

## Case Note: Aston and WAPC

### Approved and endorsed Bushfire Management Plan to be submitted with planning application

In *Aston and WAPC* [2018] WASAT 11, the Tribunal considered if a subdivision proposed in a bushfire hazard locality would lead to an intensification of development contrary to the objectives for planning in bushfire prone areas, as outlined in SPP 3.7.

Notably, key witnesses for the respondent observed that the measures outlined in the Bushfire Management Plan (BMP) would be constrained by the environmental values and potential for threatened ecological communities under the EPBC Act. By inadequately addressing the site's environmental constraints, which may preclude clearing, the BMP failed to demonstrate that the proposed bushfire management measures could be achieved.

The Tribunal also noted that “in an area of high bushfire risk, a bushfire management plan should be agreed with the relevant authorities prior to any subdivision being considered, not... as a condition to be cleared after an approval is granted” (at 63). These statements align with SPP 3.7 Guidelines, which note that “Conditional approval (of a planning application) should not be granted prior to the BMP being prepared and endorsed” (4.6.2, p.22).

Furthermore, the Tribunal did not accept that in a designated bushfire hazard area that it is an appropriate response to facilitate the introduction of additional dwellings and residents because of the contribution they might make to manage the increased fire risk that is arguably created by their actual presence.

For these and other reasons, the application for review of the original decision by the WAPC to refuse subdivision, was dismissed. The case judgement is available [here](#).