



Our Vision

Nambucca Valley ~ Living at its best

Our Mission Statement

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

1.0 Policy Objective

To ensure that new development contains an Asset Protection Zone (APZ) or bushfire buffer wholly within the development property and not offset to neighbouring land/reserves under the management and control of council or other State or public authority.

To ensure that the liability of maintaining an Asset Protection Zone (APZ) associated with the private development on land in bush fire prone areas is the responsibility of the developer or successive owners of the land and not transferred to Council or other authority by allowing the use of public land/reserves as an APZ

2.0 Related Legislation and Guidelines

- Environmental Planning and Assessment Act 1979
- Rural Fires Act 1997 **Clause 3.3 of Planning for Bush Fire Protection 2006**
- Australian Standard: 3959 Construction of buildings in bushfire-prone areas 2009 (AS3959)
- Building Code of Australia

3.0 Definitions

Asset Protection Zone (APZ) - Development on bush fire prone land will normally require the implementation of a set back distance which is referred to as an Asset Protection Zone. An Asset Protection Zone (APZ) is also known as a fire protection zone and aims to protect human life and infrastructure

4.0 Policy Statement

a New Developments (New Subdivisions)

That Council will not permit the inclusion of public land/reserves into Asset Protection Zones that are required to protect private property and infrastructure. The provision and maintenance of Asset Protection Zones is not the responsibility of an adjoining land management agency or land owner.

Where a bush fire hazard exists on or adjacent to an allotment that is to be developed, an APZ is to be established on the land to be developed between the building requiring protection and the bush fire hazard. This ensures that there is a progressive reduction of bush fire fuels between the hazard and a habitable dwelling.

APZs are to be located within the boundaries of the proposed development. *(Note: This requirement for new subdivision developments has been consistently supported by numerous decisions of the Land and Environment Court).*

This requirement can be modified for the most exceptional circumstances which are outlined in Clause 3.3 of Planning for bushfire Protection 2006:

- 1 Where a development would normally be declined due to inadequate APZs on the land to be developed but where it can be demonstrated that there is a strong likelihood of the adjoining land being developed for future residential or other compatible purposes (eg staged development).
- 2 Where an existing development was approved prior to August 2002 and the applicant is only proposing alterations and/or additions to existing buildings and the APZ does not comply with current APZ requirements. In this case the alterations or additions should meet the improved construction standards up to BAL 40 of AS 3959-2009 and not significantly increase the density of residents or as required under the Building Code of Australia.

Council may consent to allow the inclusion of some public areas under its control as part of bush fire buffers APZs under the following conditions:

- 1 The public land is a formed road whereby the existing arrangement is a footpath and road pavement requiring no extra maintenance as a bush fire buffer (APZ).
- 2 A bush fire buffer (APZ) already exists that is currently maintained by Council and that bush fire buffer (APZ) meets the required NSW Rural Fire Service standards and is recognised in a Plan of Management for the reserve.
- 3 That clear justification can be demonstrated by the developer that the public land is required to form an Asset Protection Zone (APZ) for bushfire buffer.
- 4 That the clearing of natural assets on public land for the purposes of establishing an Asset Protection Zone (APZ) for private development shall be advertised for public comment including the justification from the applicant for the proposed APZ on public land.
- 5 That consent shall only be granted through Council resolution following public exhibition of the proposal.
- 6 Environmental assets such as threatened species, vulnerable species and locally important flora and fauna must be taken into account before any work is considered.

b Existing Urban Vacant Lots

There is an expectation that vacant existing urban lots can be built upon. Council will permit public land including reserves and roads (under its control) to be included in the Asset Protection Zone under the following conditions:

- 1 The Bushfire Management Plan recognises a formal bush fire buffer for public reserves.
- 2 The applicant upgrades the buffer to meet NSW Rural Fire Service standards and undertakes the first hazard reduction program.
- 3 The maximum setback on the private property is utilised to minimise the use of public land.

c Building Extensions/Redevelopment

Urban lots within bushfire prone areas that adjoin public land with substantial vegetation can only be approved if they comply with the specifications of “Planning for Bushfire Protection 2006”.

The public land is not permitted to be included in the buffer or Asset Protection Zone. Council will also not create a Bushfire Management Plan for the reserve for the specific purpose of allowing a building extension to be permitted.

d Re-subdivision Of Large Urban Lots

A property with an existing house can only subdivide land that will comply with the Rural Fire Service requirements without the use of public land.

5.0 History

Private developers in an effort to reduce the size of the bushfire buffer on the development site have sought to include adjacent public land in the required buffer.

The applicant may agree to carryout the initial clearing to meet requirements but cannot guarantee that they or successive owners will continue long term maintenance. Council in allowing use of public land as a buffer zone will by default inherit the long term maintenance commitment to mow and keep the buffer satisfactory at a cost to the public. In doing so, Council will also accept the liability for the standard of maintenance.

The Planning for Bushfire Protection Guidelines 2006 produced by the NSW Rural Fire Service generally requires the location of bushfire buffers (APZs) within the boundaries of the development site to ensure that the buffer is not a burden on adjoining land owners (Clause 3.3 of Planning for bushfire Protection 2006).

Department:	Development & Environment	Last Reviewed	Resolution Number
Policy Category	Council	March 2018	78/18 – Adopted 22/02/18
Endorsed By:	General Manager		
Approval Authority	Council		
Policy Owner	MD&E		
Contact Officer	MD&E		
Document No.	25165/2007		
First Adopted	19 January 2012		
Resolution No:	3364/12		
Review Date:	Mar 2020		