to achieve a BAL-29; Reticulated water or provision of a 10, 000 litre water tank with turn-around area; a 4meter wide driveway; and construction to the appropriate BAL standard.</p> <p><b>(ii) Building approval framework</b> See response for Activity1.C(ii).</p> <p><b>(iii) Environmental framework</b> See response for Activity 1.C(iii).</p>	
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<sup>1</sup> Defined section 3 of *Building Act 2011* (WA)

<sup>2</sup> Section 9 of *Building Act 2011* (WA)

<sup>3</sup> Section 37 of *Building Act 2011* (WA)

<sup>5</sup> Defined section 3 of *Building Act 2011* (WA)

<sup>6</sup> Section 9 of *Building Act 2011* (WA)

<sup>7</sup> Section 37 of *Building Act 2011* (WA)

<sup>8</sup> Regulation 31BA of the Building Regulations 2012 (WA)



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		Building Regulations 2012 (WA)( <b>Building Regulations</b> ) <sup>4</sup> .	<p>If H rebuilds the house (from scratch) in a designated bushfire prone area, the BCA bushfire requirements apply to the building work, unless it was meets the four month exemption set out the Building Regulations <sup>9</sup>.</p> <p><b>(iii) Environmental framework:</b> Department of Water and Environmental Regulation (WA) (<b>DWER</b>) and Department of Agriculture, Water and the Environment (Cth) (<b>DAWE</b>) regulate the clearing of native vegetation and controlled actions on matters of national environmental significance. In WA there is an exemption from the requirement for a clearing permit for clearing necessary to construct a lawful structure, unless it is in an environmentally sensitive area declared by Notice, under section 51B of the <i>Environmental Protection Act 1986</i> (WA) (<b>EP Act</b>). There is also an exemption for clearing around a building for a requirement under section 33 of the <i>Bushfires Act</i>.</p> <p><b>DFES</b> NA</p>		
<b>2. Are there thresholds at which the activity does not trigger regulatory</b>	<b>(i) DFES</b> As above at 1.A(i).	<b>(i) Planning approval framework:</b>	<p><b>(i) Planning approval framework:</b> See response to Activity 2.B(i)</p> <p><b>(ii) Building approval framework:</b></p>	<b>(i) Planning approval framework:</b> See response to Activity 2.B(i)	<b>(i) Environmental framework:</b> The clearing provisions in the <i>EPA</i> apply to the clearing of native vegetation without any threshold. Exemptions from the requirements

<sup>4</sup> Regulation 31BA of the Building Regulations 2012 (WA)

<sup>9</sup> Regulation 31BA of the Building Regulations 2012 (WA)



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<p>requirements or at which requirements vary?</p>		<p>The bushfire planning provisions only apply to single houses and ancillary dwellings on lots which are 1,100m<sup>2</sup> or greater and to development that requires development approval under the local planning scheme and/or if the proposed development is within BAL-40 or BAL-Flame zone.</p> <p>However, for developments located in an area of BAL-Low, no bushfire planning provisions apply.</p> <p><b>(ii) Building approval framework:</b> A renovation, alteration, improvement or repair of a building may not need a building permit if it meets the criteria in the Schedule 4, Clause 2 of the Building Regulations. However, H's extension does not meet this exemption criteria because it increases the floor area or height of the building<sup>10</sup>.</p>	<p>If H's house is only upgraded (improved) the building work may not need a building permit if it meets the criteria in the Building Regulations 2012 (WA)<sup>12</sup>.</p> <p>If H's house is only upgraded (improved) the building work may be exempted from needing to comply with the BCA bushfire requirements if:</p> <ul style="list-style-type: none"> <li>• it is located in an area that has been designated bushfire prone for less than 4 months at the time the application for a building permit is made; or</li> <li>• until 1 May 2021, the estimated value of the improvement is less than \$20,000; or</li> <li>• until 1 May 2021, the improvement does not increase the risk of ignition from bushfire attack for the 'relevant building'.<sup>13</sup></li> </ul> <p>If H's house is rebuilt (from scratch), the building work may be exempted from needing to comply with the BCA bushfire requirements if it is located in an area that has been designated bushfire prone for less than 4 months at the time the application for a building permit is made.</p>	<p><b>(ii) Building approval framework:</b> See response to Activity 2.C(ii)</p>	<p>for a clearing permit are set out in <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i> but do not apply in areas declared as environmentally sensitive areas. Exemptions for clearing under a written law are set out in Schedule 6 of the EPA and apply regardless of any environmentally sensitive areas.</p>
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<sup>10</sup> Regulation 41 and Schedule 4, Clause 2, item 2 of the Building Regulations 2012 (WA)

<sup>12</sup> Regulation 41 and Schedule 4, Clause 2, item 2 of the Building Regulations 2012 (WA)

<sup>13</sup> Regulation 31BA of the Building Regulations 2012 (WA)



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		<p>The extension may be exempted from needing to comply with the BCA bushfire requirements if:</p> <ul style="list-style-type: none"> <li>it is located in an areas that has been designated bushfire prone for less than 4 months at the time the application for a building permit is made; or</li> <li>until 1 May 2021, the estimated value of the extension is less than \$20,000 ; or</li> <li>until 1 May 2021, the extension does not increase the risk of ignition from bushfire attack for the 'relevant building'.<sup>11</sup></li> </ul>			
3. Which organisations or people will the person or business be required to contact during these processes?	(i) DFES Relevant local government	<p><b>(i) Planning approval framework:</b> Bushfire consultant, local government.</p> <p><b>(ii) Building approval framework</b> H will be required to engage with:</p> <ul style="list-style-type: none"> <li>Permit authority (this is usually the relevant local government);</li> <li>building surveyor;</li> </ul>	<p><b>(i) Planning approval framework</b> See response to Activity 3.B.</p> <p><b>(i) Building approval framework</b> See response to Activity 3.B.</p>	<p><b>(i) Planning approval framework</b> See response to Activity 3.B.</p> <p><b>(i) Building approval framework</b> See response to Activity 3.B.</p>	<p><b>(i) Environmental framework:</b> In respect of clearing of native vegetation, there is no requirement to contact other organisations other than DWER. The Department contacts other relevant agencies, for example the Department of Biodiversity, Conservation and Attractions, and the Commissioner for Soil Conservation, for advice as required.</p>

<sup>11</sup> Regulation 31BA of the Building Regulations 2012 (WA)



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		<ul style="list-style-type: none"> <li>• builder;</li> <li>• building designer (optional); and</li> <li>• bushfire consultant (optional).</li> </ul> <p>Note: Generally H would just contract a builder.</p>			
<b>4. What prescribed form/s need to be completed during any of these processes?</b>	No applicable framework	<p><b>(i) Planning approval framework:</b> Local Government development application form. A Bushfire Management Plan to accompany the development application.</p> <p><b>(ii) Building approval framework</b></p> <ul style="list-style-type: none"> <li>• the applicant/builder – either:             <ul style="list-style-type: none"> <li>○ BA1 – Application for building permit – certified<sup>14</sup>; or</li> <li>○ BA2 – Application for building permit – uncertified<sup>15</sup>.</li> </ul> </li> <li>• the building surveyor, BA3 – Certificate of design compliance<sup>16</sup>.</li> <li>• the permit authority, BA04 - Building permit.</li> </ul>	<p><b>(i) Planning approval framework</b> See response to Activity 4.B(i).</p> <p><b>(ii) Building approval framework</b> See response to Activity 4.B(ii).</p>	<p><b>(i) Planning approval framework</b> See response to Activity 4.B(i).</p> <p><b>(ii) Building approval framework</b> See response to Activity 4.B.</p>	<p><b>(i) Environmental Framework</b> If clearing is not exempt, a clearing permit application must be completed.</p> <p><b>(ii) DFES</b> Some local government develop processes to assist land owners and occupiers navigate the processes required for clearing vegetation.</p>

<sup>14</sup> <https://www.commerce.wa.gov.au/publications/ba1-application-building-permit-certified>

<sup>15</sup> <https://www.commerce.wa.gov.au/publications/ba2-application-building-permit-uncertified>

<sup>16</sup> <https://www.commerce.wa.gov.au/publications/ba3-certificate-design-compliance>



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		<ul style="list-style-type: none"> <li>the builder, BA7 – Notice of completion<sup>17</sup>.</li> </ul>			
<p><b>5. What is the prescribed timeframe for providing decisions for the activity, where applicable? What are the timeframes in practice (average, shortest, longest)?</b></p>		<p><b>(i) Planning approval framework:</b> If a development application is required, then the Local Government has 60 calendar days from the lodgement of the application in which to make a determination. For applications that require formal advertising or need to be referred to a statutory, public or planning authority, the Local Government has 90 calendar days to determine an application. The relevant statutory timeframe can however be extended if the applicant and the Local Government agree to this in writing.</p> <p><b>(ii) Building approval framework</b></p> <ul style="list-style-type: none"> <li><b>Uncertified building permit application</b> - permit authority has 25 business days to decide a complete application or such longer period as agreed in writing between applicant and permit authority<sup>18</sup>; or</li> <li><b>Certified building permit application</b> – permit authority has 10</li> </ul>	<p><b>(i) Planning approval framework</b> See response to Activity 5.B(i)</p> <p><b>(ii) Building approval framework</b> See response to Activity 5.B(ii)</p>	<p><b>(i) Planning approval framework</b> See response to Activity 5.B(i).</p> <p><b>(ii) Building approval framework</b> See response to Activity 5.B(ii).</p>	<p><b>(i) Environmental Framework</b> There is no prescribed timeframe for making decision for a clearing permit. There is a publicly reported KPI of 60 business days from lodgement for 80% of applications, and 90 business days for all applications. Reports of regulatory performance are available at <a href="https://www.wa.gov.au/government/document-collections/department-of-water-and-environmental-regulation-regulatory-performance-reports">https://www.wa.gov.au/government/document-collections/department-of-water-and-environmental-regulation-regulatory-performance-reports</a></p>

<sup>17</sup> <https://www.commerce.wa.gov.au/publications/ba7-notice-completion>

<sup>18</sup> Regulation 20(1) of the Building Regulations 2012 (WA)



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		business days to decide a complete application or such longer period as agreed in writing between applicant and permit authority. <sup>19</sup>			
6. What costs will be incurred by the person or business in completing these processes?		<p><b>(i) Planning approval framework:</b> Maximum application fees set out under the <i>Planning and Development Regulations 2009, Schedule 2</i> — Maximum fees for certain planning services (page 34).<sup>20</sup> BAL assessment or Bushfire Management Plan to be developed by a Bushfire BAL assessor or Bushfire Planning Practitioner depending on what is required for the development application — prices vary.</p> <p><b>(ii) Building approval framework</b></p> <ul style="list-style-type: none"> <li><b>Uncertified building permit application fee</b><sup>21</sup>- 0.32% of the estimated value of the building work as determined by the relevant permit</li> </ul>	<p><b>(i) Planning approval framework</b> See response to Activity 6.B(i).</p> <p><b>(ii) Building approval framework</b> See response to Activity 6.B(ii).</p>	<p><b>(i) Planning approval framework</b> See response to Activity 6.B(i).</p> <p><b>(ii) Building approval framework</b> See response to Activity 6.B(ii)</p>	<p><b>(i) Environmental Framework</b> Costs for clearing permit applications are set out in regulation 7 of the <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i>.</p>

<sup>19</sup> Regulation 20(2) of the Building Regulations 2012 (WA)

<sup>20</sup> Schedule 2 — Maximum fees for certain planning services of the *P and D Regulations 2009*.

<sup>21</sup> Regulation 11 and Schedule 2 of the Building Regulations 2012 (WA)



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		<p>authority, but not less than \$105.00; or</p> <ul style="list-style-type: none"> <li>• <b>Certified building permit application fee<sup>22</sup></b> - 0.09% of the estimated value of the building work as determined by the relevant permit authority, but not less than \$105.00. Separately, applicant needs to have engaged private building surveyor to get certificate of design compliance for the building work – price varies; and</li> <li>• <b>Building Services Levy<sup>23</sup></b> – \$61.65 if the value of the building work is not more than \$45 000; or otherwise, at the rate of 0.137% of the value of the building work; and</li> <li>• <b>Building and Construction Industry Training Levy<sup>24</sup></b> – 0.2% of the total value of construction (inclusive of GST) for all works with an estimated value</li> </ul>			
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<sup>22</sup> Regulation 11 and Schedule 2 of the Building Regulations 2012 (WA)

<sup>23</sup> Regulation 12 of the Building Services (Complaint Resolution and Administration) Regulations 2011 (WA); Regulation 15 of the Building Services (Complaint Resolution and Administration) Regulations 2011 (WA) allows Building Commissioner to waive this levy if building work or demolition work is to be carried out because of damage caused by a natural disaster.

<sup>24</sup> <https://ctf.wa.gov.au/industry/bcitr-levy/>



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		<p>of more than \$20,000; and</p> <ul style="list-style-type: none"> <li>• <b>Home Indemnity Insurance<sup>25</sup> (if required)</b> - price varies</li> <li>• <b>Any building and consultancy fees</b> – building design, bushfire consultant for BAL assessment, may need registered builder – prices vary.</li> </ul> <p>Note: Unless it is an owner-builder, generally fees and levies would be paid by the builder directly and passed onto H.</p>			
<b>7. What are the costs and/or legal ramifications of non-compliance or mistakes?</b>	<p><b>(i) DFES</b></p> <p>Failure to comply with a Local Government Fire Break Notice, Penalty\$5000 or an infringement of \$250. The Local Government can also undertake the required work and require the landowner to pay this cost.</p>	<p><b>(i) Planning approval framework:</b></p> <p>A person who commits an offence under the Planning and Development Act may receive written notification to rectify the offence, or be liable to a fine of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues. Offences may include, a failure to comply with a written direction issued by the Local Government in respect of the authorised planning approval.</p>	<p><b>Planning approval framework</b> See response to Activity 7.B.</p> <p><b>Building approval framework</b> See response to Activity 7.B.</p> <p>Note: Penalty for not complying with applicable building standards may not apply if the building work meets actual bushfire risk (not BAL-FZ as proposed)</p> <p><b>Environmental framework</b> NA</p> <p><b>DFES</b> NA</p>	<p><b>Planning approval framework</b> See response to Activity 7.B.</p> <p><b>Building approval framework</b> See response to Activity 7.B.</p> <p><b>Environmental framework</b> NA</p> <p><b>DFES</b> NA</p>	<p><b>Planning approval framework:</b> NA</p> <p><b>Building approval framework:</b> NA</p> <p><b>Environmental Framework</b> There are offences for unlawful clearing, and material or serious environmental harm. The penalties are set out in schedule 1 of the <i>Environmental Protection Act 1986</i> and are significant. The CEO may also give a vegetation conservation notice under section 70 requiring restoration of an area. The Department of Water and Environmental Protection has a Compliance and Enforcement policy that guides its approach to non compliance.</p> <p><b>DFES</b> If clearing is not required by the firebreak notice and a clearing permit under the EP Act is not</p>

<sup>25</sup> <https://www.commerce.wa.gov.au/publications/home-indemnity-insurance>



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		<p><b>(ii) Building approval framework</b></p> <p>Permit authority can issue a building order<sup>26</sup> to direct certain things<sup>27</sup> if it suspects a contravention of a provision of the Act. The maximum penalty for failing to comply with a building order is a fine of \$100 000 and imprisonment for 12 months<sup>28</sup>.</p> <p>A maximum penalty of a fine of \$50 000 for a first offence, \$75 000 for a second offence; or \$100 000 and imprisonment for 12 months for a third or subsequent offence applies to each of the following:</p> <ul style="list-style-type: none"> <li>• undertaking building work without a building permit<sup>29</sup>;</li> <li>• not complying with a building permit<sup>30</sup>; and</li> <li>• not complying with the applicable building standards<sup>31</sup>.</li> </ul>			obtained then the person breaches s.51C of the EP Act.
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<sup>26</sup> Section 110 of the *Building Act 2011* (WA)

<sup>27</sup> Section 112 of the *Building Act 2011* (WA)

<sup>28</sup> Section 115 of *Building Act 2011* (WA)

<sup>29</sup> Section 9 of *Building Act 2011* (WA)

<sup>30</sup> Section 29 of *Building Act 2011* (WA)

<sup>31</sup> Section 37 of *Building Act 2011* (WA)



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		The maximum penalty for failing to give a notice of completion is a fine of \$10 000 <sup>32</sup> ; alternatively, the modified penalty is \$500 <sup>33</sup> .			
8. What guidance or other assistance is available to help navigate these processes?		<p><b>(i) Planning approval framework:</b> The <i>Guidelines for Planning in Bushfire Prone Areas</i> outlines the bushfire planning provisions (the <b>Guidelines</b>). The Guidelines and further information, can be found on the bushfire planning section of the Department of Planning, Lands and Heritage's website.<sup>34</sup></p> <p><b>(ii) Building approval framework</b> Department of Mines, Industry Regulation and Safety has guidance online about the WA building approval framework<sup>35</sup> and building in a designate bushfire prone area<sup>36</sup>, including the transition for alterations and</p>	<p><b>(i) Planning approval framework</b> See response to Activity 8.B(i).</p> <p><b>(ii) Building approval framework</b> See response to Activity 8.B(ii).</p>	<p><b>(i) Planning approval framework</b> See response to Activity 8.B(i).</p> <p><b>(ii) Building approval framework</b> See response to Activity 8.B(ii).</p>	<p><b>Planning approval framework:</b> <b>(i) Environmental Framework</b> There is a comprehensive suite of fact sheets, guidelines, map viewers and other material to support applicants at <a href="https://www.der.wa.gov.au/our-work/clearing-permits">https://www.der.wa.gov.au/our-work/clearing-permits</a>. DWER also encourages applicants to undertake pre-application consultation to assist applicants in navigating the process.</p>

<sup>32</sup> Section 22 of *Building Act 2011* (WA)

<sup>33</sup> Regulation 69 and Schedule 6 of the Building Regulation 2012 (WA)

<sup>34</sup> <https://www.dplh.wa.gov.au/information-and-services/state-planning/bushfire-planning>

<sup>35</sup> [https://www.commerce.wa.gov.au/sites/default/files/atoms/files/building\\_approvals\\_process\\_-\\_a\\_guide.pdf](https://www.commerce.wa.gov.au/sites/default/files/atoms/files/building_approvals_process_-_a_guide.pdf)

<sup>36</sup> <https://www.commerce.wa.gov.au/building-and-energy/building-designated-bush-fire-prone-areas>



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		extensions in bushfire prone areas <sup>37</sup> .			
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<sup>37</sup> [https://www.commerce.wa.gov.au/sites/default/files/atoms/files/transition\\_for\\_alterations\\_and\\_extension.pdf](https://www.commerce.wa.gov.au/sites/default/files/atoms/files/transition_for_alterations_and_extension.pdf)

### Scenario 2: The Farmer

**Physical/Environmental:** Person F is a farmer in a rural area. F's property of 4,000 hectares is mainly grassland used for farming purposes, but also contains forested bushland. The property contains a multi-level farmhouse with some natural hazard mitigation measures (for example, sprinklers on the roof) that have not been built in consultation with any regulatory processes, and a number of sheds, fences and dams. The property does not have access to mains water. The area around the built assets, excluding the fencing, is well cleared.

**Known regulatory overlays:** The property is identified under both a bushfire risk overlay and a flood risk overlay.

**Additional factors:** Threatened flora and fauna is present on parts of the property. The property borders a national park on one side.

Question	Activity A: F is not planning on altering their property. (I.e. are there any obligations on an individual in the absence of them making any changes to their property?)	Activity B: F would like to undertake hazard reduction burns on their property to minimise their bushfire risk.	Activity C: F would like to undertake mechanical clearing of a portion of the forested bushland on their property and in the bordering national park to minimise bushfire risk.	Activity D: F would like to graze their livestock in the bordering national park, stating an intention to minimise bushfire risk.
1. Which planning and development laws, standards, or other regulatory instruments apply (excluding those that do not relate to natural hazard risk management)?	<p><b>DPLH &amp; DMIRS</b> No applicable regulatory instruments for planning and building. As F does not plan on making further developments or building new developments, then <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas</i>, <i>State Planning Policy 2.9 Water Resources</i>, the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> and the <i>Building Code of Australia</i> do not oblige F to make any further action.</p> <p><b>DFES</b> H would need to comply with the local government firebreak notice issued under s.33 of the <i>Bush Fires Act 1954</i>.</p>	<p><b>DFES/DWER</b> If the clearing is required by the local government firebreak notice, F would not need to comply with the native clearing vegetation requirements of the <i>Environmental Protection Act 1986</i>. If the firebreak notice does not require clearing to this extent, then a permit to clear would be required.</p>	<p><b>DWER</b> If the vegetation and trees are native vegetation, the clearing provisions of the <i>Environmental Protection Act 1986</i> (Part V Division 2) apply. If the clearing is required under s.33 of the <i>Bush Fires Act 1954</i>, it is exempt from the requirement for a clearing permit is required.</p> <p><b>DFES</b> Regarding clearing in the national park, s.34 of the <i>Bush Fires Act 1954</i> allows adjoining landowners to do mitigation work on Crown land that abuts their property. This work is subject to some limitations on the circumstances and types of Crown land to which it applies.</p> <p><b>DBCA</b> Clearing in the national park is otherwise not appropriate based on the purpose of the tenure.</p>	<p><b>DBCA</b> Grazing within national park is not consistent with the purpose of the tenure under the <i>Conservation and Land Management Act 1984</i>.</p> <p>Given the statutory focus on protecting and conserving biodiversity, it is not appropriate to introduce grazing animals to manage fuel loads where biodiversity values exist or tenure is managed for that purpose, when there are other effective mitigation strategies.</p>
2. Are there thresholds at which the activity does	<p><b>DFES</b> The requirements of these notices are determined by each local government and</p>	<p><b>DFES</b> Previous mitigation work that clears native vegetation may be allowed to be</p>	<p><b>DWER</b> The clearing provisions of the <i>Environmental Protection Act</i></p>	<p><b>DBCA</b> Not applicable – activity prohibited.</p>

not trigger regulatory requirements or at which requirements vary?	the requirements (if any) to establish firebreaks or an asset protection zone around buildings is a matter for local government to determine.	maintained on a periodical basis. A permit to burn is not required if the restricted burning time (RBT) (s.18 <b>Bush Fires Act 1954</b> ) is not in place. No burning of the bush can occur if it is during the prohibited burning time (PBT) s.17 of the <b>Bush Fires Act 1954</b> or a total fire ban (TFB) (s.22B <b>Bush Fires Act 1954</b> ).  <b>DBCA</b> If the planned burn will take threatened flora or fauna, a <b>Biodiversity Conservation Act 2016</b> authorisation from the Department of Biodiversity, Conservation, and Attractions is required.	<b>1986</b> apply to clearing of native vegetation without any threshold. Exemptions from the requirement for a clearing permit are set out in <b>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</b> , but do not apply in areas declared as environmentally sensitive areas.  Exemptions for clearing under a written law are set out in Schedule 6 of the <b>Environmental Protection Act 1986</b> and apply regardless of any environmentally sensitive areas.	
3. Which organisations or people will the person or business be required to contact during these processes?	<b>DFES</b> The local government regarding the firebreak.	<b>DFES</b> <ul style="list-style-type: none"> <li>Local Government for a permit to burn if during the RBT.</li> <li>If the planned burn will take threatened flora or fauna, a <b>Biodiversity Conservation Act 2016</b> authorisation from the Department of Biodiversity, Conservation, and Attractions is required.</li> </ul>	<b>DWER</b> In respect of clearing of native vegetation, there is no requirement to contact other organisations than the Department of Water and Environmental Regulation. The Department contacts other relevant agencies, for example the Department of Biodiversity, Conservation and Attractions, and the Commissioner for Soil Conservation, for advice as needed.	<b>DBCA</b> Contact the Department of Biodiversity, Conservation and Attractions but not applicable as the activity is not compatible with the purpose of the tenure.
4. What prescribed form/s need to be completed during any of these processes?	<b>DPLH</b> Not applicable – no activity planned.	<b>DFES</b> Need to seek a permit to burn under s.18 of the <b>Bush Fires Act 1954</b> from the local government if during the RBT, otherwise may need to seek permission from the Department of Water and Environmental Regulation for clearing native vegetation.  <b>DBCA</b> If the planned burn will take threatened flora or fauna, a <b>Biodiversity Conservation Act 2016</b> authorisation from the Department of Biodiversity, Conservation, and Attractions is required.	<b>DWER</b> If clearing is not exempt, a clearing permit application must be completed.	<b>DBCA</b> Not applicable – activity prohibited.

5. What is the prescribed timeframe for providing decisions for the activity, where applicable? What are the timeframes in practice (average, shortest, longest)?	<b>DPLH</b> Not applicable – no activity planned.	There are no prescribed timeframes.	<b>DWER</b> There is no prescribed timeframe for making decision for a clearing permit. There is a publicly reported KPI of 60 business days from lodgement for 80% of applications, and 90 business days for all applications. Reports of regulatory performance are available <a href="#">online</a> .	<b>DBCA</b> Not applicable – activity prohibited.
6. What costs will be incurred by the person or business in completing these processes?	<b>DPLH</b> Not applicable – no activity planned.	<b>DFES</b> There is no fee to apply for a permit to burn. There would be a cost to undertake the activity and this would depend on a suite of factors and who was doing it. For example, the local government could undertake the work and invoice the land occupier or the land occupier may seek the services of the local volunteer bushfire brigade or may choose to use contractors to undertake the work.	<b>DFES/DWER</b> There should be no cost if the activity is in line with the fire break notice. If an area in excess of that provided under the fire break notice, then appropriate permits would be required. Costs for clearing permit applications are set out in regulation 7 of the <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i> .	<b>DBCA</b> Not applicable – activity prohibited.
7. What are the costs and/or legal ramifications of non-compliance or mistakes?	<b>DPLH</b> Not applicable – no activity planned.	<b>DFES</b> Breach of: <ul style="list-style-type: none"> <li>PBT: \$10,000 or 12 mths imprisonment.</li> <li>RBT: \$4500 or \$10,000 for a second or subsequent offence.</li> <li>TFB: \$25,000 or 12 mths imprisonment</li> </ul> <b>DBCA</b> Fines for the taking of threatened flora or fauna without authorisation are up to \$500 000. There is a defence if the person did not know, or could not have been expected to know that the species was present.	<b>DWER</b> There are offences for unlawful clearing, and material or serious environmental harm. The penalties are set out in schedule 1 of the <i>Environmental Protection Act 1986</i> and are significant. The CEO may also give a vegetation conservation notice under s. 70 requiring restoration of an area. The Department of Water and Environmental Protection has a Compliance and Enforcement policy that guides its approach to non-compliance.  <b>DBCA</b> There are also potential penalties under the <i>Conservation and Land</i>	See response to Activity C.

			<b><i>Management Act 1984 and Biodiversity Conservation Act 2016.</i></b>	
<b>8. What guidance or other assistance is available to help navigate these processes?</b>	<ul style="list-style-type: none"> <li>• The Department of Fire and Emergency's <a href="#">website</a> includes information on the purpose of the <i>Map of Bush Fire Prone Areas</i> and when additional planning and building requirements may apply to development within designated bushfire prone areas.</li> <li>• Further guidance is also on the Department of Planning, Lands and Heritage's <a href="#">website</a> and the Department of Mines, Industry, Regulation and Safety's <a href="#">website</a> for planning and building requirements respectively.</li> <li>• The local government's firebreak notice.</li> <li>• The Department of Water and Environment Regulation has a floodplain mapping tool on their <a href="#">website</a>.</li> </ul>	<ul style="list-style-type: none"> <li>• The local governments with bushfire prone areas typically provide guidance on their website regarding the burning permits, burning periods and their firebreak notice.</li> <li>• The Department of Fire and Emergency Services' <a href="#">website</a> provides guidance on planned burns.</li> <li>• The Department of Biodiversity, Conservation and Attractions has staff available to provide information where prescribed burns may impact threatened species.</li> </ul>	<p>There is a comprehensive suite of fact sheets, guidelines, map viewers and other material <a href="#">online</a> to support applicants. The Department of Water and Environmental Regulation also encourages applicants to undertake preapplication consultation to assist applicants in navigating the process.</p> <p>The Department of Biodiversity, Conservation and Attraction's Good Neighbour Policy and Guideline provide information regarding options that might be applicable to neighbours for fence line management.</p>	<p>There are no key resources in relation to grazing (likely because this is prohibited).</p>



## Royal Commission into National Natural Disaster Arrangements

### Western Australia

#### Scenario 3: The Developer

*Physical/Environmental: Company D is a property developer which has purchased former farmland totalling 400 hectares on the rural-urban interface, with the intention of building a residential development of up to 500 houses. The land is mainly grassland, with some forested bushland and a small area of wetlands. There are around 10 existing buildings on the property that the developer plans on demolishing.*

*Known regulatory overlays: Part of the land area is within a bushfire overlay, and part is within a flood overlay. These overlays do not overlap.*

*Additional factors: The wetlands area borders a nationally threatened ecological community.*

*Threatened fauna also cross from this area into the privately owned wetlands.*

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
1. Which planning and development laws, standards, or other regulatory instruments apply (excluding those that do not relate to natural hazard risk management)?	<p><b>Planning Approval Framework</b></p> <p><u>Assuming the land has no region scheme and will need to be rezoned, structure planned and subdivided (freehold) prior to development and building:</u></p> <p>The State Planning Framework<sup>1</sup> requires the land to be appropriately zoned for residential development in the local planning framework, in accordance with relevant WA planning legislation – <b><i>Planning and Development Act 2005 (P &amp; D Act WA)</i></b> and the <b><i>Planning and Development (Local Planning Schemes) Regulations 2015 (P &amp; D Regulations WA)</i></b><sup>2</sup>. This</p>	<p><b>Planning Approval Framework</b></p> <p><u>Assuming the land has no region scheme and will need to be rezoned, structure planned and subdivided (freehold) prior to development and building:</u></p> <p>The land will still be required to be rezoned, structure planned and subdivided under the same process, however decisions at each planning stage and implementation of natural hazard risk State Planning Policies and associated Guidelines, informed by the technical advice or regulatory instruments of other agencies<sup>10</sup> will influence whether best practice is adhered to.</p> <p>The subdivision should be designed to achieve the best outcome for mitigating bushfire and flood risk to future residents, in balance with environmental</p>

<sup>1</sup> [Western Australian State Planning Framework Hierarchy](#).

<sup>2</sup> Part 5 of the [P & D Act WA](#); Part 3 & Part 5 of the [P & D Regulations WA](#).

<sup>10</sup> [State Planning Policy 2.9 - Water Resources \(SPP 2.9 WA\)](#); [State Planning Policy 3.7 - Planning in Bushfire Prone Areas \(SPP 3.7 WA\)](#); [Guidelines for Planning in Bushfire Prone Areas \(Guidelines WA\)](#); [Guidelines for Planning in Bushfire Prone Areas – \(Guidelines Appendices\)](#)



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Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>process includes referrals to environmental, flood and fire management State government agencies. Consideration of whether a residential land use will be appropriate for the site will be informed by the level of flood and bushfire risk present, and environmental considerations such as the presence of threatened fauna and ecological communities. State Planning Policies that deal specifically with bushfire and flood risk will also be considered in accordance with legislation at subsequent planning stages – structure planning<sup>3</sup>, subdivision<sup>4</sup> and development.<sup>5</sup></p> <p>The State Planning Policies relating to natural hazard risk must be given due regard at each stage of planning and development. The minimum planning requirements for development within a bushfire prone area are:</p> <ul style="list-style-type: none"> <li>• Location of houses within an area with a bushfire attack level of 29kW/m<sup>2</sup> (BAL-29).</li> <li>• Provision of two-way access/egress to two different destinations.</li> </ul>	<p>protection. To satisfy the minimum requirement of locating houses within BAL-29, sometimes clearing of vegetation will be required. As the land is predominately grassland, there is an opportunity to minimise clearing of vegetation. Best practice would result in a residential development that retains existing vegetation and fauna corridors within the site, and locates houses in the area exposed to least risk of bushfire and flooding.</p> <p>A Bushfire Management Plan, including a BAL Contour Plan, or a BAL assessment will need to be provided to support planning applications.<sup>11</sup> Best practice will also be a ‘line of sight’ in the bushfire and flooding assessments that will carry through all stages of planning to the final building stage.</p> <p>The requirement for houses to be within and area of BAL-29 or below is a regulatory requirement, however if consistency with policy requirements cannot be achieved, then one option to ensure best practice may be to modify the proposal to reduce lot yield.</p> <p><b>Building approval framework</b></p>

<sup>3</sup> Schedule 2, Part 4 of the *P & D Regulations WA*.

<sup>4</sup> Part 10 *P & D Act WA*.

<sup>5</sup> Schedule 2, Part 8 and Part 10A of the *P & D Regulations WA*;

<sup>11</sup> Section 6 of [SPP 3.7 WA](#)



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<ul style="list-style-type: none"> <li>Provision of adequate water supply for firefighting - either connection to reticulated water or the provision of a 50, 000 litre strategic water tank/25 lots, in the care and control of the local government.</li> </ul> <p><b>Building approval framework</b> Constructing, erecting or placing a building is considered to be ‘building work’<sup>6</sup> under the <b>Building Act 2011 (WA)</b>. All building work needs a building permit (unless exempted<sup>7</sup>) and is required to comply with the applicable building standards<sup>8</sup>, namely the <b>Building Code of Australia (BCA)</b>.</p> <p>D would need to obtain a building permit to build the houses. Any buildings located within a designated bushfire prone area will need to comply with BCA bushfire requirements unless it</p>	<p>Constructing, erecting or placing a building is considered to be ‘building work’<sup>12</sup> under the <b>Building Act 2011 (WA)</b>. All building work needs a building permit (unless exempted<sup>13</sup>) and is required to comply with the applicable building standards<sup>14</sup>, namely the <b>Building Code of Australia (BCA)</b>.</p> <p>D would need to obtain a building permit to build the houses. Any buildings located within a designated bushfire prone area will need to comply with BCA bushfire requirements unless it was meets the four month exemption set out the <b>Building Regulations 2012 (WA)</b><sup>15</sup>.</p> <p>D can choose to add bushfire resistant construction to any buildings not already required by the BCA to have it, and can choose to increase the stringency for buildings required to comply with BCA bushfire requirements.</p> <p><b>Environmental Framework</b> <u>Department of Biodiversity, Conservation and Attractions WA</u></p>

<sup>6</sup> Defined section 3 of *Building Act 2011 (WA)*

<sup>7</sup> Section 9 of *Building Act 2011 (WA)*

<sup>8</sup> Section 37 of *Building Act 2011 (WA)*

<sup>12</sup> Defined section 3 of *Building Act 2011 (WA)*

<sup>13</sup> Section 9 of *Building Act 2011 (WA)*

<sup>14</sup> Section 37 of *Building Act 2011 (WA)*

<sup>15</sup> Regulation 31BA of the *Building Regulations 2012 (WA)*



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>was meets the four month exemption set out the <b>Building Regulations 2012</b> (WA)<sup>9</sup>.</p> <p><b>Environmental Framework</b></p> <p><u>Department of Water and Environmental Regulation WA</u></p> <p>If the vegetation and trees are native vegetation, the clearing provisions of the <i>Environmental Protection Act 1986</i> (Part V Division 2) apply. If the clearing is required under section 33 of the Bushfires Act, it is exempt from the requirement for a clearing permit is required.</p> <p>Department of Water and Environmental Regulation (WA) and Department of Agriculture, Water and the Environment (Cth) regulate the clearing of native vegetation and controlled actions on matters of national environmental significance respectively. There is an exemption from the requirement for a clearing permit (WA) for clearing necessary to construct a lawful structure unless it is in an environmentally sensitive area declared by notice under section 51B of the <i>Environmental Protection Act 1986</i>. There is also an exemption for clearing around a building for a requirement under section 33 of the</p>	<p>No <i>Biodiversity and Conservation Act 2016</i> approvals required for a Commonwealth Threatened Ecological Community that is not listed in the <i>Biodiversity and Conservation Act 2016</i> or wetland. If the threatened fauna were to be taken or disturbed, a section 40 authorisation would be required.</p> <p>There are no standards.</p> <p><b>DFES</b></p> <p>If the land in question is in a bushfire prone area, the proposal may be referred to DFES to assess against applicable policies and guidelines.</p>

<sup>9</sup> Regulation 31BA of the Building Regulations 2012 (WA)



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Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p><i>Bushfires Act 1954</i> that applies regardless of the presence of environmentally sensitive areas.</p> <p><u><i>Department of Biodiversity, Conservation and Attractions WA</i></u></p> <p>No <i>Biodiversity and Conservation Act 2016</i> approvals required for a Commonwealth Threatened Ecological Community that is not listed in the <i>Biodiversity and Conservation Act 2016</i> or wetland. If the threatened fauna were to be taken or disturbed, a section 40 authorisation would be required.</p> <p>There are no standards.</p>	



## Royal Commission into National Natural Disaster Arrangements

2. Are there thresholds at which the activity does not trigger regulatory requirements or at which requirements vary?

### Planning Approval Framework

At the rezoning, structure planning, subdivision and development stages, any proposal that is mapped within a bushfire prone area on the ***State Map of Bushfire Prone Areas WA***<sup>16</sup> should comply with ***State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7 WA)*** and the bushfire protection criteria set out in the ***Guidelines for Planning in Bushfire Prone Areas (Bushfire Guidelines WA)***, unless it is demonstrated that the bushfire hazard level (BHL) or bushfire attack level (BAL) is Low.<sup>17</sup>

At the development application stage, some development does not require development approval under the local planning scheme<sup>18</sup>, including some types of residential development, therefore no bushfire planning provisions apply. However, the **P & D Regulations WA** trigger the need for a bushfire attack level (BAL) assessment to determine whether a development approval is needed for single houses and ancillary dwellings on lots which are 1,100m<sup>2</sup> or more. Development approval and compliance with the bushfire protection criteria at the development stage is not required for residential lots less than 1,100m<sup>2</sup> under the **P & D Regulations WA**.

### Building approval framework

A house may be exempted from needing to comply with the BCA bushfire requirements if located in an area that has been designated bushfire prone for less than 4 months at the time the application for a building permit is made.

### Environmental Framework

### Planning Approval Framework

There is no difference between “minimum requirements” and “best practice” with regard to regulatory thresholds.

### Building approval framework

See response to Activity A.



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p><u>Department of Water and Environmental Regulation WA</u></p> <p>The clearing provisions of the <i>Environmental Protection Act 1986</i> apply to clearing of native vegetation without any threshold. Exemptions from the requirement for a clearing permit are set out in <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i> but do not apply in areas declared as environmentally sensitive areas. Exemptions for clearing under a written law are set out in Schedule 6 of the Act and apply regardless of any environmentally sensitive areas.</p>	
3. Which organisations or people will the person or business be required to contact during these processes?	<p><b>Planning Approval Framework</b></p> <ul style="list-style-type: none"> <li>Local government – contact to initiate scheme amendment to rezone<sup>16</sup>; structure planning<sup>20</sup>; subdivision condition clearance<sup>21</sup>; development application; and clearance of development conditions.</li> </ul>	<p><b>Planning approval Framework</b></p> <p>In this instance, best practice might mean pre-consultation, prior to lodgement of a planning application, with:</p>

<sup>16</sup> [State Map of Bushfire Prone Areas WA](#)

<sup>17</sup> S. 6.2 – SPP 3.7 WA

<sup>18</sup> Cl. 61, Schedule 2 of the P & D Regulations WA

<sup>19</sup> [Local Planning Scheme Amendment Process WA](#)

<sup>20</sup> [Structure Plan Framework WA](#)

<sup>21</sup> Section 1.2.1 of the [Local Government Guidelines for Subdivisional Development](#)



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<ul style="list-style-type: none"> <li>Department of Planning, Lands and Heritage/Western Australian Planning Commission – contact to make a subdivision application, and for clearance of subdivision conditions<sup>22</sup>.</li> <li>Landgate– certificate of title lodgement and registration.<sup>23</sup></li> </ul> <p>NB. The State Minister for Planning is the ultimate decision maker for scheme amendments. The State Minister for Environment is the ultimate decision maker for application to modify a TEC, however Company D does not need to contact the Ministers’ offices directly and would have their applications forward to the relevant Minister by the relevant agency that supports the Minister’s portfolio.</p> <p><b>Building approval framework</b> D will be required to contact:</p> <ul style="list-style-type: none"> <li>Permit authority (this is usually the relevant local government);</li> <li>building surveyor;</li> <li>builder;</li> </ul>	<ul style="list-style-type: none"> <li>the local government and the Department of Planning, Lands and Heritage in relation to planning matters and achieving consistency with State Planning Policies;</li> <li>the environmental agencies in relation to any clearing or modification to native vegetation and to ensure best practice in creating a biodiversity corridor or ecological link for the threatened fauna is achieved;</li> <li>the Department of Fire and Emergency Services, in a scenario where a performance principle solution will be needed to satisfy the bushfire protection criteria in the <b>Bushfire Guidelines WA</b>.<sup>24</sup> A subdivision proposal may be triggered for referral to DFES for advice where compliance to the policy measures cannot be demonstrated through the acceptable solutions or where DFES technical advice is required. DFES provide a review of the Bushfire Management Plan provided by the proponent and forward their advice directly to the decision maker.</li> </ul> <p><b>Building approval framework</b> See response to Activity A.</p>

<sup>22</sup> [WAPC Model Subdivision Conditions Schedule](#)

<sup>23</sup> [Land Titles Registration Procedure Manual WA](#)

<sup>24</sup> Cl. 4.5.2.2 of the [Guidelines WA](#)



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<ul style="list-style-type: none"> <li>• building designer (optional); and</li> <li>• bushfire consultant (optional).</li> </ul> <p><b>Environmental Framework</b></p> <p><u>Department of Water and Environmental Regulation WA</u></p> <p>In respect of clearing of native vegetation, there is no requirement to contact other organisations than the Department of Water and Environmental Regulation. The Department contacts other relevant agencies, for example the Department of Biodiversity, Conservation and Attractions, and the Commissioner for Soil Conservation, for advice as needed.</p>	
4. What prescribed form/s need to be completed during any of these processes?	<p><b>Planning Approval Framework</b></p> <ul style="list-style-type: none"> <li>• <a href="#">Scheme Amendment Template and Forms</a> - for local government use.</li> <li>• Structure Plan – Form 5A, Form 5B, Form 5E (if modification to the structure plan are required prior to final determination).<sup>25</sup> All forms are for local government use.</li> <li>• Subdivision – <a href="#">Form 1A</a> and <a href="#">Form 1C</a> – to be completed by Company D.</li> <li>• Development Application – to be completed by Company D.<sup>26</sup></li> </ul>	<p><b>Planning Approval Framework</b></p> <p>There is no difference between “minimum requirements” and “best practice” with regard to prescribed forms.</p> <p><b>Building approval framework</b></p> <p>See response to Activity A.</p>

<sup>25</sup> [Local Government Structure Plan Forms](#)

<sup>26</sup> Schedule 2, Part 11 of the P & D Regulations WA.



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<ul style="list-style-type: none"> <li>Landgate – title lodgement and registration</li> </ul> <p>NB – there is a preferred template to be used where a Bushfire Management Plan, a BAL Contour Plan and/or a BAL assessment are required, however it is not a prescribed form.<sup>27</sup></p> <p><b>Building approval framework</b></p> <ul style="list-style-type: none"> <li>the applicant/builder – either:             <ul style="list-style-type: none"> <li>BA1 – Application for building permit – certified<sup>28</sup>; or</li> <li>BA2 – Application for building permit – uncertified<sup>29</sup>.</li> </ul> </li> <li>the building surveyor, BA3 – Certificate of design compliance<sup>30</sup>.</li> <li>the permit authority, BA04 - Building permit.</li> <li>the builder, BA7 – Notice of completion<sup>31</sup>.</li> </ul> <p><b>Environmental Framework</b></p> <p><u>Department of Water and Environmental Regulation WA</u></p>	<p><b>DFES</b></p> <p>When preparing their Bushfire Management Plans, applicants are encouraged to use the various templates available.</p>

<sup>27</sup> [Bushfire Management Plan Templates](#)

<sup>28</sup> <https://www.commerce.wa.gov.au/publications/ba1-application-building-permit-certified>

<sup>29</sup> <https://www.commerce.wa.gov.au/publications/ba2-application-building-permit-uncertified>

<sup>30</sup> <https://www.commerce.wa.gov.au/publications/ba3-certificate-design-compliance>

<sup>31</sup> <https://www.commerce.wa.gov.au/publications/ba7-notice-completion>



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	If clearing is not exempt, a clearing permit application must be completed.	
5. What is the prescribed timeframe for providing decisions for the activity, where applicable? What are the timeframes in practice (average, shortest, longest)?	<p><b>Planning Approval Framework</b></p> <p>If the scheme amendment to rezone the land for residential purposes is a standard amendment under the <b>P &amp; D Regulations WA</b><sup>32</sup>, and no modifications, delays or extensions to the timeframes are required: 162 days maximum from the day the amendment is advertised by the local government.<sup>33</sup></p> <p>If the structure plan is not subject to modifications, delays or extensions: 222 days minimum; 236 days maximum, from the day the structure plan is advertised by the local government.<sup>34</sup></p> <p>If the subdivision is not subject to delays or deferral: 90 days.<sup>35</sup></p> <p>If the development application is not subject to delays and advertising is required: 90 days maximum, or if advertising is not required, 60 days.<sup>36</sup></p>	<p><b>Planning Approval Framework</b></p> <p>Best practice may mean that deferral of a planning application is required, by way of a signed agreement with Company D, to resolve any potential issues or address inconsistencies with the relevant policy framework and improve the development outcome.</p> <p><b>Building approval framework</b></p> <p>See response to Activity A.</p> <p><b>DFES</b></p> <p>When a referral is submitted through to DFES for advice by the decision maker the due date for the advice is provided with the referral. DFES generally are given a 30-working day turnaround for new referrals and 20 working days for resubmissions.</p>

<sup>32</sup> Regulation 34, Division 1, Part 5 of the P & D Regulations WA.

<sup>33</sup> [Timeframes under the P & D Regulations 2015](#)

<sup>34</sup> [Timeframes under the P & D Regulations 2015](#)

<sup>35</sup> Section 143(2), Part 10 of the P & D Act WA.

<sup>36</sup> Clause 75, Schedule 2, Part 9 of the P & D Regulations WA.



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p><b>Building approval framework</b></p> <ul style="list-style-type: none"> <li>• <b>Uncertified building permit application</b> - permit authority has 25 business days to decide a complete application or such longer period as agreed in writing between applicant and permit authority<sup>37</sup>; or</li> <li>• <b>Certified building permit application</b> – permit authority has 10 business days to decide a complete application or such longer period as agreed in writing between applicant and permit authority.<sup>38</sup></li> </ul> <p><b>Environmental Framework</b></p> <p><u>Department of Water and Environmental Regulation WA</u></p> <p>There is no prescribed timeframe for making decision for a clearing permit. There is a publicly reported KPI of 60 business days from lodgement for 80% of applications, and 90 business days for all applications. Reports of regulatory performance are available at <a href="https://www.wa.gov.au/government/document-">https://www.wa.gov.au/government/document-</a></p>	

<sup>37</sup> Regulation 20(1) of the Building Regulations 2012 (WA)

<sup>38</sup> Regulation 20(2) of the Building Regulations 2012 (WA)



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<a href="#">collections/departments-of-water-and-environmental-regulation-regulatory-performance-reports</a>	
6. What costs will be incurred by the person or business in completing these processes?	<p><b>Planning Approval Framework</b></p> <p>Scheme amendment and structure plan fees are charged based on the estimated number of officer hours the local government expects it will take for them to assess the application. The maximum hourly rate that can be charged for an officer's time is set out <i>Planning and Development (Local Government Planning Fees) Regulations 2000</i>.<sup>39</sup></p> <p>Subdivision Form 1A fees - see page 5 of Application Guide<sup>40</sup> - varies depending on the number of lots proposed. If Company D proposed to subdivide to create 500 lots, the subdivision application would cost \$21,708.</p> <p>Subdivision Form 1C fees – see page 6 of the <a href="#">Application Guide</a> also variable, but for 500 lots the cost would be \$3418.</p> <p>Landgate lodgement fees are available to view on their <a href="#">website</a></p>	<p><b>Planning Approval Framework</b></p> <p>There is no difference between “minimum requirements” and “best practice” with regard to processing costs.</p> <p><b>Building approval framework</b></p> <p>See response to Activity A.</p>

<sup>39</sup> [Planning and Development \(Local Government Planning Fees\) Regulations 2000](#)

<sup>40</sup> [Subdivision Application Guide](#)



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>Hydrogeologists, bushfire consultant, planning consultant – various other reports may be required depending on the location and what is present on-site. It may also include and environmental consultant. Consultancy fees will vary according to the size and complexity of the job and market values.</p> <p><b>Building approval framework</b></p> <ul style="list-style-type: none"> <li>• <b>Uncertified building permit application fee</b><sup>41</sup> - 0.32% of the estimated value of the building work as determined by the relevant permit authority, but not less than \$105.00; or</li> <li>• <b>Certified building permit application fee</b><sup>42</sup> - 0.09% of the estimated value of the building work as determined by the relevant permit authority, but not less than \$105.00. Separately, applicant needs to have engaged private building surveyor to get certificate of design compliance for the building work – price varies; and</li> <li>• <b>Building Services Levy</b><sup>43</sup> –</li> </ul>	

<sup>41</sup> Regulation 11 and Schedule 2 of the Building Regulations 2012 (WA)

<sup>42</sup> Regulation 11 and Schedule 2 of the Building Regulations 2012 (WA)

<sup>43</sup> Regulation 12 of the Building Services (Complaint Resolution and Administration) Regulations 2011 (WA); Regulation 15 of the Building Services (Complaint Resolution and Administration) Regulations 2011 (WA) allows Building Commissioner to waive this levy if building work or demolition work is to be carried out because of damage caused by a natural disaster.



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>\$61.65 if the value of the building work is not more than \$45 000; or otherwise, at the rate of 0.137% of the value of the building work; and</p> <ul style="list-style-type: none"> <li>• <b>Building and Construction Industry Training Levy</b><sup>44</sup> –0.2% of the total value of construction (inclusive of GST) for all works with an estimated value of more than \$20,000; and</li> <li>• <b>Home Indemnity Insurance</b><sup>45</sup> (if required) - price varies</li> <li>• <b>Any building and consultancy fees</b> – building design, bushfire consultant for BAL assessment, may need registered builder – prices vary.</li> </ul> <p><b>Environmental Framework</b></p> <p><i>Department of Water and Environmental Regulation WA</i></p> <p>Costs for clearing permit applications are set out in regulation 7 of the <i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i>.</p>	
7. What are the costs and/or legal ramifications of non-	<p><b>Planning Approval Framework</b></p> <p>If a planning proposal is inconsistent with the minimum policy and regulatory requirements, then a refusal decision can be</p>	<p><b>Planning Approval Framework</b></p> <p>In the event of a natural hazard, loss of life, property and infrastructure cannot be guaranteed, but following best practice is the best approach to ameliorate such legal risk.</p>

<sup>44</sup> <https://ctf.wa.gov.au/industry/bcitr-levy/>

<sup>45</sup> <https://www.commerce.wa.gov.au/publications/home-indemnity-insurance>



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
compliance or mistakes?	<p>issued, or the proposal will be required to be modified prior to final determination.</p> <p>If any subdivision approval conditions are not complied with, then the consequence would be that titles are not issues for the lots and development cannot occur.</p> <p>If any development approval conditions are not complied with, then Company D can be fined or prosecuted under the <b>P &amp; D Act WA</b><sup>46</sup>.</p> <p>Consistency with the minimum policy requirements does not guarantee loss of life, property and infrastructure in the event of a bushfire or flood.</p> <p><b>Building Approval Framework</b> Permit authority can issue a building order<sup>47</sup> to direct certain things<sup>48</sup> if it suspects a contravention of a provision of the Act. The maximum penalty for failing to comply with a building order is a fine of \$100 000 and imprisonment for 12 months<sup>49</sup>.</p>	<p><b>Building approval framework</b> See response to Activity A.</p> <p>Note: Penalty for not complying with applicable building standards may not apply if the building work meets actual bushfire risk (not best practice as proposed)</p> <p><b>Environmental Framework</b> <u>Department of Biodiversity, Conservation and Attractions WA</u></p> <p>Fines for the taking of threatened flora or fauna without authorisation are up to \$500 000. There is a defence if the person did not know, or could not have been expected to know that the species was present.</p>

<sup>46</sup> Part 13, [P & D Act WA](#)

<sup>47</sup> Section 110 of the *Building Act 2011* (WA)

<sup>48</sup> Section 112 of the *Building Act 2011* (WA)

<sup>49</sup> Section 115 of *Building Act 2011* (WA)



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>A maximum penalty of a fine of \$50 000 for a first offence, \$75 000 for a second offence; or \$100 000 and imprisonment for 12 months for a third or subsequent offence applies to each of the following:</p> <ul style="list-style-type: none"> <li>• undertaking building work without a building permit<sup>50</sup>;</li> <li>• not complying with a building permit<sup>51</sup>; and</li> <li>• not complying with the applicable building standards<sup>52</sup>.</li> </ul> <p>The maximum penalty for failing to give a notice of completion is a fine of (up to) \$10 000<sup>53</sup>; alternatively, the modified penalty is \$500<sup>54</sup>.</p> <p><b>Environmental Framework</b></p> <p><u>Department of Water and Environmental Regulation WA</u></p> <p>There are offences for unlawful clearing, and material or serious environmental harm. The penalties are set out in schedule 1 of the <i>Environmental Protection Act 1986</i> and are significant. The</p>	

<sup>50</sup> Section 9 of *Building Act 2011* (WA)

<sup>51</sup> Section 29 of *Building Act 2011* (WA)

<sup>52</sup> Section 37 of *Building Act 2011* (WA)

<sup>53</sup> Section 22 of *Building Act 2011* (WA)

<sup>54</sup> Regulation 69 and Schedule 6 of the *Building Regulation 2012* (WA)



**Royal Commission**  
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Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>CEO may also give a vegetation conservation notice under section 70 requiring restoration of an area. The Department of Water and Environmental Protection has a Compliance and Enforcement policy that guides its approach to non-compliance.</p> <p><u><i>Department of Biodiversity, Conservation and Attractions WA</i></u></p> <p>Fines for the taking of threatened flora or fauna without authorisation are up to \$500 000. There is a defence if the person did not know, or could not have been expected to know that the species was present.</p>	
<p>8. What guidance or other assistance is available to help navigate these processes?</p>	<p><b>Planning Approval Framework</b></p> <p>The <b>Bushfire Guidelines WA</b> outlines the bushfire planning provisions. The Guidelines and further information, including FAQs can be found on the bushfire planning section of the Department of Planning, Lands and Heritage's website - <a href="#">WA Bushfire Planning Publications</a></p> <p><a href="#">SPP 2.9 WA</a> is the key policy instrument relating to flooding and should be given due regard in decision making for all planning applications needed to facilitate the residential development on Company D's land.</p>	<p><b>Planning Approval Framework</b></p> <p>N/A</p> <p><b>Building approval framework</b></p> <p>See response to Activity A.</p> <p><b>DFES</b></p> <p>DFES Land Use Planning Officers are available to discuss proposals with applicants prior to lodgement of any application.</p>



## Royal Commission into National Natural Disaster Arrangements

Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	<p>The relevant local government has local information and guidance regarding scheme amendment, structure plan, subdivision and development applications.</p> <p><b>Building approval framework</b> Department of Mines, Industry Regulation and Safety has guidance online about the WA building approval framework<sup>55</sup> and building in a designate bushfire prone area<sup>56</sup>.</p> <p><b>Environmental Framework</b> <i>Department of Water and Environmental Regulation WA</i> There is a comprehensive suite of fact sheets, guidelines, map viewers and other material to support applicants at <a href="https://www.der.wa.gov.au/our-work/clearing-permits">https://www.der.wa.gov.au/our-work/clearing-permits</a>. The Department of Water and Environmental Regulation also encourages applicants to undertake preapplication consultation to assist applicants in navigating the process.</p> <p><i>Department of Biodiversity, Conservation and Attractions WA</i> Guidance required from the Commonwealth. No BC Act approvals required for a commonwealth TEC (not listed in BC</p>	

<sup>55</sup> [https://www.commerce.wa.gov.au/sites/default/files/atoms/files/building\\_approvals\\_process\\_-\\_a\\_guide.pdf](https://www.commerce.wa.gov.au/sites/default/files/atoms/files/building_approvals_process_-_a_guide.pdf)

<sup>56</sup> <https://www.commerce.wa.gov.au/building-and-energy/building-designated-bush-fire-prone-areas>



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Question	Activity A: D would like to build up to 500 houses to comply with the minimum requirements relating to natural hazard risk.	Activity B: D would like to build up to 500 houses to comply with best practice relating to managing natural hazard risk.
	Act) or wetland. If the threatened fauna were to be taken or disturbed, a s40 authorisation would be required.	

## Scenario 4: P the Public Infrastructure Agency

### Setting:

*Physical/Environmental:* Department P has been tasked to build public telecommunications infrastructure in a rural area. The site they are building is within forested bushland. There is currently no road access to this location and a road will have to be constructed.

*Known regulatory overlays:* Part of the land area is within a bushfire overlay.

*Additional factors:* The land is within a national park.

Note: this advice assumes that the telecommunication infrastructure is located on reserved land that requires approval under a regional planning scheme only. This assumption has been made as this is the most onerous approval regime for this scenario, and the three region schemes in WA (Metropolitan, Peel and Great Bunbury) cover the areas where the majority of the WA population reside.

Question	Activity A: P seeks to comply with the minimum requirements relating to natural hazard risk.	Activity B: P seeks to comply with the best practice relating to managing natural hazard risk.
<b>1. Which planning and development laws, standards, or other regulatory instruments apply (excluding those that do not relate to natural hazard risk management)?</b>	DPLH: P will need to consider <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas</i> (SPP 3.7) and the supporting <i>Guidelines for Planning in Bushfire Prone Areas</i> (Guidelines), apply where the development footprint is located within a bushfire prone area (BPA) <sup>1</sup> . Telecommunication infrastructure is considered critical infrastructure and can be assessed as unavoidable development, under criteria outlined in SPP 3.7 which permits development within the BAL 40/BAL FZ <sup>2</sup> . An application should be supported by a Bushfire Management Plan (BMP) which should demonstrate ongoing management measures that will improve the bushfire management of the site and/or surrounding area by minimising the level of bushfire impact. However, there are no specific requirements identified within SPP 3.7, and would be at the discretion of the decision maker, being the Western	DPLH: SPP 5.2 WA and SPP 3.7 WA are the guiding documents for development of telecommunications infrastructure within bushfire prone areas and although they do not provide any specific requirements to manage bushfire risk, the proponent may choose to provide an Asset Protection Zone (APZ).

<sup>1</sup> [State Planning Policy 3.7 Planning in Bushfire Prone Areas \(SPP 3.7 WA\)](#) and [Guidelines for Planning in Bushfire Prone Areas \(Guidelines\)](#)

<sup>2</sup> S. 6.7 - SPP 3.7 WA

Question	Activity A: P seeks to comply with the minimum requirements relating to natural hazard risk.	Activity B: P seeks to comply with the best practice relating to managing natural hazard risk.
	<p>Australian Planning Commission, on bushfire management requirements, if any.</p> <p>The development of Telecommunications infrastructure is guided by <i>State Planning Policy 5.2 Telecommunications Infrastructure</i> (SPP 2.5 WA) and relevant local planning policies<sup>3</sup>. Applications are required to detail how environmental constraints are addressed which include the removal and management of vegetation<sup>4</sup> and should be considered in the BMP.</p>	
2. Are there thresholds at which the activity does not trigger regulatory requirements or at which requirements vary?	DPLH: Development located outside of an identified bushfire prone area does not trigger the need for assessment under SPP 3.7 WA.	DPLH: Not applicable.
3. Which organisations or people will the person or business be required to contact during these processes?	<ul style="list-style-type: none"> <li>• <i>Local Government</i> – to lodge the application and as a referral agency for the application as well as where access is required onto a local government road.</li> <li>• <i>Department of Planning, Lands and Heritage/ Western Australian Planning Commission</i> – where development occurs on a regional open space/parks and recreation reserve under a regional planning scheme<sup>5</sup>.</li> </ul>	Same as Activity A.

<sup>3</sup> [State Planning Policy 5.2 Telecommunications infrastructure \(SPP 2.5 WA\)](#)

<sup>4</sup> CI 6.3.1 (e) - SPP 2.5

<sup>5</sup> [CI 31 \(2\) - Metropolitan Region Scheme \(MRS\)](#), [cl. 41 - Peel Region Scheme \(PRS\)](#) and [cl. 47 - Greater Bunbury Region Scheme \(GBRS\)](#)

Question	Activity A: P seeks to comply with the minimum requirements relating to natural hazard risk.	Activity B: P seeks to comply with the best practice relating to managing natural hazard risk.
	<ul style="list-style-type: none"> <li>• <i>Department of Fire and Emergency Services</i> – review BMP and provide technical advice to the decision maker.</li> <li>• The <i>Parks and Wildlife service</i> of the <i>Department of Biodiversity, Conservation and Attractions</i> – assessment of flora and fauna studies which is used to identify high value environmental communities<sup>6</sup>.</li> <li>• <i>Department of Water and Environmental Regulation</i> - where clearing permit for state listed Threatened Ecological communities may be required.</li> <li>• <i>Commonwealth Department of Agriculture, Water and Environment</i> – where clearing permit for Federally listed threatened Ecological communities may be required.</li> </ul> <p><i>Main Roads Western Australia</i> – where access may have an impact on a road under the care and control of MRWA.</p>	
4. What prescribed form/s need to be completed during any of these processes?	Relevant Region Scheme development application form to be submitted to the local government <sup>7</sup> .	Same as Activity A.
5. What is the prescribed timeframe for providing decisions for the activity, where applicable? What are the timeframes in practice (average, shortest, longest)?	60 or 90 days depending on the Regional Planning Scheme requirements.	Same as Activity A.

<sup>6</sup> [Parks and Wildlife Land use Planning Referrals](#)

<sup>7</sup> [Development application forms](#) – Department of Planning, Lands and Heritage

Question	Activity A: P seeks to comply with the minimum requirements relating to natural hazard risk.	Activity B: P seeks to comply with the best practice relating to managing natural hazard risk.
6. What costs will be incurred by the person or business in completing these processes?	No fees apply to applications under region schemes	Same as Activity A.
7. What are the costs and/or legal ramifications of non-compliance or mistakes?	Under the PD Act it is an offence to carry out works that are not in accordance with an approval development under a regional and local planning scheme <sup>8</sup> . Under the PD Regulations an infringement notice of \$500 may be issued <sup>9</sup> .	Same as Activity A.
8. What guidance or other assistance is available to help navigate these processes?	The Western Australian Government provide general guidance regarding development within bushfire prone areas <sup>10</sup> .	Same as Activity A.

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<sup>8</sup> s. 218 of P & D Act WA

<sup>9</sup> s. 42 of P & D Regulations WA

<sup>10</sup> <https://www.dplh.wa.gov.au/information-and-services/state-planning/bushfire-planning>