44.06 BUSHFIRE MANAGEMENT OVERLAY

31/07/2018
VC148

Shown on the planning scheme map as **BMO** with a number (if shown).

Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.

To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.

To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

44.06-1 Bushfire management objectives and application of schedules

19/09/2017
VC132

A schedule to this overlay must contain a statement of the bushfire management objectives to be achieved for the area affected by the schedule and when the requirements within it apply.

44.06-2 Permit requirement

15/10/2026
VC306

Subdivision

A permit is required to subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.

Buildings and works

A permit is required to construct a building or construct or carry out works associated with:

- the following uses:
  - Accommodation (including a movable unit as defined under the *Housing Act 1983*)
  - Education centre
  - Hospital
  - Industry
  - Leisure and recreation
  - Office
  - Place of assembly
  - Retail premises
  - Service station
  - Timber production
  - Warehouse.
- a movable unit as defined in the *Housing Act 1983* , carried out by or on behalf of the Chief Executive Officer, Homes Victoria.

This does not apply to any of the following:

- If a schedule to this overlay specifically states that a permit is not required.
- A building or works consistent with an agreement under section 173 of the Act prepared in accordance with a condition of permit issued under the requirements of clause 44.06-5.
- An alteration or extension to an existing dwelling or small second dwelling provided the gross floor area of the building is not increased by more than 50 percent.

- A building or works with a floor area of less than 100 square metres not used for accommodation and ancillary to a dwelling.
- The construction or carrying out works associated with the use of land for an existing dwelling or small second dwelling, other than works associated with the construction of a building for which a permit is required under this clause or a vehicle accessway.
- An alteration or extension to an existing building (excluding a dwelling and a small second dwelling) provided the gross floor area is not increased by more than 10 percent.
- A building or works associated with Timber production provided the buildings or works are not within 150 metres of Accommodation or land zoned for residential or rural residential purposes.

44.06-3 Application requirements

05/05/2026
VC248

Unless a schedule to this overlay specifies different requirements, an application must be accompanied by:

- A **bushfire hazard site assessment** including a plan that describes the bushfire hazard within 150 metres of the proposed development. The description of the hazard must be prepared in accordance with Sections 2.2.3 to 2.2.5 of AS3959:2018 *Construction of buildings in bushfire prone areas* (Standards Australia) excluding paragraph (a) of section 2.2.3.2. Photographs or other techniques may be used to assist in describing the bushfire hazard.
- A **bushfire hazard landscape assessment** including a plan that describes the bushfire hazard of the general locality more than 150 metres from the site. Photographs or other techniques may be used to assist in describing the bushfire hazard. This requirement does not apply to a dwelling that includes all of the approved measures specified in clause 53.02-3.
- A **bushfire management statement** describing how the proposed development responds to the requirements in this clause and clause 53.02. If the application proposes an alternative measure, the bushfire management statement must explain how the alternative measure meets the relevant objective.
- A **bushfire management plan** showing the bushfire protection measures that are to be applied to the development.

If in the opinion of the responsible authority any part of these requirements is not relevant to the assessment of an application, the responsible authority may waive, vary or reduce the requirement.

44.06-4 Requirements of Clause 53.02

05/05/2026
VC248

An application must meet the requirements of clause 53.02 unless the application meets all of the requirements specified in a schedule to this overlay.

A schedule to this overlay may specify substitute approved measures, additional alternative measures and additional or substitute decision guidelines for the purposes of clause 53.02.

44.06-5 Mandatory condition

05/05/2026
VC248

Subdivision

A permit which creates a lot for a single dwelling on land zoned for residential or rural residential purposes must include the following condition:

"Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987. The agreement must:

- *State that it has been prepared for the purpose of an exemption from a planning permit under clause 44.06-2 of the [*insert name of applicable planning scheme] Planning Scheme.*

- *Incorporate the plan prepared in accordance with clause 53.02-4.4 of this planning scheme and approved under this permit.*
- *State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.*

The land owner must pay the reasonable costs of the preparation, execution and registration of the section 173 Agreement."

This does not apply:

- If a schedule to this overlay specifies that a section 173 Agreement is not required.
- Where the relevant fire authority states in writing the preparation of an agreement under section 173 of the Act is not required for the subdivision.
- For the subdivision of the land into lots each containing an existing dwelling or car parking space.

A permit to subdivide land must include any condition specified in a schedule to this overlay.

Buildings and works

A permit to construct a building or construct or carry out works must include the following condition:

"The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed."

A permit allowing a dwelling to be constructed to the next lower bushfire attack level in accordance with AM1.4 in clause 53.02-3 must include the following condition:

"Before the development starts, the owner must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 to provide for the following:

- *A dwelling constructed in accordance with planning permit [*insert planning permit reference] must not be occupied until a private bushfire shelter (a Class10c building within the meaning of the Building Regulations 2006) is:*
  - *Constructed on the same land as the dwelling.*
  - *Available for use by the occupants of the dwelling at all times.*
  - *Maintained in accordance with the requirements of the building permit issued for that private bushfire shelter.*

The land owner must pay the reasonable costs of the preparation, execution and registration of the section 173 Agreement."

A permit to construct a building or construct or carry out works must include any condition specified in a schedule to this overlay.

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Referral of applications

An application must be referred under section 55 of the Act to the person or body specified as the referral authority in clause 66.03, unless a schedule to this overlay specifies otherwise.

44.06-7 Notice and review

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An application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act, unless a schedule to this overlay specifies otherwise.

A schedule to this overlay may specify that notice be given to any person or body in accordance with section 52(1)(c) of the Act.

44.06-8 Decision guidelines

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Before deciding on an application, in addition to the decision guidelines in clause 53.02 and clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any other matters specified in a schedule to this overlay.

44.06-9 Transitional arrangements

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The requirements of clause 44.06 Bushfire Management Overlay do not apply to a single dwelling, or a dependent person's unit, when a permit under the *Building Act 1993* was issued before the commencement of Amendment GC13, if:

- vegetation is managed to accord with the bushfire attack level assessment undertaken at the time the building permit was issued; and
- a static water supply of:
  - 2500 litres on lots of 500 square metres or less
  - 5000 litres on lots of more than 500 square metres,
    is provided to the satisfaction of the responsible authority.
- no permit was required for such development under clause 44.06 before the commencement of Amendment GC13.