

Advisory Notices are issued to assist in the interpretation of the Planning, Development and Infrastructure Act 2016

TECHNICAL: Private Bushfire Shelters – no accredited products currently available in SA

This Advisory Notice provides additional information on Private Bushfire Shelters, including a statement in regard to product accreditation and a recommendation on conditions of consent, and should be read in conjunction with *Advisory Notice Building – 07/20*.

Background

The State Planning Commission is concerned that Private Bushfire Shelters are being installed in bushfire risk areas without the appropriate approvals.

In accordance with the *Planning, Development and Infrastructure Act 2016* (the Act) the installation of a Private Bushfire Shelters constitutes ‘development’ and requires approval – consisting of Planning Consent (on occasion) and Building Consent (always).

A relevant authority (whether Council or Building Certifier) must not grant a Building Consent pertaining to a Private Bushfire Shelter before obtaining concurrence of the Building Technical Panel.

Concurrence will only be issued where the Building Technical Panel is satisfied that the assessment undertaken complies with Performance Requirements of the National Construction Code (NCC). Compliance with the NCC forms part of the Building Rules that a relevant authority must consider when assessing for Building Consent.

Discussion

The Building Technical Panel (and previously the Building Rules Assessment Commission under the repealed Act) have not granted concurrence with an application relating to the installation of a Private Bushfire Shelter in South Australia for over five years.

There appears to be instances where Private Bushfire Shelters are being:

- installed or constructed without relevant approvals
- prefabricated as complete units and available in the Australian market for purchase
- identified by applicants as a ‘storage’ building in an attempt to be assessed as a Class 10a building.

Private Bushfire Shelters are classified by the NCC as Class 10c buildings and are “a structure associated with, but not attached to, or part of a Class 1a dwelling that may, as a last resort, provide shelter for occupants from immediate life-threatening effects of a bushfire”.

Alternatively, Class 10a buildings are defined as “a non-habitable building including a private garage, carport, shed or the like”. Motivation for incorrect classification could be to inappropriately circumvent the NCC performance requirement for Private Bushfire Shelters and avoid referral to the Building Technical Panel.

If there are buildings that resemble Private Bushfire Shelters that have been installed and not appropriately assessed under the Act, there is grave risk that the ‘shelter’ does not meet the Building Rules, including Performance Requirements of the NCC. Therefore, the building may not function in the way anticipated, posing further life safety risk to occupants.

Ongoing Maintenance Conditions

Pursuant *Advisory Notice Building – 07/20* and the Performance Requirement relating to Class 10c buildings in the Building Code, private bushfire shelters will likely require ongoing maintenance to ensure they continue to operate as designed and approved.

In accordance with the powers provided to relevant authorities under Section 127 of the Act, it is highly recommended that the relevant authority includes condition(s) of consent relating to the ongoing maintenance of private bushfire shelters, to ensure the building will be prepared to operate at the level of performance assessed at the time of approval.

The *Land and Business (Sales and Conveyancing) Act 1994* requires that information is provided for the purposes of ‘Form 1’ Vendor Statement relating to the sale of property. The placing of an ongoing condition of approval (where relevant) should ensure that (if applicable) prospective owners are provided with information:

- that there is an approved private bushfire shelter on the land; and
- there are maintenance requirements to ensure the building can operate at the level of performance assessed at the time of the approval.

Product Accreditation

At the time of issuing this Advisory Notice there is no ‘pre-approved’ product available in South Australia, relating to prefabricated Private Bushfire Shelters.

Pursuant Section 237 of the Act, a building product, building method, design, component, equipment or system *may* be accredited. For the purposes of this section and pursuant to Regulation 123 of the *Planning, Development and Infrastructure (General) Regulations 2017*, only the Minister or a person (or body) duly authorised under the CodeMark Scheme (that is administered by the Australian Building Codes Board) may accredit a product.

There are currently no products that:

- are directly accredited for use in South Australia by the Minister; or
- have a CodeMark certificate relating to prefabricated Private Bushfire Shelters.

Reminder

Building work comprising or including the construction or installation of a Private Bushfire Shelter must not be granted a building consent unless the Commission concurs in the granting of the consent.

Additional Information

Building Technical Panel information, including functions and roles

- Sub-committee of the State Planning Commission
- www.saplanningcommission.sa.gov.au/building-technical-panel

South Australian Legislation and Instruments

- *Planning, Development and Infrastructure Act 2016*
- *Planning, Development and Infrastructure (General) Regulations 2017*
- South Australian Planning and Design Code
- www.legislation.sa.gov.au

Australian Building Codes Board information and publications

- The [CodeMark Scheme](#) and the accreditation of building products
- [Performance Standard for Private Bushfire Shelters](#)
- www.abcb.gov.au

Country Fire Service information and publications

- *Bushfire Survival Plan* guidance and template
- www.cfs.sa.gov.au

Further information

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