

Case Note: Rigg and WAPC

Subdivision in an area of extreme bushfire hazard

In *Rigg and WAPC* [2017] WASAT 19, the Tribunal considered a decision by the WAPC to refuse to allow a three lot survey strata subdivision in an area of extreme bushfire hazard. The site was owned by the three applicants in equal shares under a deed of agreement (tenants in common), bordered a National Park and zoned 'Conservation' under the local planning scheme. The applicants proposed to subdivide the site into three survey strata lots of equal size.

The Tribunal found that the submitted Bushfire Management Plan focused on asset protection and incorrectly equated that protection with a lower risk to people and the subject site. The Tribunal concluded that the subdivision proposal should be refused. In determining the refusal, the Tribunal accepted the view of expert witnesses that no BMP could acceptably manage the bushfire risk at the subject site because of the inherent risks associated with the site that cannot be changed or managed by a BMP, in particular: the extent of dense vegetation at the subject site; the Leeuwin-Naturaliste National Park bordering the subject site; and, the lack of two publicly available evacuation routes.

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