

Case Note: Juran and City of Armadale

Change of use in an extreme Bushfire Hazard Area

In *Juran and City of Armadale* [2018] WASAT 49, the Tribunal considered a decision by the City to refuse a change of use application in an extreme bushfire hazard area. The application proposed to use a private swimming pool building for the purpose of "consulting room (hydrotherapy)". The site is zoned "Rural living". Access to the site is via a cul-de-sac. Among other issues, the Tribunal considered whether the proposed development adequately addressed bushfire risk. The Tribunal found that the BMP did not acknowledge fire behaviour generally experienced in the location and that applying a simplistic approach to assess fire behaviour in rugged terrain can lead to serious errors in assessing the likely spread of fire.

The Tribunal also found that the proposed development does not satisfy Element 3: Vehicular access, of the Guidelines' bushfire protection criteria, because the site is located on a cul-de-sac longer than 200 metres. Expert witnesses for the applicant claimed that the proposed development was "minor", meaning that, as per measure 6.7.1 of SPP 3.7, the development may not need to comply with the Guidelines' bushfire protection criteria. However, the Tribunal found that cl 5.4.1 of the Guidelines requires decision makers to consider minor development on its merits and that the precautionary principle must also be given due regard.

Accordingly, the Tribunal determined that the proposed development did not comply with SPP 3.7 and the Guidelines. For these and other non-bushfire related reasons, the Tribunal affirmed the decision of the City to refuse the proposed development.

The case judgement is available [here](#).