

# GUIDANCE NOTE

## FIRE-BREAK AND HAZARD REDUCTION NOTICES

The Western Australian Local Government Association (WALGA) and the Department of Fire and Emergency Services (DFES) have collaborated on this Guidance Note for Local Governments to support development of effective, consistent and enforceable fire-break and hazard reduction notices.

Under section 33 of the *Bush Fires Act 1954* (BF Act) Local Governments can require a land owner or occupier to complete bushfire risk mitigation measures by issuing a fire-break and hazard reduction notice. These notices can be served on individuals; or on all land owners or occupiers.

This Guidance Note aims to support Local Governments to ensure the regulatory requirements in their fire-break and hazard reduction notice are clear thereby improving compliance by land owners or occupiers. The document provides Local Governments with guidance on drafting of their fire-break and hazard reduction notices but does not constitute specific legal advice.

### SUMMARY OF GUIDANCE FOR LOCAL GOVERNMENTS DEVELOPING FIRE BREAK AND HAZARD REDUCTION NOTICES



**Include only activities that are enforceable activities under Section 33**



**Use terms as defined in the BF Act and clear, accessible terminology**



**Clearly state the dimensions of fire-breaks**



**Include specific requirements or actions to prevent the potential outbreak or spread of a bushfire**



**Requirements are not superseded by Bushfire Management Plans**

# GUIDANCE FOR LOCAL GOVERNMENTS

## INCLUDE ONLY ACTIVITIES THAT ARE ENFORCEABLE ACTIVITIES UNDER SECTION 33

*Information outside the scope of section 33 of the BF Act should be separated from enforceable fire-break requirements.*

A fire-break and hazard reduction notice should specify the criteria from section 33(1) (a) or (b) that are required to be completed by the land owner or occupier. This is limited to the installation and/or maintenance of fire-breaks; and specific requirements or actions to prevent the potential outbreak or spread of a bushfire.

Examples of such actions are reducing fuel loads to a specified amount or maintaining an asset protection zone around buildings. Requirements should be set out in a clear manner that allows the land owners or occupiers to understand their obligations.

Information dealing with requirements in other sections of the BF Act, and other information or guidance that is not enforceable through section 33 should be clearly separated from the fire-break and hazard reduction notice.

If included in the same document, this information should be under a separate heading or on a separate page. It should be labelled 'For information and advice only, does not form part of the fire-break and hazard reduction notice'. It should also reference other relevant sections of the legislation.

Other relevant sections of the BF Act with notification requirements are outlined in Appendix 1.

Examples of information that should be separated from enforceable section 33 requirements.

- Restrictions on the burning of garden refuse.
- Restricted or prohibited burning times.
- Information about issuing permits during Restricted Burning Times.
- Specifications for personal protective clothing requirements when firefighting.
- Water tank provisions.

## USE TERMS AS DEFINED IN THE BF ACT AND CLEAR ACCESSIBLE TERMINOLOGY

*Fire-break and hazard reduction notices should use unambiguous language so the requirements and obligations for land owners and occupiers are clear and not open to interpretation.*

A fire-break and hazard reduction notice should use terms consistent with their definition in the BF Act. Definitions from other Acts cannot be used in place of the definition provided in the BF Act. Terms that are not defined in the BF Act should be given their ordinary and natural meaning. In Australia, the Macquarie Dictionary is the first reference point to define words not defined in legislation.

The word 'should' is not synonymous with 'must' and may be seen as being advisory. The preferred terminology is 'shall' or 'must'. Section 56 of the *Interpretation Act 1984* states that in a written law the word 'shall' should be interpreted to mean that a function conferred on a person must be performed.

The term 'inflammable' is used in the BF Act, however it is not defined in the legislation and thereby open to interpretation. In practice inflammable is used in fire-break and hazard reduction notices to refer to materials that must be removed from a property to reduce the bushfire hazard, in particular to maintain fire-breaks clear of inflammable matter e.g. grass, dead vegetation, firewood, stored fuel or other specified materials that can easily be set on fire. It is recommended that the term inflammable is defined in the fire-break and hazard reduction notice with reference to specific inflammable materials to be managed by the land owner or occupier.

When defining the term inflammable, it is recommended that Local Governments

avoid ambiguous statements such as 'inflammable or flammable material does not include plants native to the region that are fire resistant'. This introduces ambiguity and uncertainty as the land owner or occupier must determine if a plant is native to the region, and if it is fire resistant.



Source: DFES, 2025

### TIPS FOR SERVING SECTION 33 NOTICES

- At a minimum the Local Government must give notice in writing to an owner or occupier; or alternatively publish a notice in the Government Gazette and in the local newspaper.
- Local Governments providing notice to individuals will need to consider whether the notice will be served on the owner or occupier.
- Only owners or occupiers who have been given notice can be targeted for further compliance action under section 33(3) or (4) of the BF Act.
- If the notice is provided with the rates notice it is likely to be sent to owners only, or their agents, unless a commercial lease or other arrangement makes the occupier responsible for rates. In addition, any notice included with a rates notice will only be served on the owners or occupiers of rateable property. Local Governments may wish to consider other methods of serving notices on owners or occupiers of non-rateable property.

## **CLEARLY STATE THE DIMENSIONS OF FIRE-BREAKS**

*The dimensions for fire-breaks should be specified clearly in a way that is easy for land owners and occupiers to understand and comply with the requirements.*

Section 33(1)(a) of the BF Act allows a Local Government to require a fire-break to be cleared ‘...in such manner, at such places, of such dimensions, and to such number... as the Local Government may ... determine and as are specified in the notice...’. Local Governments should determine what is appropriate for their local area in setting out the dimensions of a fire-break including a minimum and maximum width. Fire-breaks can be required to be made traversable for access in the event of a bushfire.

The terms and conditions of the fire-break and hazard reduction notice can exempt a land owner or occupier from needing a permit to clear native vegetation under the *Environmental Protection Act 1986*. Local Governments should be mindful of this and ensure that fire-break requirements do not enable inappropriate and excessive clearing to the detriment of the environment. Open ended or ambiguous requirements for installing and maintaining fire-breaks that could be interpreted to allow excessive clearing should be avoided.

## **INCLUDE SPECIFIC REQUIREMENTS OR ACTIONS TO PREVENT THE POTENTIAL OUTBREAK OR SPREAD OF A BUSHFIRE**

*Fire-break and hazard reduction notices can require a land owner or occupier to undertake additional actions to address anything identified as being conducive to the outbreak or spread of a bushfire.*

Section 33(1)(b) of the BF Act allows a Local Government or its authorised officer

to require land owners and occupiers to undertake an action or remove anything deemed to be conducive to the outbreak or spread of a bushfire. While the BF Act is not prescriptive on these actions it could include keeping roofs, gutters and walls of buildings free of inflammable materials, separating large piles of firewood, reducing fuel loads, maintaining an asset protection zone around buildings and removing other bushfire hazards as identified by the Local Government.

## **BUSHFIRE MANAGEMENT PLANS**

*The fire-break and hazard reduction notice should clearly state that where a property is subject to an approved Bushfire Management Plan (BMP), property owners must still comply with all the requirements of the fire-break and hazard reduction notice issued under section 33 of the BF Act.*

It is possible for Local Governments to impose a condition on a development approval to require ongoing compliance with a BMP which is enforceable under the *Planning and Development Act 2005*. Fire-break and hazard reduction notices and BMPs are separate documents supported by different Acts.

Whilst a BMP may contain requirements that are of a similar nature as those in a fire-break and hazard reduction notice, they do not override the section 33 requirements. For clarity the notice should clearly state that the BMP requirements are separate to the section 33 requirements. Consideration to existing BMPs should be given when issuing a fire-break and hazard reduction notice. Complex interactions between BMPs and notices can be resolved through variations to fire-break and hazard reduction notices issued by the Local Government.



## VARIATION

Section 33(1) provides that a Local Government may 'at any time, and from time to time' give a notice to a land owner or occupier through issuing a variation to the fire-break and hazard reduction notice. Fire-break and hazard reduction notices should clearly state the circumstances that may make a person eligible for a variation and the process by which a person must go about applying for a variation.

Whilst section 33 does not address how a notice may be varied, it is recommended that fire-break and hazard reduction notice variations note the date of variation and reference the superseded notice. Most Local Governments currently allow for the variation of notices by providing a letter stating that an application for variation has been accepted. The newly varied notice must also clearly state the parts of the previous notice that remain in effect and the variations that now apply. This will support Local Governments in the event of non-compliance by a land owner or occupier.

## COMPLIANCE

Under section 33(3) Local Governments can fine land owners and occupiers who fail to comply with requirements of a fire-break and hazard reduction notice.

Alternatively, under section 33(4)(a) Local Governments may direct Bush Fire Control Officers or other Local Government officers to enter land of the owner or occupier to carry out the requirements of a fire-break notice that has not been met by the land owner or occupier.

This includes any personnel, contractors or vehicles and machinery required to undertake the works. The cost incurred for these activities to bring the land into compliance with the fire-break and hazard reduction notice are recoverable and if the debt due to the Local Government remains unpaid, it may be pursued via court action under section 33(5).

The costs incurred by a Local Government from a contractor to perform the work may be recoverable in court as a debt due from the land owner or occupier (see section 33(5), 33(8)). A Local Government may commence debt recovery action in accordance with section 33(8) through the normal accounts receivable process and this may be as a debt due against the land, a charge against the land, or recoverable in the same manner as rates.

# SUGGESTED WORDING FOR FIRE-BREAK AND HAZARD REDUCTION NOTICES

## GENERAL SERVICE OF NOTICE

Pursuant to section 33(1) of the *Bush Fires Act 1954*, the [Shire/Town/City] of [NAME] gives notice that the land owners or occupiers of land within the district are required to undertake the following works on land owned or occupied by them.

## SPECIFIC SERVICE OR VARIATION CONTENT

Pursuant to section 33(1) of the *Bush Fires Act 1954*, the [Shire/Town/City] of [NAME] gives notice that the land owner or occupier of [ADDRESS] must undertake the following works on this property. The requirements of this notice supersede any requirements issued previous under a previous section 33 fire-break and hazard reduction notice.

## NOTICE REQUIREMENTS

The requirements of this notice are to be in place for the period between [Day Month to Day Month], inclusive. The land owner or occupier is required to do the following:

- i For land greater than [insert size] fire-breaks are required to be installed and maintained no less than [Xm] wide and must be no more than [Xm] wide, with a vertical clearance of [Xm] along the boundary of the property and be clear of all inflammable material and obstructions.
  - ii The following are considered to be conducive to the outbreak, spread or extension of a bushfire and need to be managed as part of this fire-break and hazard reduction notice:
    - iii *\*Example\** Wood piles and other combustible materials – all firewood, and timber products must be stored at least [Xm] away from any external part of any dwelling or building. They are to be no larger than [Xm] x [Xm] in size and must be at least [Xm] from each other;
    - iv *\*Example\** Asset Protection Zones (APZs) – an APZ must be maintained around all habitable buildings and structures and extend at least [insert distance] metres from the buildings and structures [Include requirements of the APZ^].
    - v *\*Example\** Leaves on roofs, in gutters and downpipes – all roofs, gutters and downpipes of any dwelling or building are to be cleared of any leaves or other inflammable material;
    - vi *\*Example\** Grass – all grass must be maintained to a height of less than [Xcm] across the entire property;
    - vii *\*Example\** Trees – all trees shall be pruned so there are no branches within [Xm] of the ground; and
    - viii *\*Example\** Driveways – all driveways shall be maintained in a trafficable condition, clear of inflammable matter (however defined) to a vertical height of [Xm] for the purpose of allowing access for firefighting vehicles.
- <sup>^</sup>See [Guide for Applying Bush Fire Risk Treatment Standards](#).

*\*The examples provided referring to various requirements for different land sizes is essential and other factors can also be used to vary requirements such land use. Regardless of whatever factor is used make sure the requirements are clear and unambiguous\*.*

# APPENDIX 1 -

## OTHER RELEVANT SECTIONS OF THE *BUSH FIRES ACT 1954* WITH NOTIFICATION REQUIREMENTS

PROVISION	TITLE	HOW NOTIFICATION IS MADE TO PUBLIC	RELEVANT INFORMATION
<b>s.17</b>	Prohibited Burning Time (PBT)	Gazette published (Minister/ Fire and Emergency Services (FES) Commissioner)  Local newspaper, wireless broadcast and notice boards in prominent location in district (Local Government (LG))	Burning the Bush is prohibited from X/XX to X/XX annually within identified zones of the State.
<b>s.18</b>	Restricted Burning Time (RBT)	Gazette published (Minister/ FES Commissioner)  Local newspaper, wireless broadcast and notice boards in prominent location in district (LG)	Burning the Bush is only permitted from X/XX to X/XX annually, within identified zones of the State, if a person has obtained a permit to burn from the LG.
<b>s.24G</b>	LG Restrict Burning of Garden refuse	Gazette published (Minister/ FES Commissioner) Gazette published and local newspaper (LG)	LG has prohibited or imposed restrictions on the burning of garden refuse within its district. Must specify the person or class of persons to whom; the area in which; and the period during which the notice applies.
<b>s.25(1a)</b>	Prohibit camping and cooking fires in the open air during the prohibited burning times	Gazette published and local newspaper	LG has prohibited camping and cooking fires in the open air during the prohibited burning times for the period of XX/X/XX to XX/X/XX.
<b>s. 27(3)</b>	Prohibit operation of a tractor or harvester that is not equipped with a fire extinguisher	Local newspaper, wireless broadcast and notice boards in prominent location in district	Shall have effect for such period during the prohibited burning times or the restricted burning times, or both, as is specified in the notice.
<b>s.38</b>	Appointment of Bush Fire Control Officers	Local newspaper	The LG has appointed the following persons as bush fire control officers.

<b>s.38(8) &amp; (10)</b>	Appointment of Fire Weather Officers	Local newspaper and the FES Commissioner in the Gazette	The LG has appointed the following persons as fire weather officers (or deputies) to specified LGs.
<b>r.15C</b>	Prohibit burning during the Restricted Burning Times	Local newspaper	The LG has prohibited burning of the bush on Sundays or specified public holidays during the RBT.
<b>r.38B</b>	Operation of equipment powered by internal combustion engine on land in the district may constitute a fire hazard	Wireless broadcast, local newspaper or written notice or oral direction	Bush fire control officer can prohibit use of engine, or provide direction on firefighting equipment required at site, or fitment of spark arrester.
<b>r.38C</b>	Use of harvesting machinery on a Sunday or public holiday	Local newspaper	LG may declare that use of harvesting machinery during PBT/ RBT is prohibited on Sundays or public holidays.



Source: DFES, 2025

## APPENDIX 2 - OTHER USEFUL INFORMATION

The below documents are available online and may provide a useful starting point for developing the requirements to be included in a fire-break and hazard reduction notice that is suitable for your area.

***Bush Fire Act 1954:***

[https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_106\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_106_homepage.html)

***Bush Fire Risk Treatment Standards 2020:***

<https://publications.dfes.wa.gov.au/publications/bush-fire-risk-treatment-standards-2020>

***Guide for Applying the Bush Fire Risk Treatment Standards:***

<https://publications.dfes.wa.gov.au/publications/guide-for-applying-the-bush-fire-risk-treatment-standards>

***A Guide to Constructing and Maintaining Fire-breaks:***

<https://publications.dfes.wa.gov.au/publications/a-guide-to-constructing-and-maintaining-fire-breaks>

***A Guide to Mechanical Bushfire Mitigation:***

<https://publications.dfes.wa.gov.au/publications/guide-to-mechanical-bushfire-mitigation>