

Case Note: Shri Shirdi Sainath Perth Inc and City of Gosnells

Approving proposed development without a Bushfire Management Plan

In *Shri Shirdi Sainath Perth Inc and City of Gosnells* [2017] WASAT 24, the Tribunal considered whether the proposed development could be approved without the preparation of a bushfire management plan (BMP), among other issues. The BAL assessment that accompanied the application assessed the development site as being subject to a rating of BAL29. Expert witnesses for the applicant and the respondent reviewed the BAL assessment and reassessed the BAL rating for the development site as BAL40. Given the importance of the BMP in establishing the development potential of the site to accommodate a place of worship, which in accordance with *State Planning Policy 3.7: Planning in Bushfire Prone Areas* was identified as a vulnerable land use, the Tribunal drew the conclusion that a BMP should be prepared and approved by the decision maker prior to the issuing of a development approval.

Reasons given by the Tribunal included: that the BMP requires endorsement by third parties (to manage road reserves and protection zones in perpetuity); and, “the approval of a bush fire management plan cannot be considered an incidental aspect of the development as the outcome of the fire management plan is a critical aspect in determining whether the proposed development can proceed”. Consequently, the Tribunal affirmed the City’s decision to refuse development.