52.38 2009 BUSHFIRE RECOVERY

30/04/2015
VC119

Purpose

To support recovery operations following the 2009 Victorian bushfires.

52.38-1 Scope

23/02/2009
VC53

This clause applies to a use or development specified in Clause 52.38-3 carried out for the purposes of recovery from a bushfire that occurred after 1 January 2009.

52.38-2 Exemptions from planning scheme requirements

14/05/2010
VC70

Any requirement of the scheme to obtain a permit or any provision in the scheme which prohibits the use or development of land or requires the use or development of land to be carried out in a particular manner does not apply to a use or development specified in Clause 52.38-3 provided the following requirements are met:

- Works must only be constructed or carried out for bushfire recovery or in association with the construction of a building under this provision to be used for temporary accommodation.
- A building constructed under this provision must only be used:
  - To provide temporary accommodation for a person or persons whose normal place of residence was damaged or destroyed by bushfire; or
  - For a use that is directly associated with bushfire recovery.
- A building constructed under this provision to be used for temporary accommodation must be located on the same lot as a building used for accommodation that was damaged or destroyed by bushfire unless the building is being constructed by or on behalf of a municipality, the Victorian Bushfire Reconstruction and Recovery Authority or other public authority.
- The construction of a building or the construction or carrying out of works must be completed prior to 31 March 2011.
- Native vegetation must only be removed, destroyed or lopped:
  - To provide access to, make safe or remove building and demolition rubble from a property; or
  - To enable emergency and bushfire recovery works undertaken by or on behalf of a municipality, the Victorian Bushfire Reconstruction and Recovery Authority, other public authority or a utility service provider in the exercise of any power conferred on them under any Act.
- Native vegetation must not be removed, destroyed or lopped after 31 March 2011.
- Any sign displayed must be directly associated with bushfire recovery.
- Any sign displayed must be removed prior to 31 March 2011.

52.38-3 Use and development

23/02/2009
VC53

The requirements of Clause 52.38-2 apply to the following types of development:

- Demolition or removal of a building.

- Construction of a building.
- Construction or carrying out of works.
- Removal, destruction or lopping of vegetation.
- Display of a sign.

The requirements of Clause 52.38-2 apply to the following uses:

- Temporary accommodation.
- Any use directly associated with bushfire recovery.

52.38-4 Land in a Heritage Overlay

23/02/2009
VC53

For land within a Heritage Overlay, in addition to the requirements specified in Clause 52.38-2, the written authorisation of the responsible authority must be obtained prior to:

- Demolishing or removing a building;
- Externally altering a building by structural work;
- Internally altering a building if the schedule to the Heritage Overlay identifies the heritage place as one where internal alteration controls apply;
- Carrying out works, repairs and routine maintenance which change the appearance of a heritage place or which are not undertaken to the same details, specifications and materials; or
- Removing, destroying or lopping a tree if the schedule to the Heritage Overlay identifies the heritage place as one where tree controls apply.

52.38-5 Land in a Land Management Overlay

23/02/2009
VC53

For land within a Floodway Overlay, Land Subject to Inundation Overlay or Special Building Overlay, in addition to the requirements specified in Clause 52.38-2, the written authorisation of the responsible authority must be obtained prior to constructing a building or constructing and carrying out works.

For land within an Erosion Management Overlay, in addition to the requirements specified in Clause 52.38-2, the written authorisation of the responsible authority must be obtained prior to:

- Constructing a building or constructing and carrying out works; or
- Removing, destroying or lopping vegetation.

52.38-6 Land in an Environmental Audit Overlay

23/02/2009
VC53

For land within an Environmental Audit Overlay, in addition to the requirements specified in Clause 52.38-2, the written authorisation of the responsible authority must be obtained prior to commencing a sensitive use (residential use, child care centre, pre school centre or primary school).

52.38-7 Cessation of use

30/04/2015
VC119

A use must not continue after 30 September 2018 unless in accordance with the requirements of this scheme.

A building must not be used after 30 September 2018 unless in accordance with the requirements of this scheme.

Decision guidelines

Before deciding on an application to allow the retention or continuing use of a building, in addition to the decision guidelines in Clause 65 and any other requirements of the Act, the responsible authority must consider the extent to which compliance can be reasonably achieved with all requirements of this scheme.