TASMANIAN PLANNING COMMISSION

**Approved** 

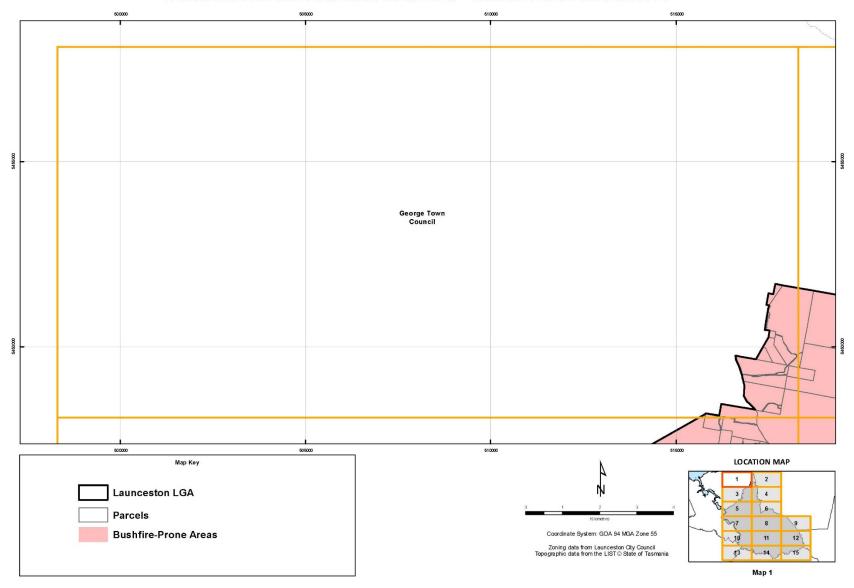
Operative date: 13 August 2019

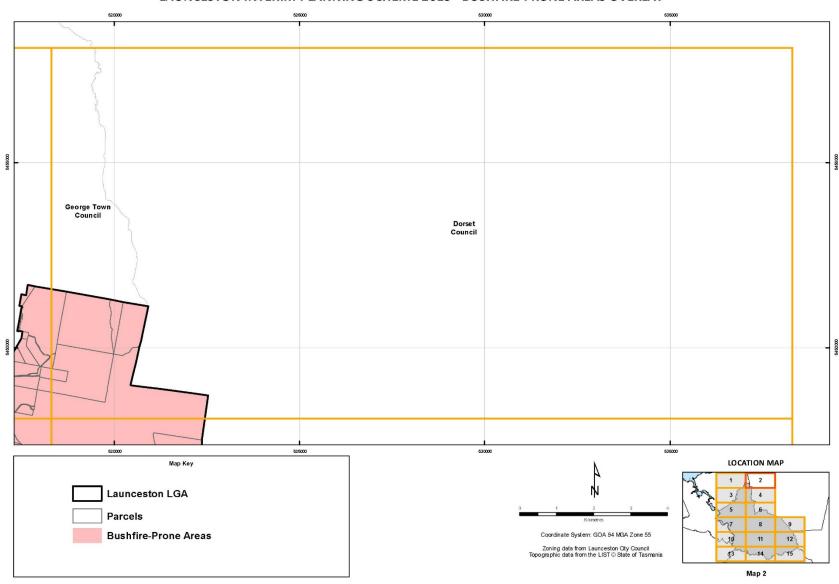
# TASMANIAN PLANNING COMMISSION

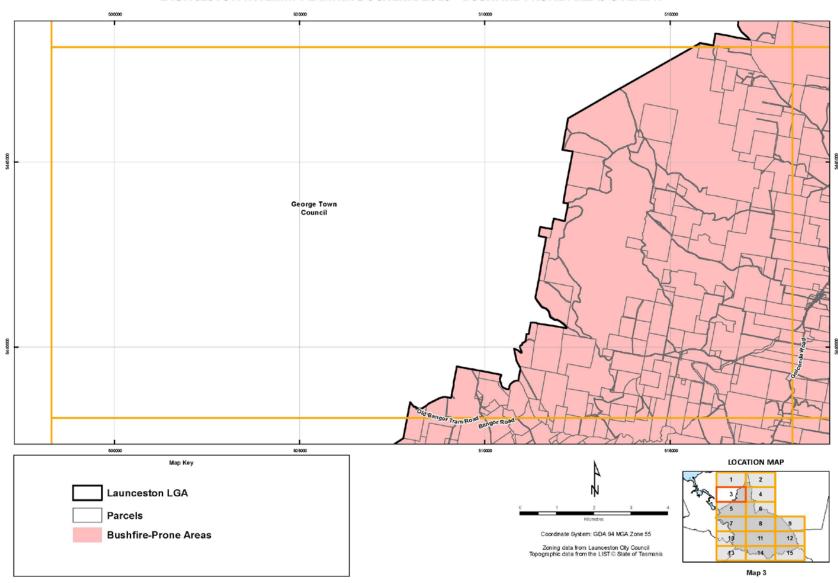
**Launceston Interim Planning Scheme 2015** 

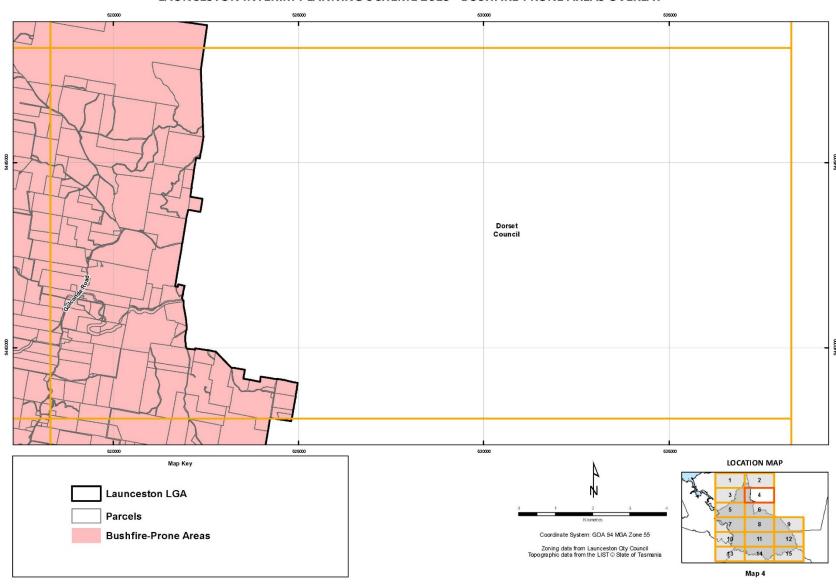
**Draft amendment 45** 

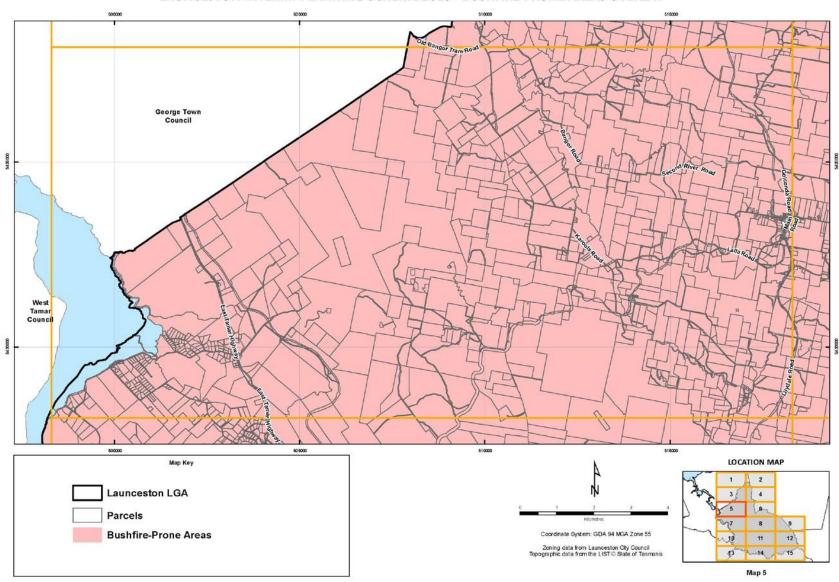
Insert Bushfire-Prone Areas Overlay maps, as made applicable by the Bushfire-Prone Areas Code E1.0.

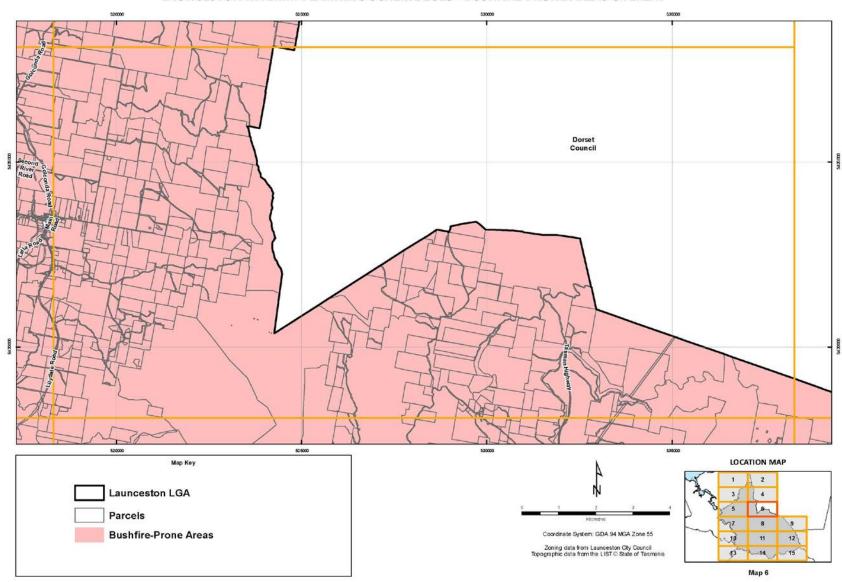


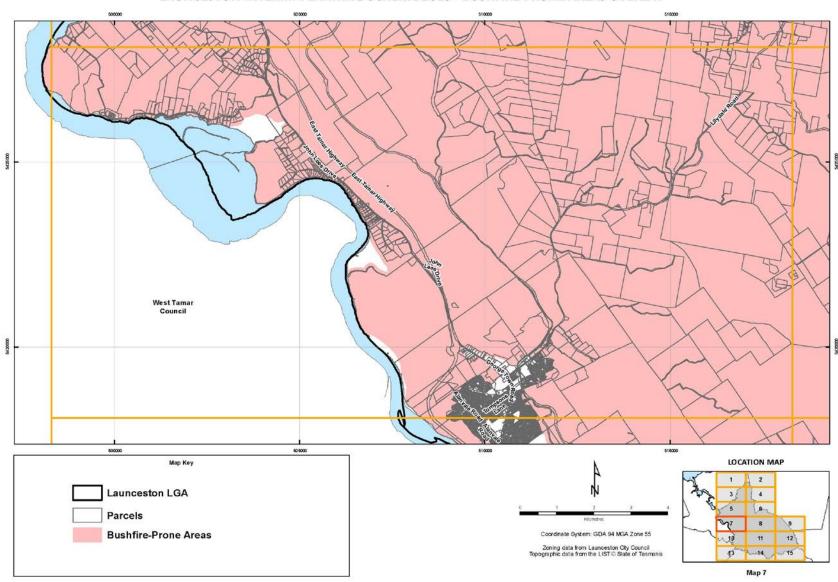


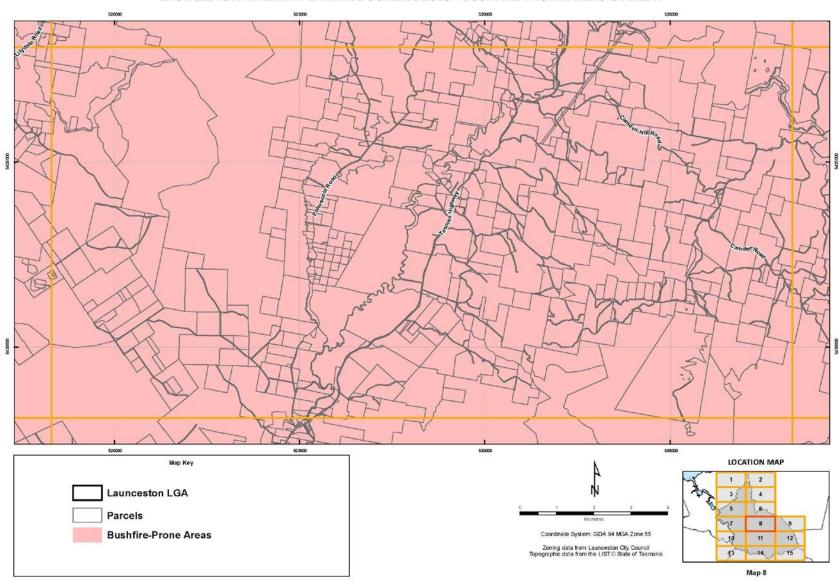


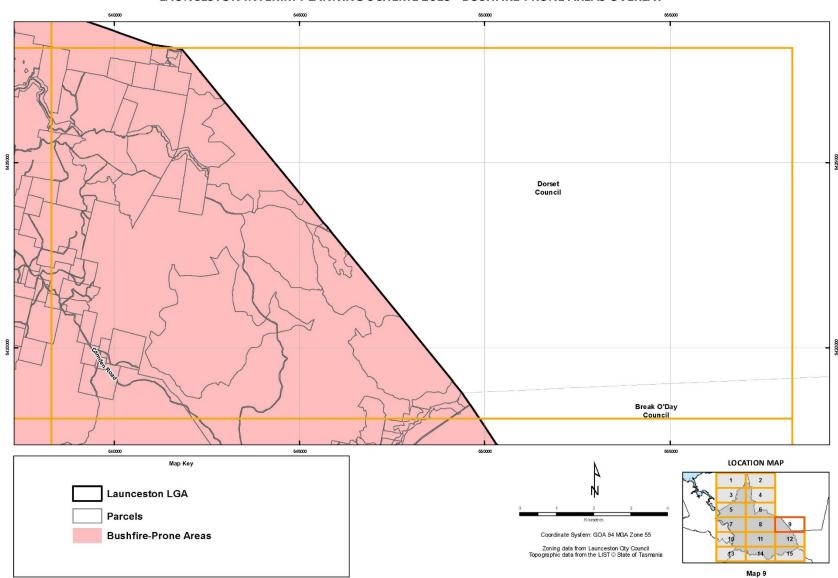


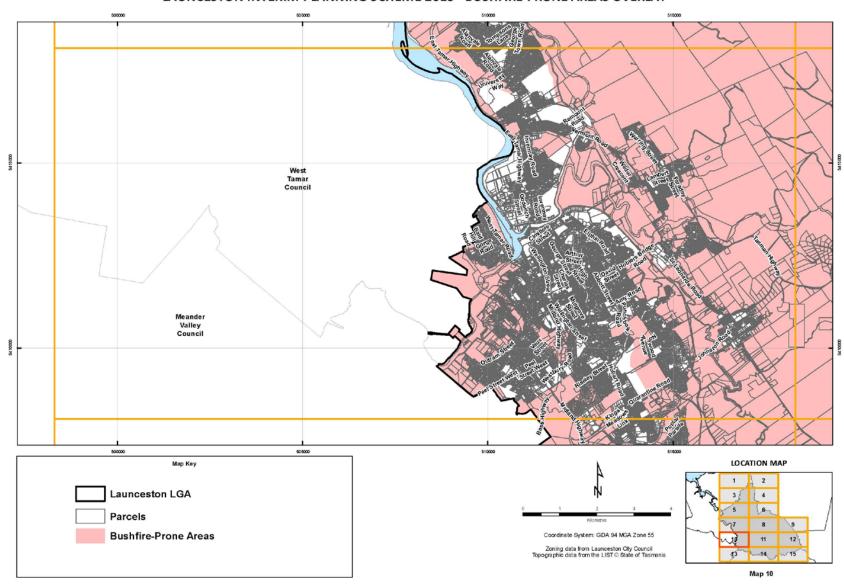


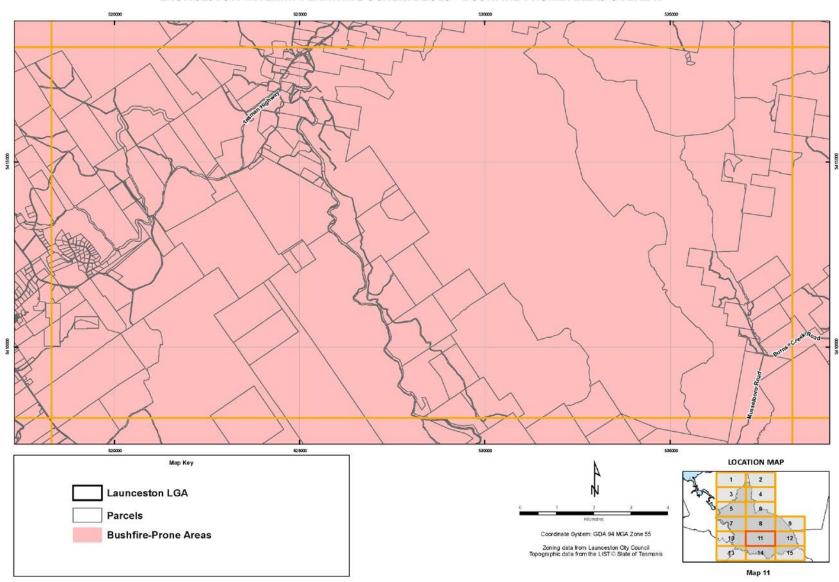


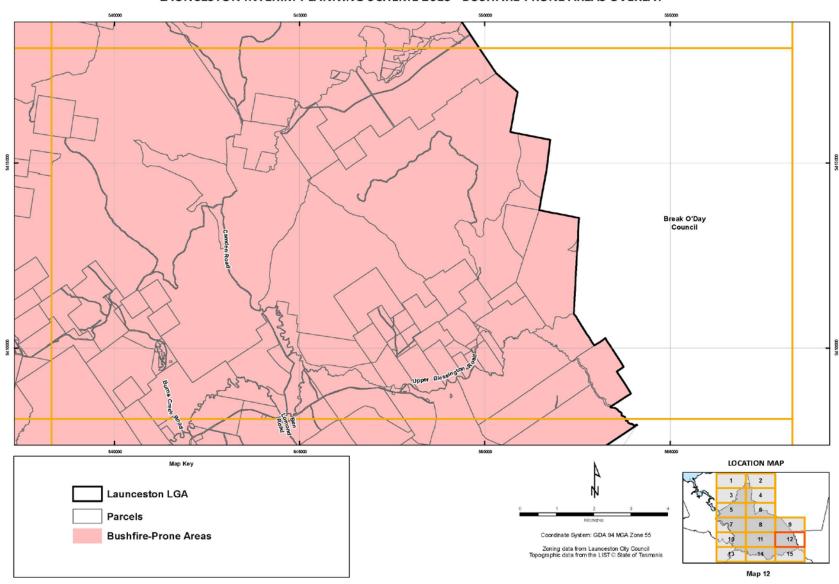


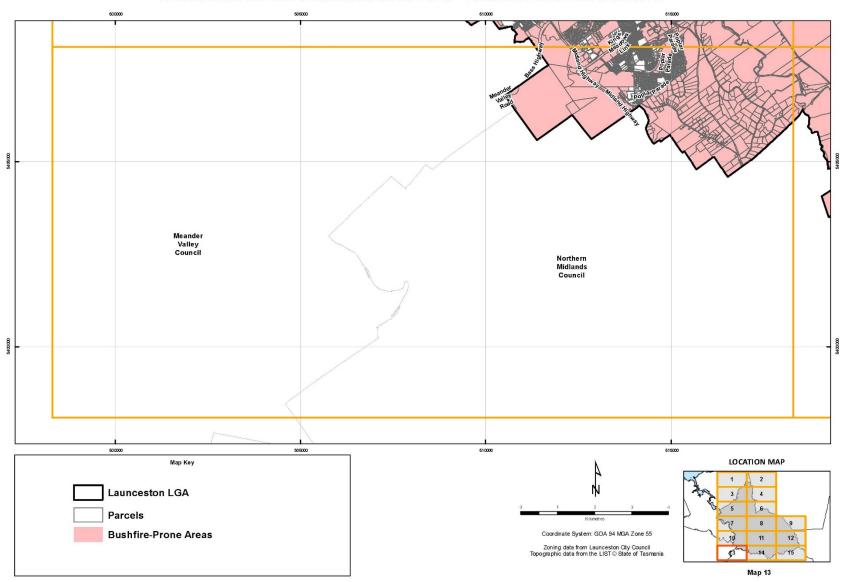


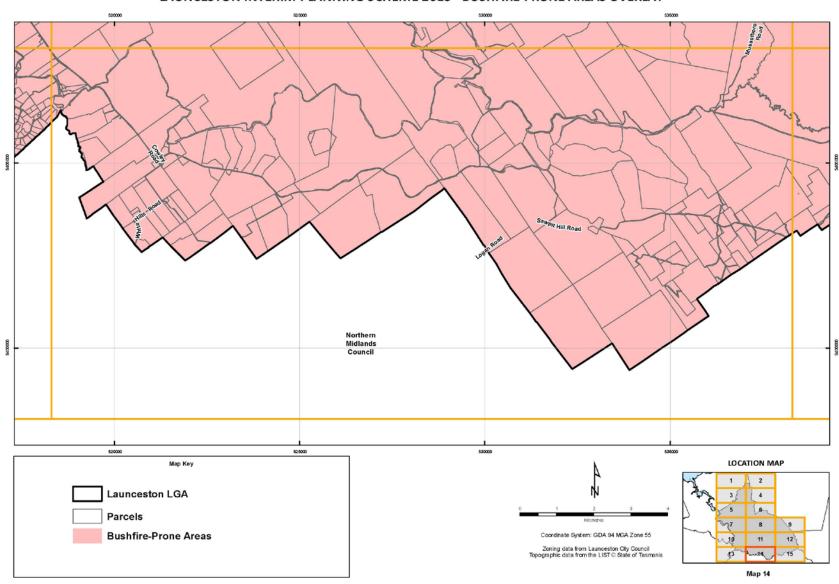


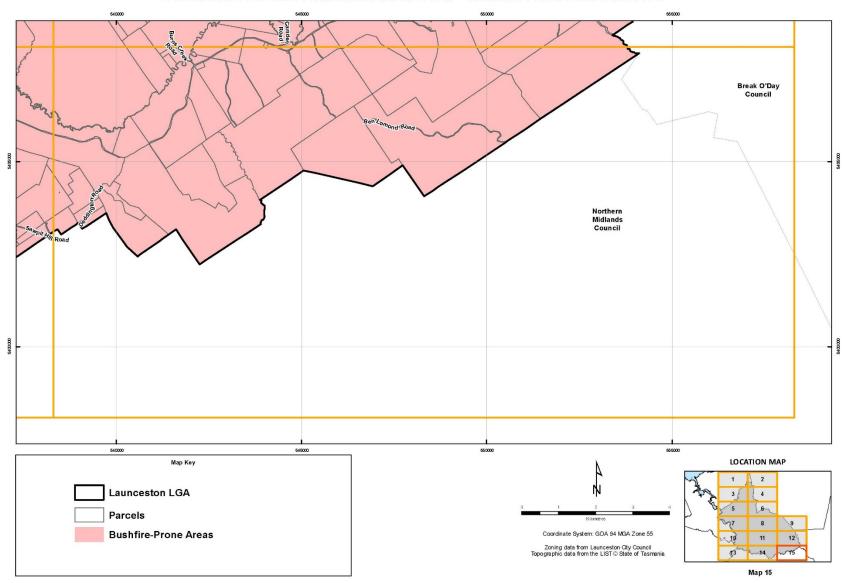


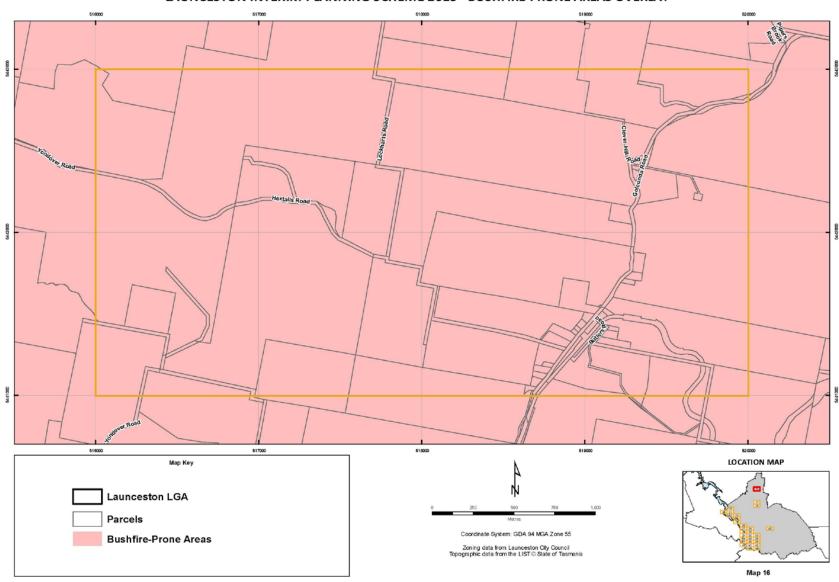


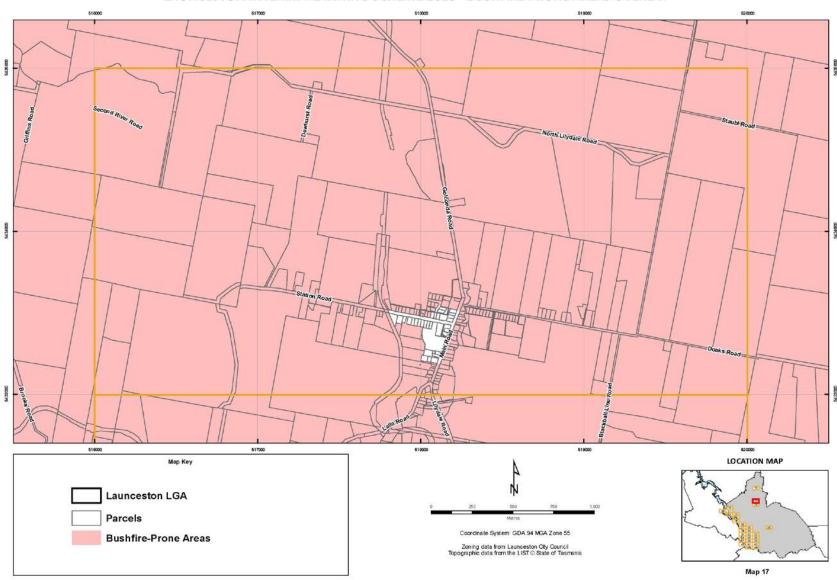


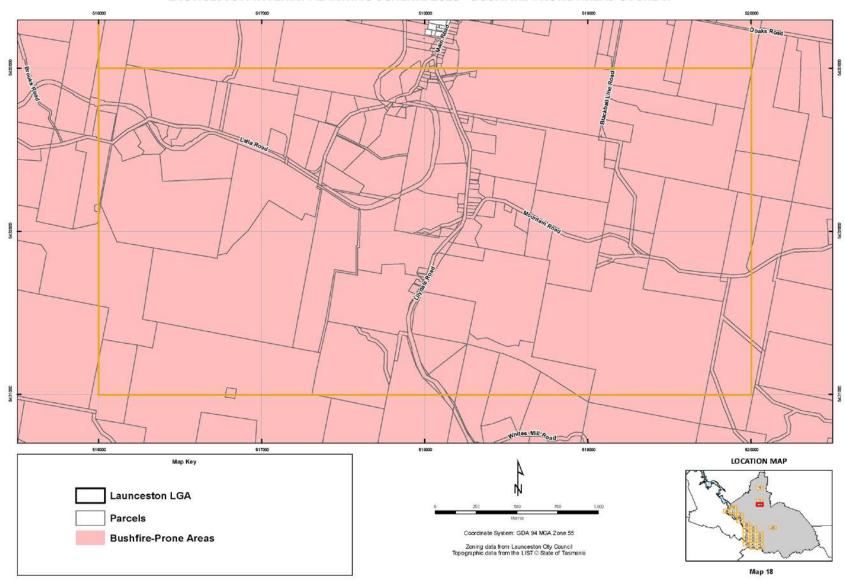


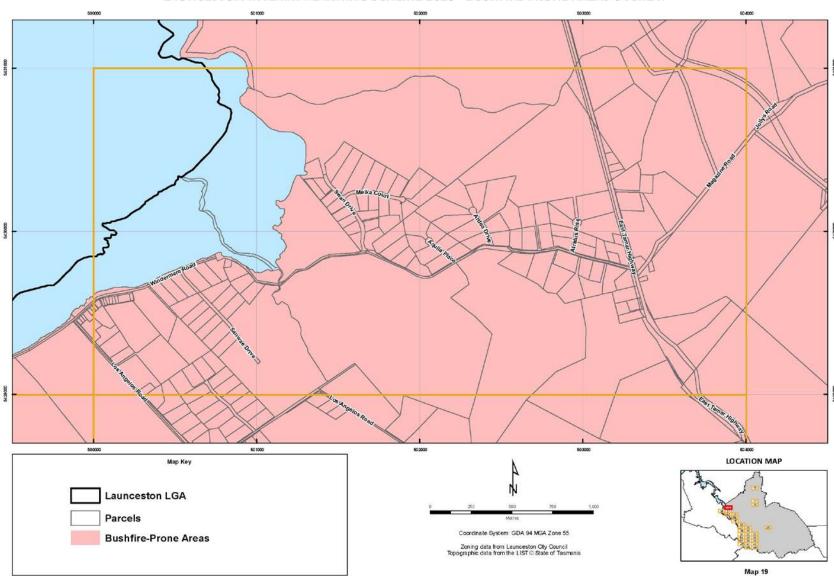


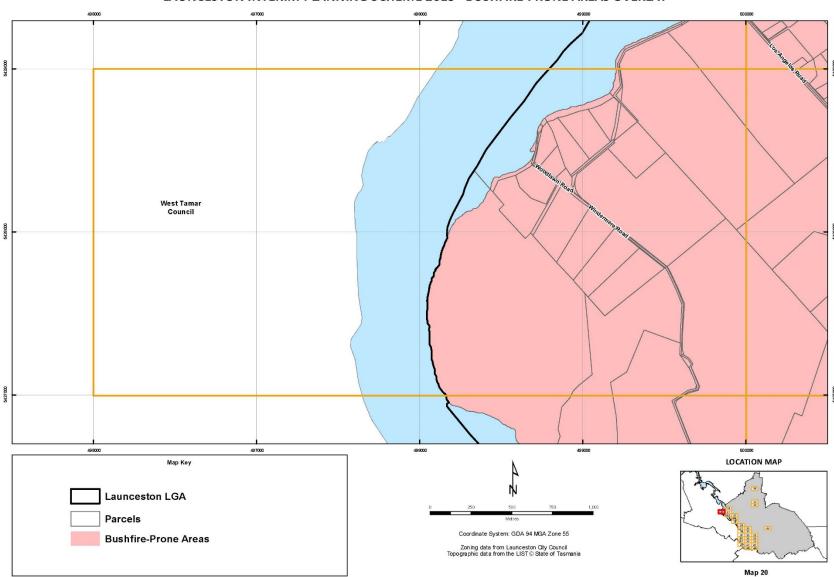


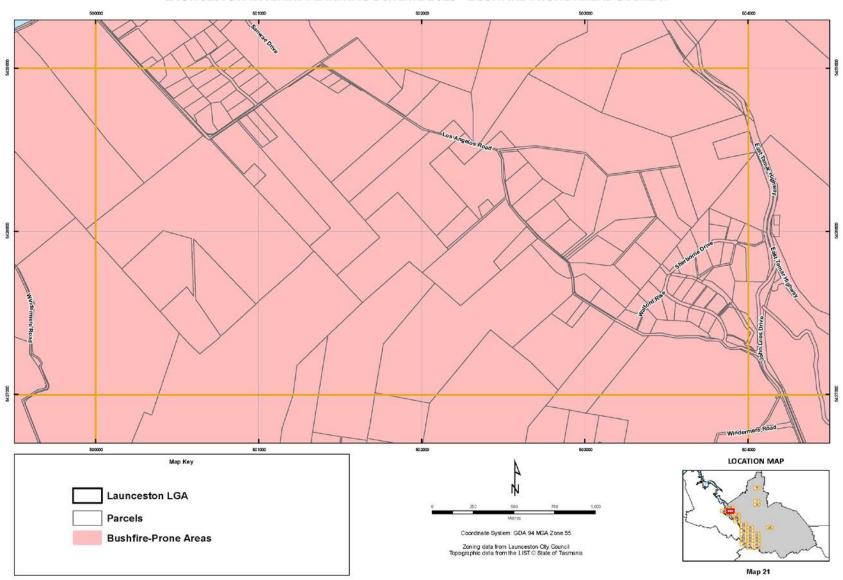


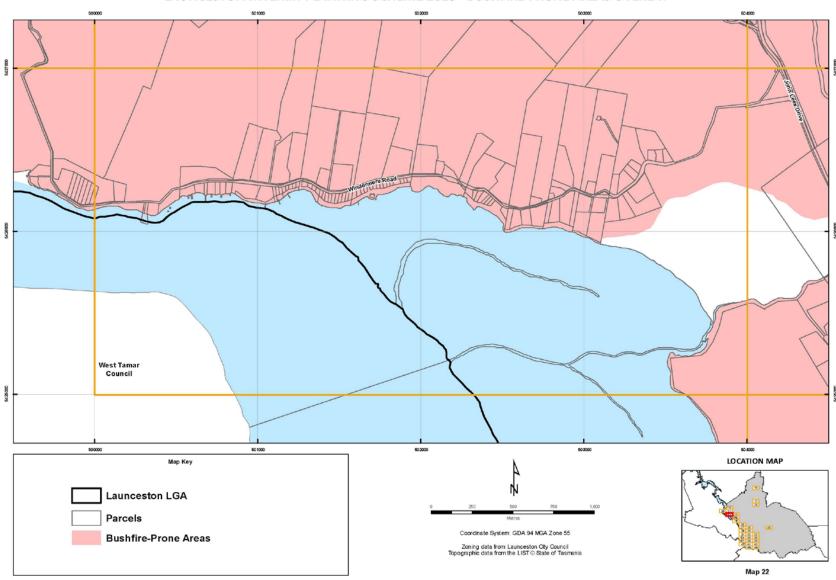


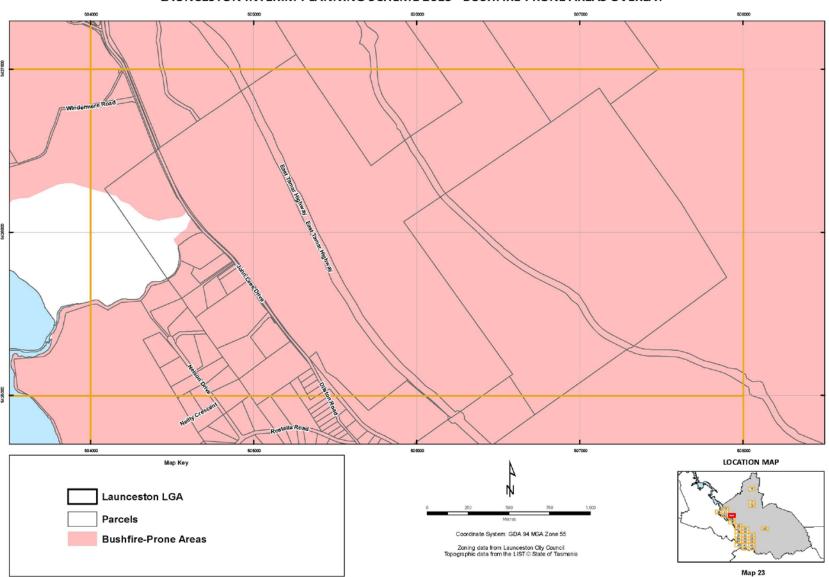


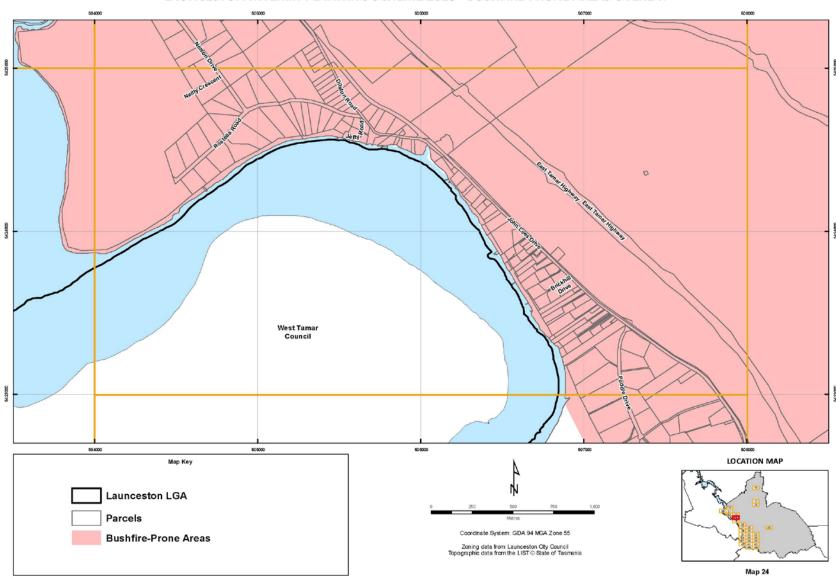


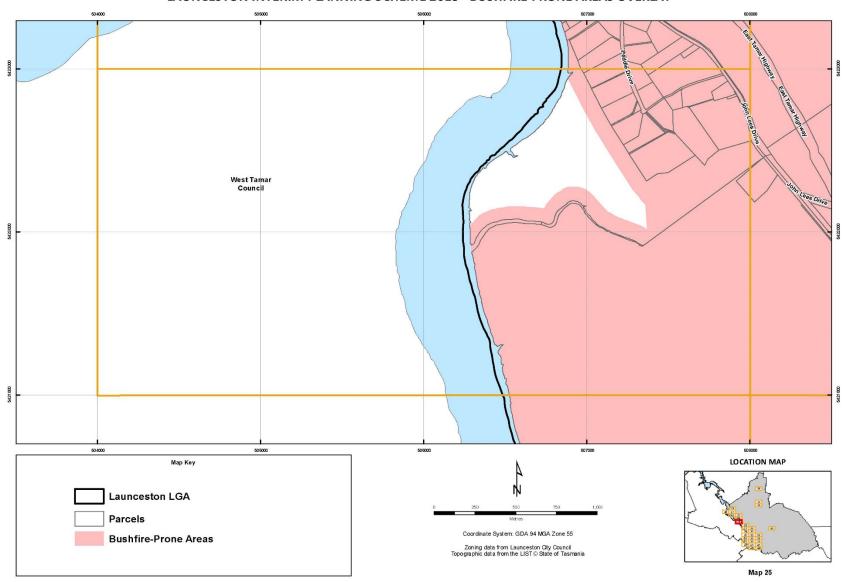


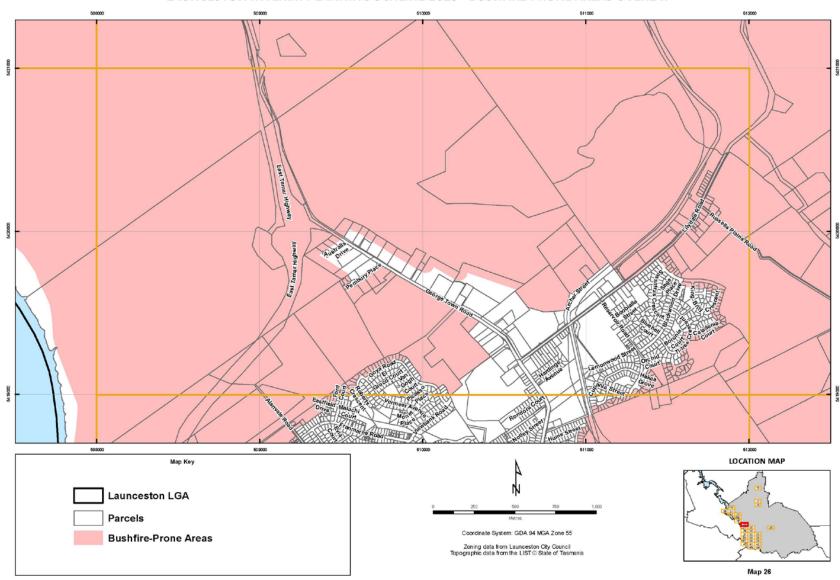


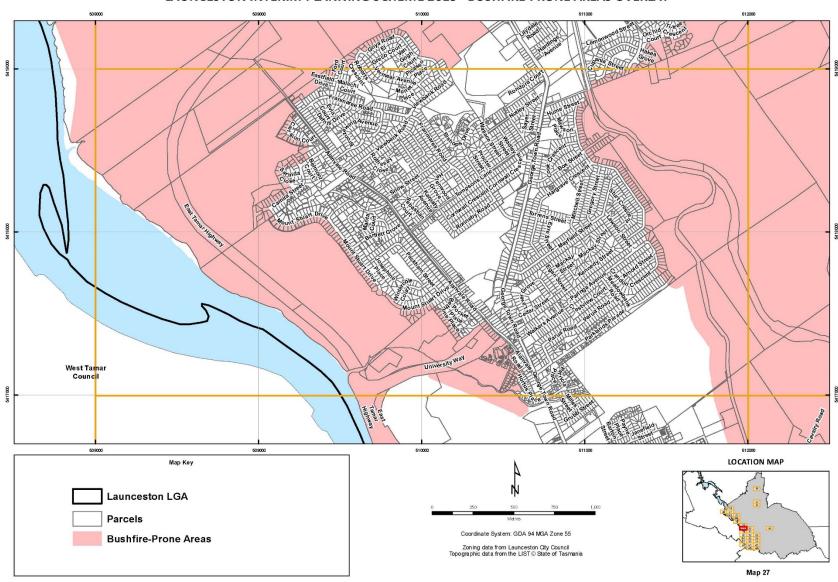


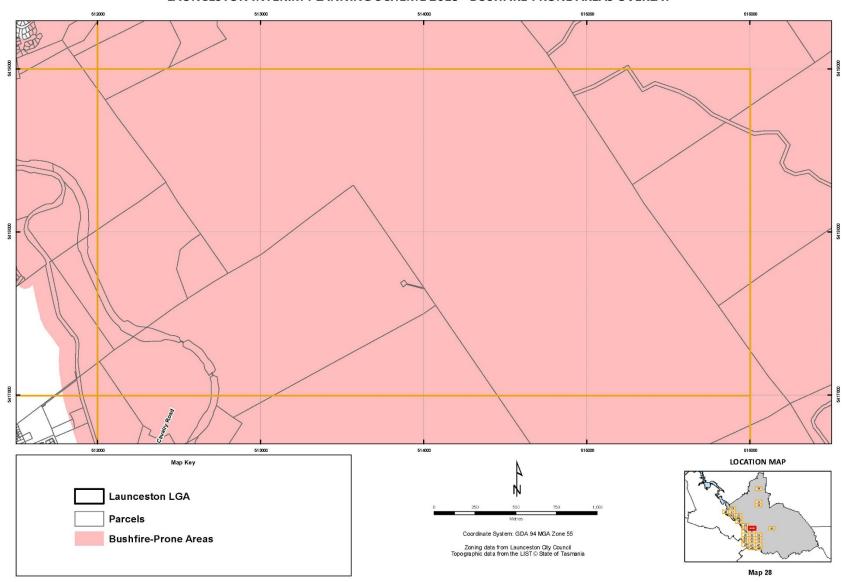


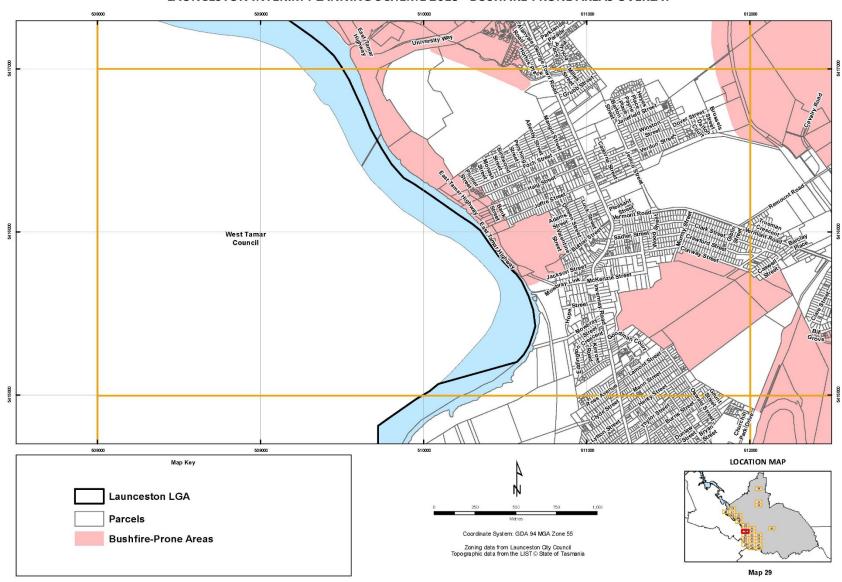


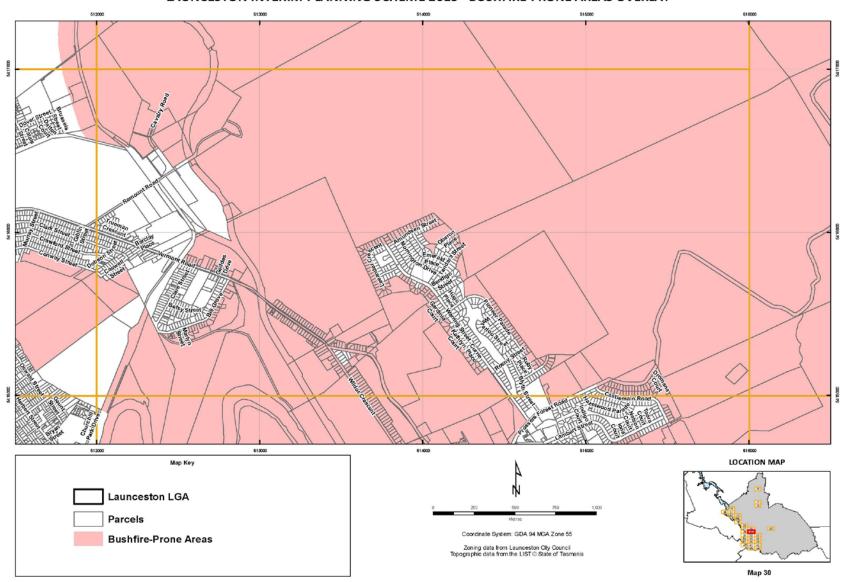


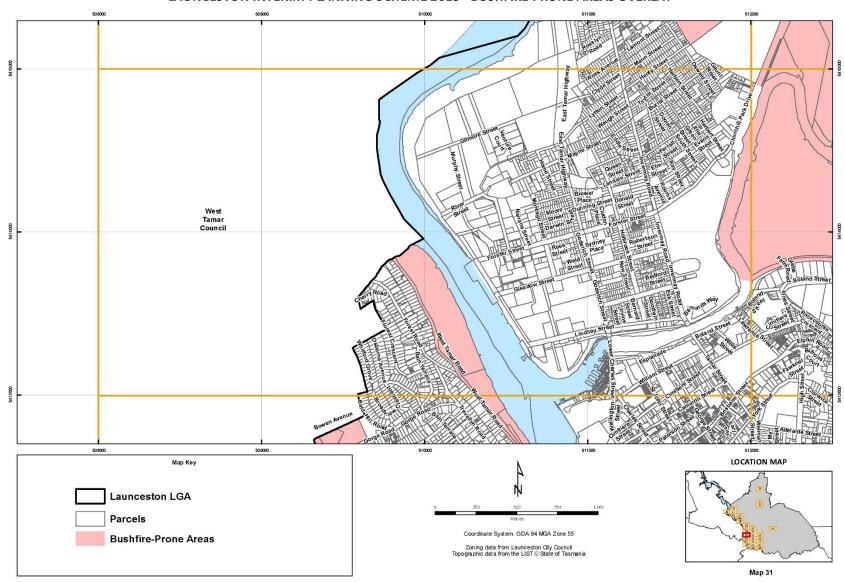


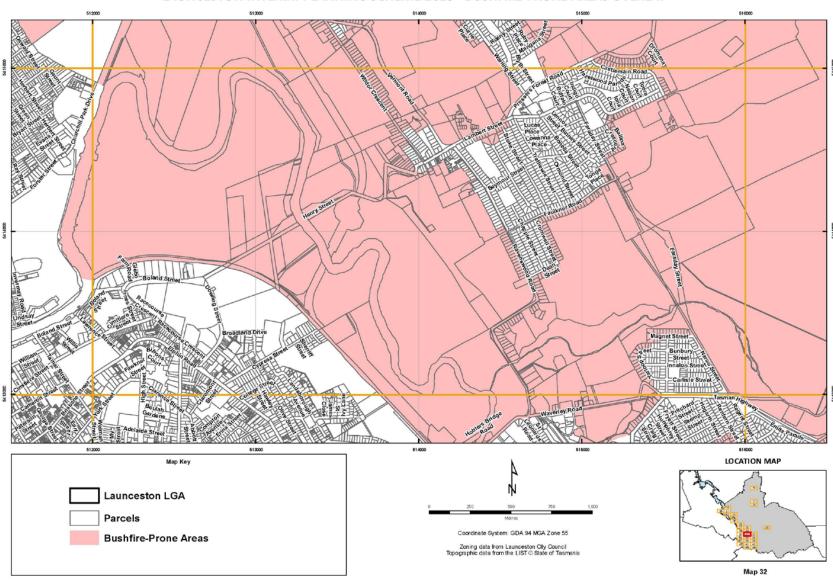


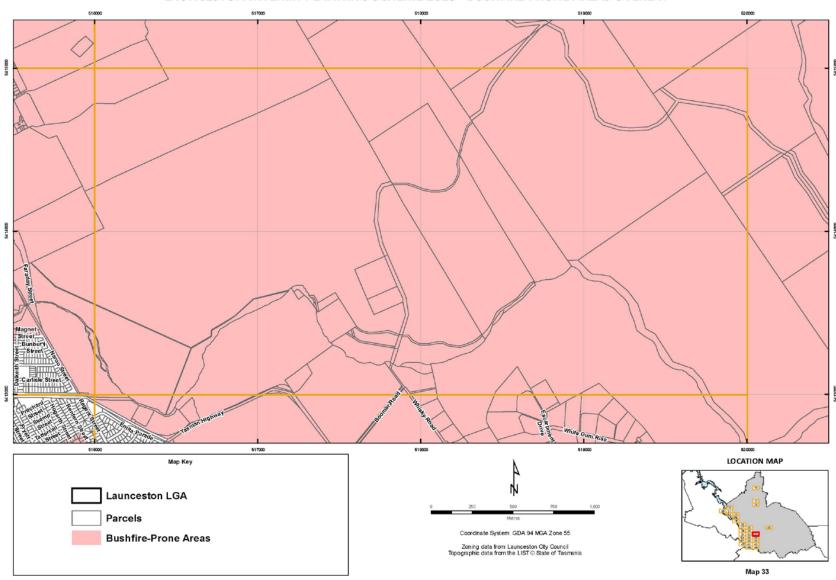


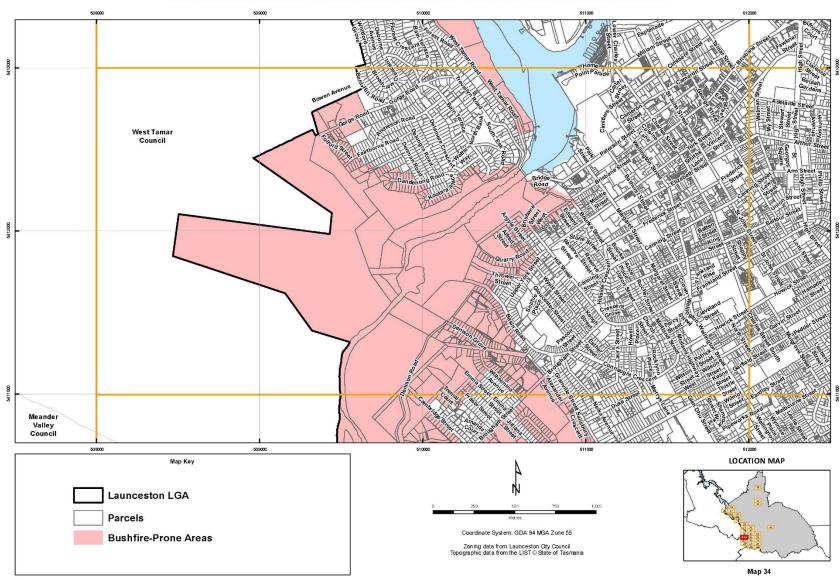


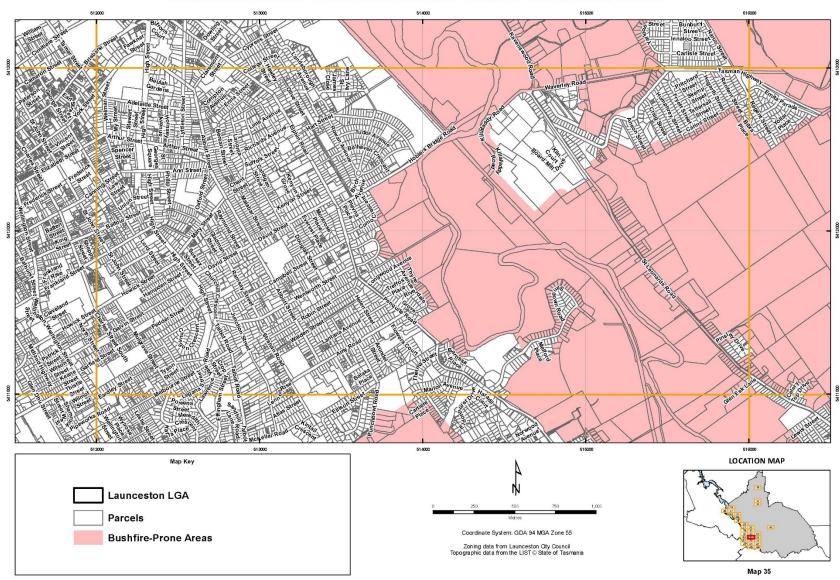


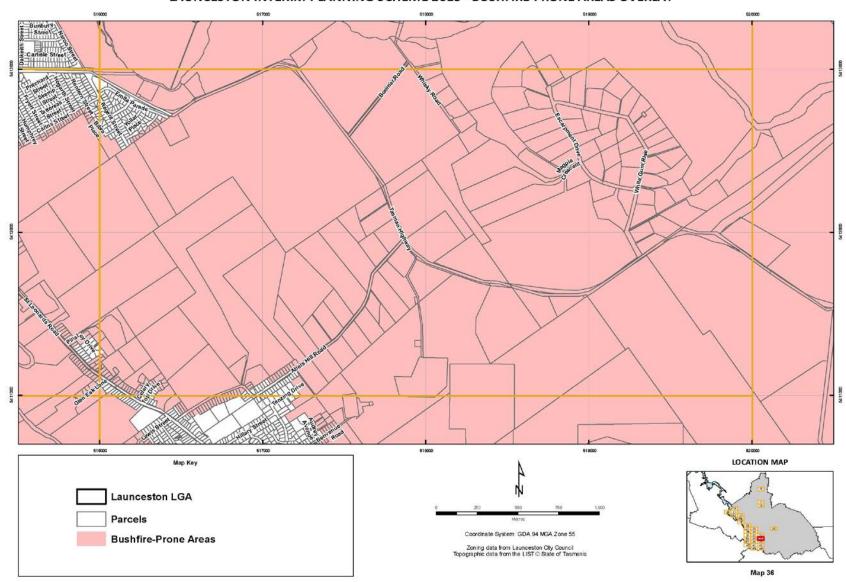


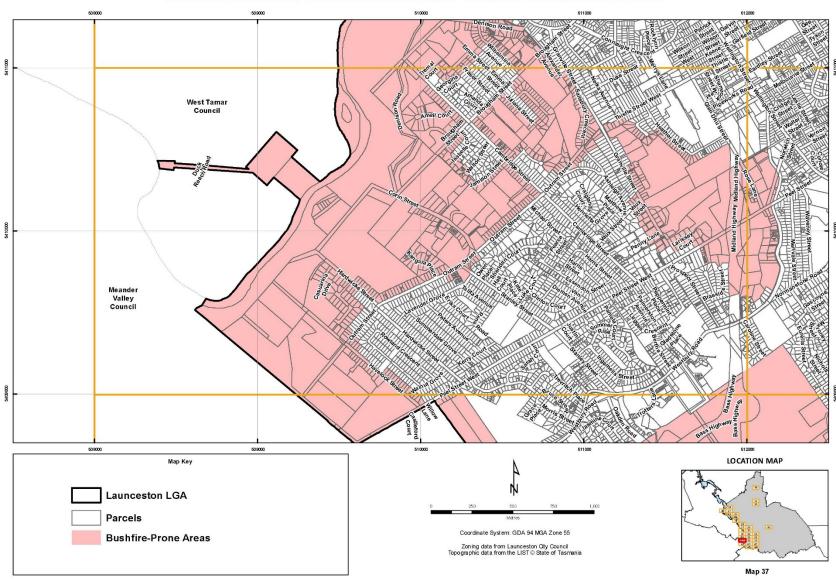


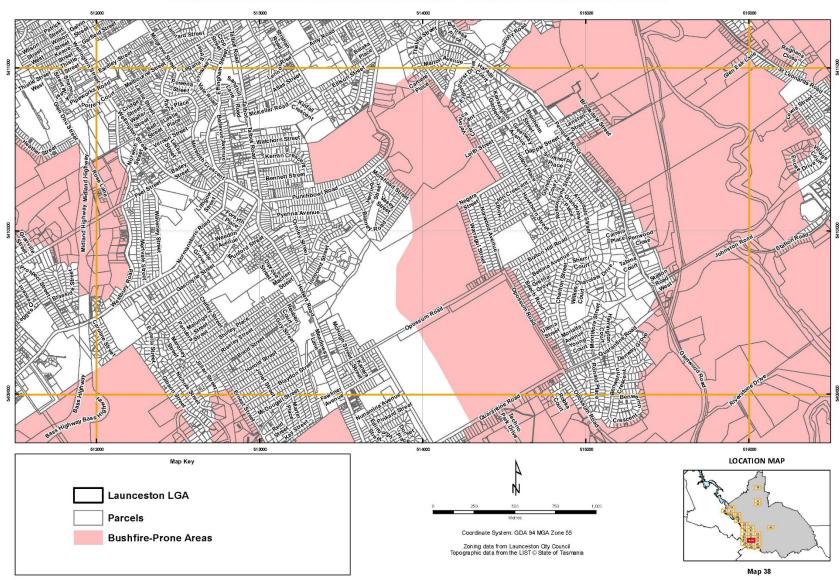




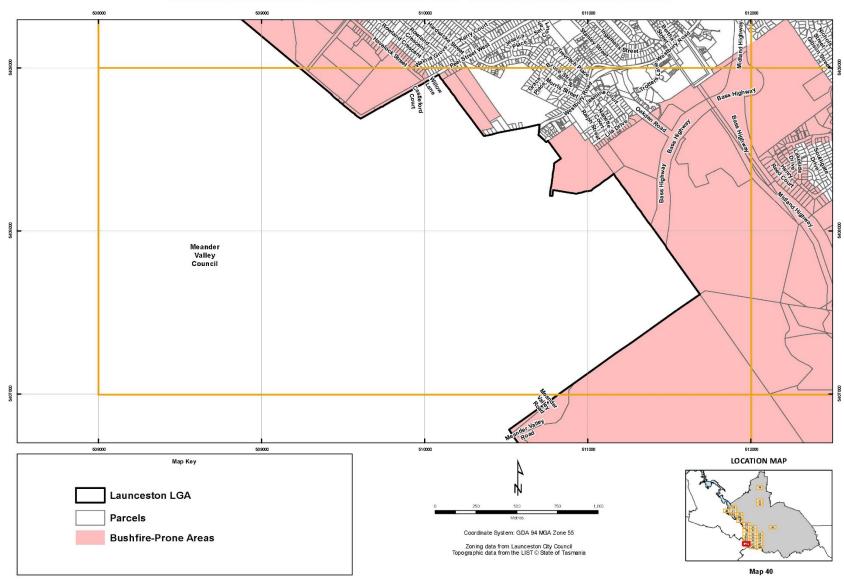


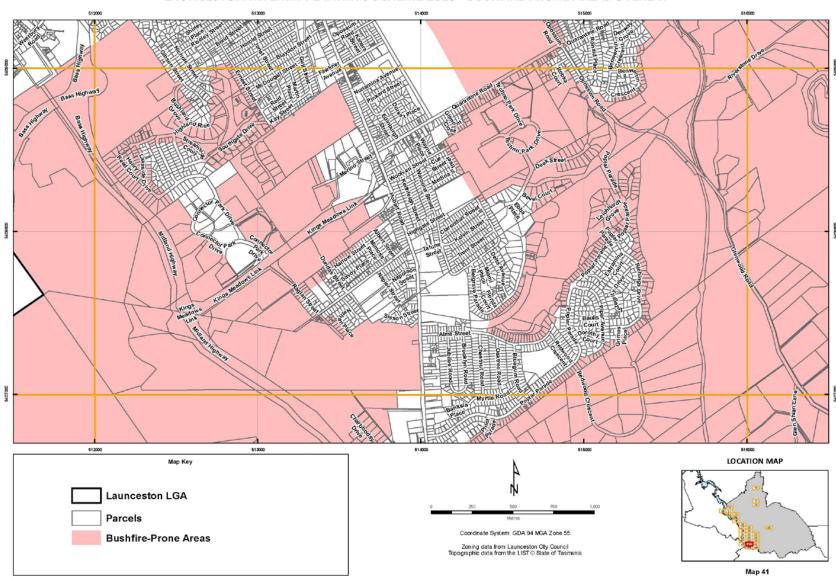


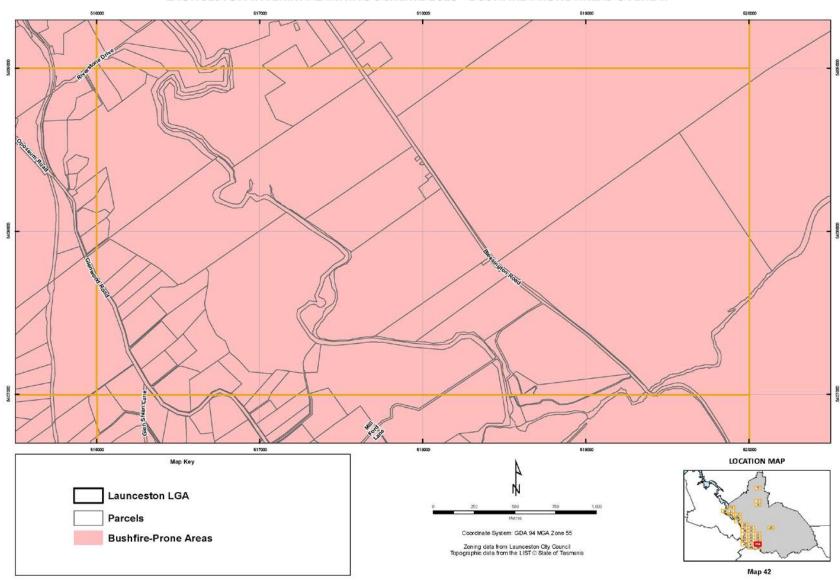


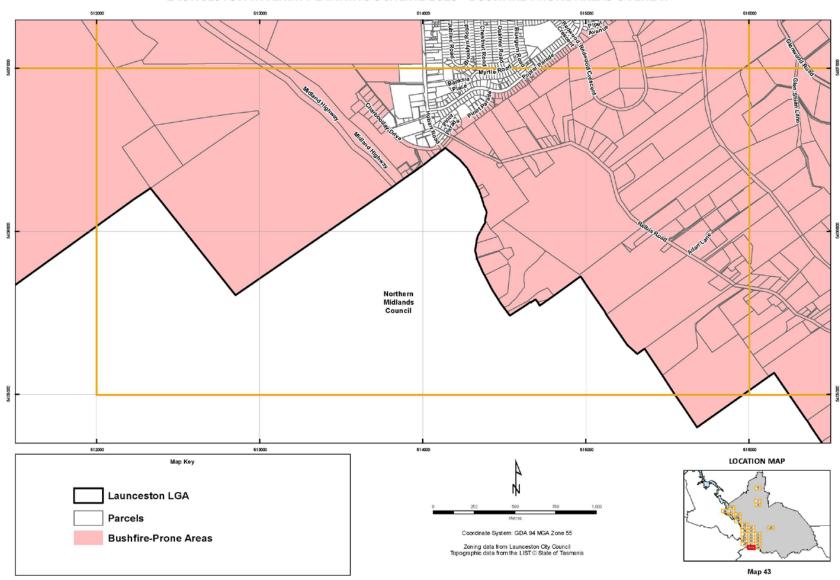


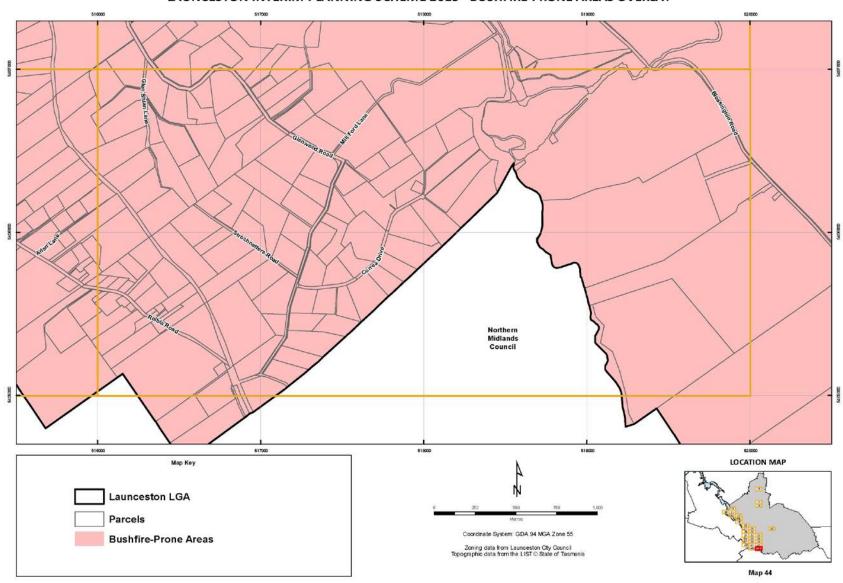


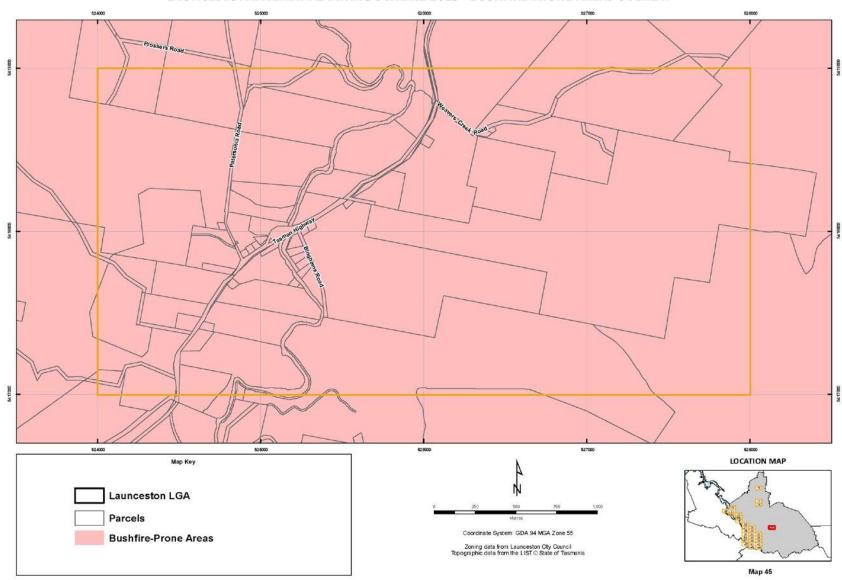












# TASMANIAN PLANNING COMMISSION

# **DECISION**

Planning scheme Launceston Interim Planning Scheme 2015

**Amendment** 45 - insert bushfire-prone areas overlay maps

Planning authority Launceston City Council

Date of decision 16 July 2019

# **Decision**

The draft amendment is modified under section 41(ab) of the Land Use Planning and Approvals Act 1993 as set out in Annexure A and is approved under section 42.

Peter Fischer

Delegate (Chair)

#### Note:

References to provisions of the Land Use Planning and Approvals Act 1993 (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015. The commencement day was 17 December 2015.

# **REASONS FOR DECISION**

# **Background**

#### **Amendment**

The draft amendment proposes to insert a Bushfire-Prone Areas Overlay map into the planning scheme.

#### Site information

The proposed overlay covers the majority of the rural areas of the municipality as well as the fringes of the city.

The mapping was prepared by the Tasmania Fire Service and Launceston City Council officers. The Tasmania Fire Service provided a planning report supporting the draft amendment.

## Issues raised in representations

One representation was received, which raised the following issues:

- The overlay mapping should exclude those areas on the fringe that are within 120 metres of a fire hydrant.
- Concerns the overlay will cause increases to insurance premiums.
- Concerns the overlay will have a negative impact on property values.
- Concerns with construction expenses.
- Queries whether the overlay can be quickly updated when a change of circumstances (such as new subdivision) reduces the risk.
- Queries whether the natural resource management sector has been consulted to identify any unintended consequences.
- Concern of whether the name 'Bushfire Prone Area Overlay' is onerous.
- Launceston residents with access to town water, fireplugs and local fire brigades should be able to expect their properties are safe from bushfires.

## Planning authority's response to the representations

The planning authority considered the representations and recommended that the amendment be approved without change.

## Date and place of hearing

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on the 11 June 2019 and at the Launceston City Council chambers via video conference.

## Appearances at the hearing

Planning authority: Mr Iain More, Town Planner

Representors: Mr Robert Holmes

Other: Mr Mark Chladil, Fire Management Planning Officer, Tasmania Fire Service

Mr Tom O'Connor, Planning & Assessment Officer, Tasmania Fire Service

Mr Bruce Williams (in support of Mr Holmes' representation)

# Consideration of the draft amendment

- 1. Under section 40 of the Land Use Planning and Approvals Act 1993 (the Act), the Commission is required to consider the amendment and the representations, statements and recommendations contained in the planning authority's section 39 report.
- 2. A hearing was convened to assist the Commission consider the issues in the representations.
- 3. The amendment has been initiated and certified by the Launceston City Council, in its capacity as planning authority, and further supported in the reports under sections 35 and 39.
- 4. Under section 32(1), in the opinion of the relevant decision-maker, a draft amendment:

(a)-(d) . . .

- must, as far as practicable, avoid potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area;
- (ea) must not conflict with the requirements of section 300;
- (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
- 5. Under section 32(2), the provisions of section 20(2)-(9) inclusive apply to the amendment of a planning scheme in the same manner as they apply to a planning scheme.
- 6. Section 300 includes that:
  - (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker, practicable, consistent with the regional land use strategy for the regional area in which is situated the land to which the scheme applies.
- 7. Section 30O(2)-(5) inclusive relates to the effect of amending a local provision with respect to common provisions. These matters are not relevant to the draft amendment as there are no implications for any common provisions.
- 8. Section 32(1)(e) is applicable as the draft overlay mapping extends to the boundary of the local government area.
- 9. Under section 32(1)(f), regional impacts of use and development permissible under the amendment have been considered with reference to the Regional Land Use Strategy of Northern Tasmania, 27 June 2018 (the regional strategy).

## Planning Directive No. 5.1 – Bushfire-Prone Areas Code

- 10. The Bushfire-Prone Areas Code (the code) applies to all interim planning schemes through Planning Directive No. 5.1. In the report under section 35, the planning authority noted the bushfire-prone areas mapping is associated with the code, which defines a bushfire-prone area as meaning:
  - (a) Land that is within the boundary of a bushfire-prone area shown on an overlay on a planning scheme map; or
  - (b) Where there is no overlay on a planning scheme map, land that is within 100m of an area of bushfire-prone vegetation equal to or greater than 1ha.

- 11. In the supporting report, the Tasmania Fire Service advised that where no mapping exists, planning authorities must rely on an interpretation of sub-clause (b). Incorporation of the overlay map into the planning scheme will mean sub-clause (a) is used, which will reduce the amount of assessment required to determine whether the code applies.
- 12. The Tasmania Fire Service report describes the methodology used to prepare the mapping for the overlay. The Tasmania Fire Service states that during the mapping process, the overlay was refined through evaluation of local conditions, resulting in a significant reduction of private land parcels affected by the code. They submit that the overlay will reduce costs and delays associated with the approval process for these properties.

## Impact on property values

- 13. Prior to the hearing, Mr Holmes submitted further information to clarify his issues with the draft amendment. Mr Holmes noted that he does not oppose the application of the code under sub-clause (b), as 'properties do not need to be identified as bushfire prone unless an application is made for a permit.' However he is concerned that the proposed mapping will mean that affected properties are classified as bushfire prone, regardless of whether an application is made. He considers that such classification will affect property values unnecessarily, particularly in urban fringe areas.
- 14. At the hearing, Mr More and Mr O'Connor agreed that the introduction of mapping does not change any planning or building regulations, but instead spatially defines the existing regulations. Mr O'Connor stated that the existing mechanism for determining a bushfire-prone area is difficult for the public to interpret and has not been interpreted consistently. He also noted that roughly 5000 lots in Launceston will no longer be considered bushfire-prone through refinement during the mapping process.
- 15. Mr Holmes was provided opportunity to submit evidence from an accredited valuer that the overlay, and application of sub-clause (a), would impact on property values. Mr Holmes later advised that he was not able to provide any further information.
- 16. Mr Chladil provided a further submission which reviewed available evidence on the impact on bushfire controls on property values in Australia, and also undertook a small case study in the Clarence municipality, which has been subject to a bushfire-prone areas overlay since 2015. The submission found some reports of expected decrease in property values, but 'little evidence about the extent to which it has occurred'.
- 17. The submission stated that some properties, both interstate and within Tasmania, have been devalued after a Bushfire Attack Level assessment showed that the Bushfire Attack Level would result in significant costs to a development. Mr Chladil noted that this is not an outcome of implementing overlay mapping, as Bushfire Attack Level assessments are required under the existing regime.
- 18. The case study looked at property value changes before and after the implementation of the Bushfire-Prone Areas Overlay mapping in Clarence for a small study area around Oceana Drive adjacent to the Rokeby Hills. Mr Chladil noted:

The case study has limitations but the data is very consistent. Ninety-two percent of properties surveyed had increased sale prices, with the bushfire-prone area outperforming the not bushfire-prone area in sales, and the reverse in AAV, but neither metric was a significant result. A wider study may come to a different conclusion but this is unlikely given the available literature and the experience in the other jurisdictions.

19. Mr Chladil concluded:

...the likelihood of decreased property values is very low but possible and that any reduction would not likely persist for any significant time. TFS also concludes that not publishing the BPAO [Bushfire-Prone Area Overlay] would result in a lost opportunity to improve community safety and reduce the impacts and costs of future bushfires in the City of Launceston.

#### Commission's consideration

- 20. The Commission agrees with the planning authority and the Tasmania Fire Service that the introduction of the overlay mapping will clarify the application of the code and reduce unnecessary constraints on those properties no longer affected by the code.
- 21. The Commission is satisfied with the methodology used to prepare the mapping and finds that the overlay accurately reflects land within a bushfire-prone area.
- 22. The Commission notes that the Tasmania Fire Service considers decreased property values are possible but unlikely. No other evidence was presented to support the contention that the overlay mapping would cause devaluation. The Commission agrees with the Tasmania Fire Service that the benefits of the overlay mapping, including to community safety, outweigh any potential devaluation to property.

## Strategic justification

- 23. In the report under section 35, the planning authority refers to the Tasmania Fire Service report for assessment against the regional strategy.
- 24. The Tasmania Fire Service finds the following policies and actions of the regional strategy to be relevant to the draft amendment:

Policy NH-P03 – Ensure that future land use and development minimises risk to people and property resulting from bushfire hazard.

Action NH-A05 – Include controls in planning schemes based on current best practice to minimise risk to persons and property resulting from bushfire hazard.

Action NH-A06 – Ensure subdivision design responds to bushfire hazard risks by providing for alternative access, building setbacks and buffer distances based on current best practice.

- 25. The Tasmania Fire Service considers that inclusion of the overlay within the planning scheme will facilitate consistency in the permit approvals process, by providing a clear mechanism to trigger the application of the code. The Tasmania Fire Service concludes that the overlay is consistent with Strategy NH-PO3 and its associated actions.
- 26. The Tasmania Fire Service also refers to the City of Launceston Strategic Plan 2014-2024, noting the following goals and key directions as relevant to the draft amendment:

Goal 2 – A city where people choose live

Key Direction 2.3 – To contribute to enhanced public health and amenity to promote a safe and secure environment.

Goal 5 – A city that values its environment

Key Direction 5.2 – To manage the risks of climate-related events, particularly in the area of stormwater management.

Key Direction 5.3 – To enhance community awareness and resilience to uncertain weather patterns.

- 27. The Tasmania Fire Service considers that the draft amendment meets Goal 2 by supporting the planning and building requirements for bushfire protection, the aim of which is to reduce risk to life and property.
- 28. The Tasmania Fire Service considers that Goal 5 is supported as the draft amendment will increase awareness of bushfire hazards, and will also assist Council to prioritise natural asset and hazard maintenance works.

#### Commission's consideration

29. The Commission agrees with the Tasmania Fire Service strategic justification, and finds that the draft amendment is, as far as is practicable, consistent with the regional strategy and the City of Launceston Strategic Plan 2014-2024.

## Avoiding potential for conflict with use and development of the adjacent area

30. In considering the requirements of section 32(1)(e), the Tasmania Fire Service note that the draft amendment only clarifies the application of the Bushfire-Prone Areas Code requirements and does not introduce any new standards. They consider that the draft amendment will therefore not create any new land use conflicts and that it therefore satisfies the requirements of section 32(1)(e).

### Commission's consideration

31. The Commission considers that, as the draft amendment does not allow for additional development or use, there is no potential for land use conflicts with use and development applying to the adjacent area. The Commission agrees with the Tasmania Fire Service that the amendment is consistent with section 32(1)(e).

## State Policies and Resource Management and Planning System Objectives

32. The Commission finds that no State Policies are relevant to the draft amendment and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1.

#### Modifications required to draft amendment

- 33. The overlay maps certified by the planning authority contain the following drafting errors:
  - Discrepancies in the depiction of the boundary of the local government area at Mount Direction and Pipers Brook.
  - The application of the overlay at Olus Place, Newham is disguised by a label.

The Commission therefore modifies the draft amendment to correct these minor errors.

# **Decision on draft amendment**

34. Subject to the modifications described above, the Commission finds that the draft amendment is in order and gives its approval.

### **Attachments**

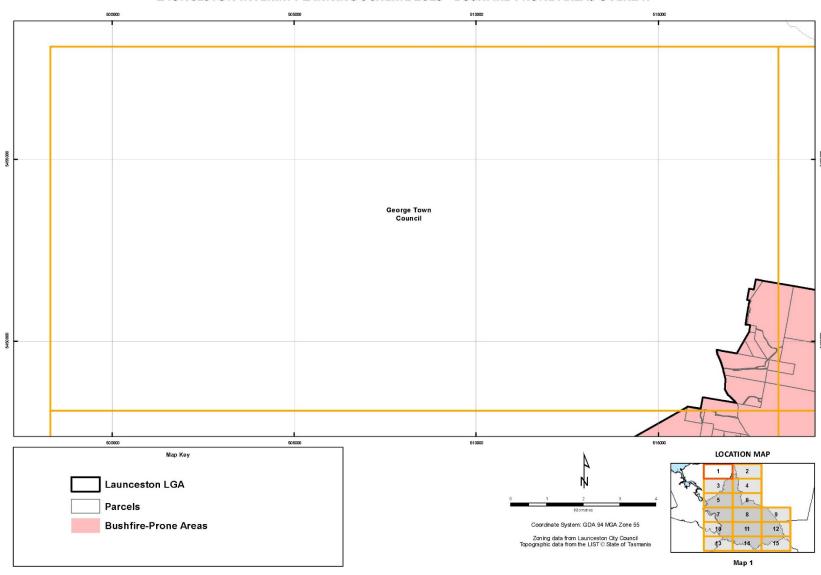
Annexure A - Modified amendment

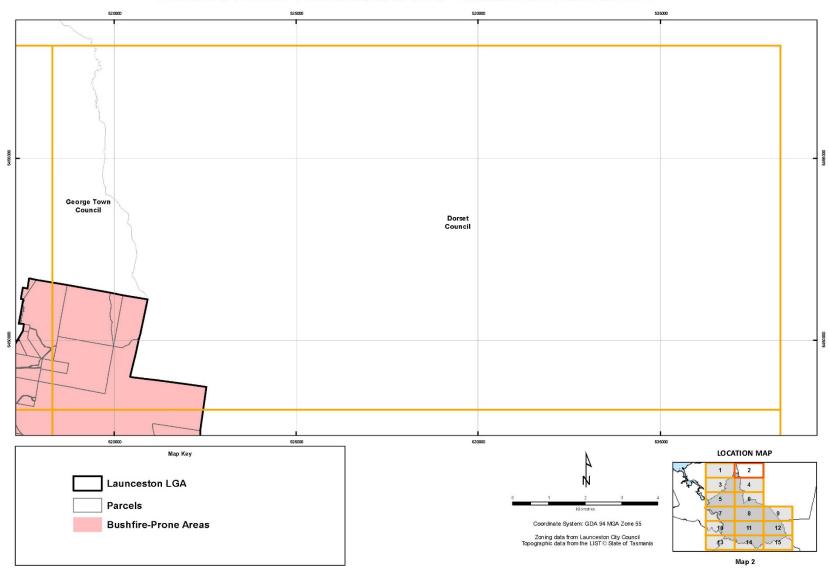
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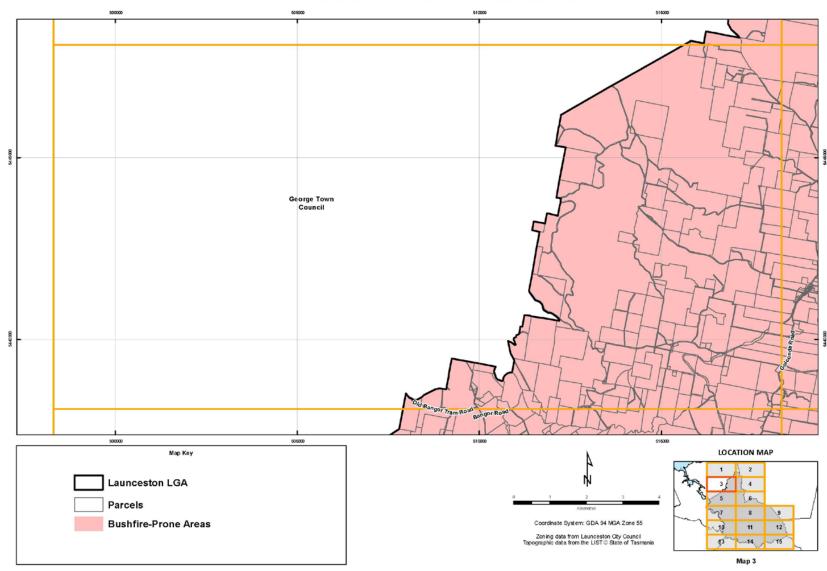
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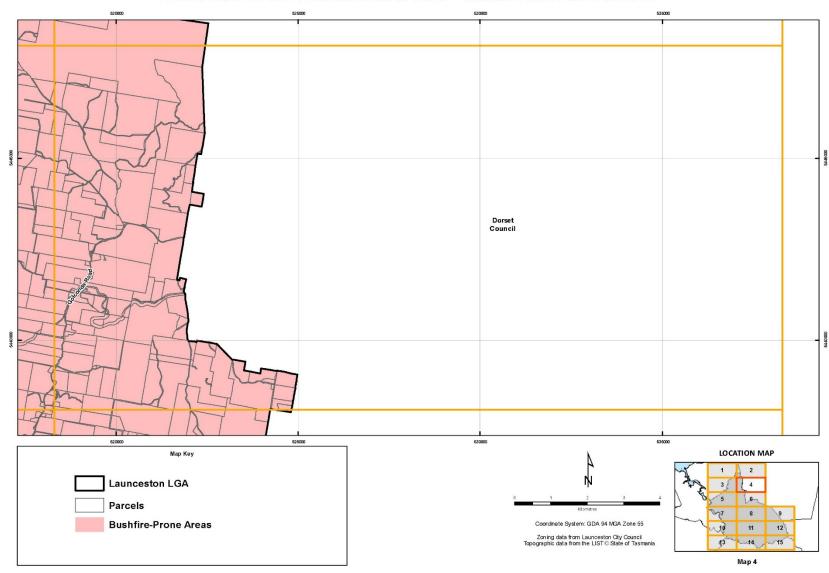
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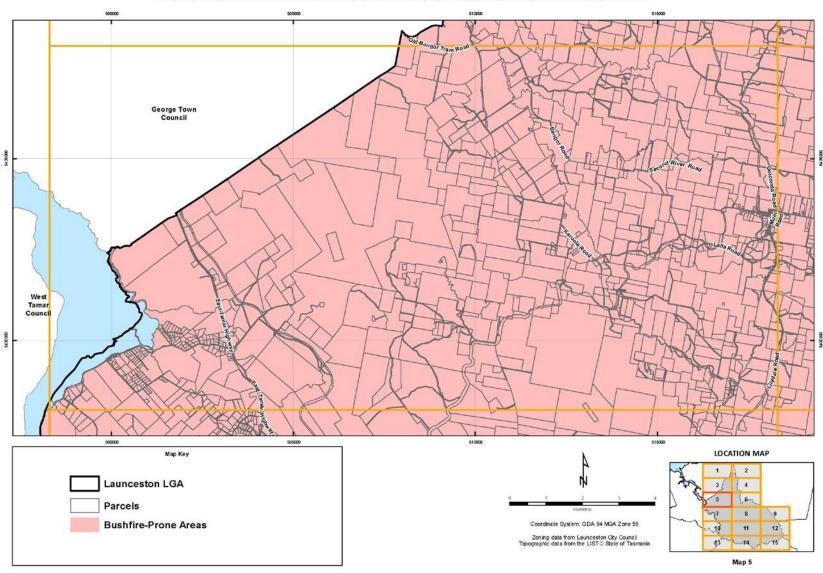
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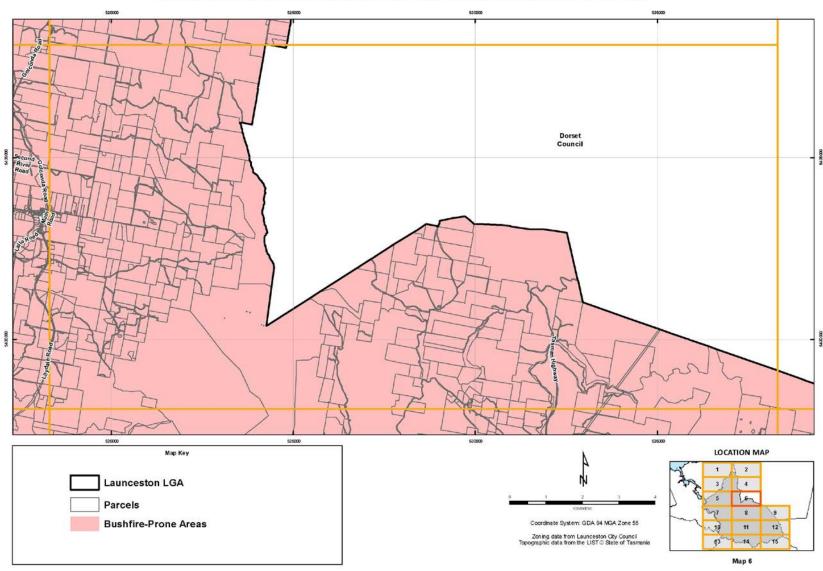


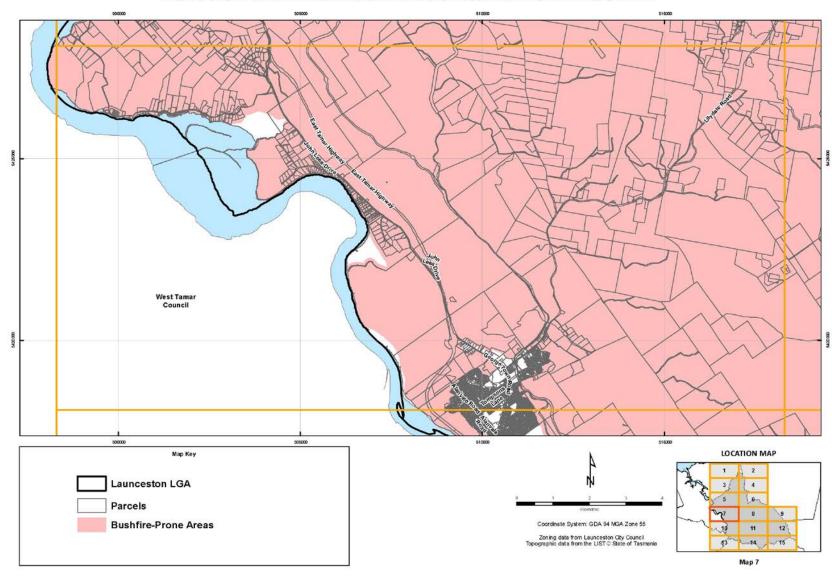


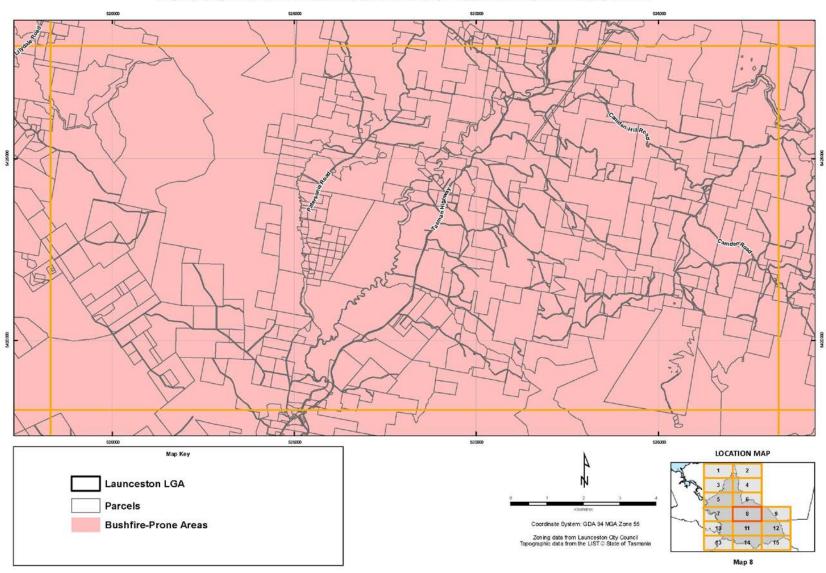


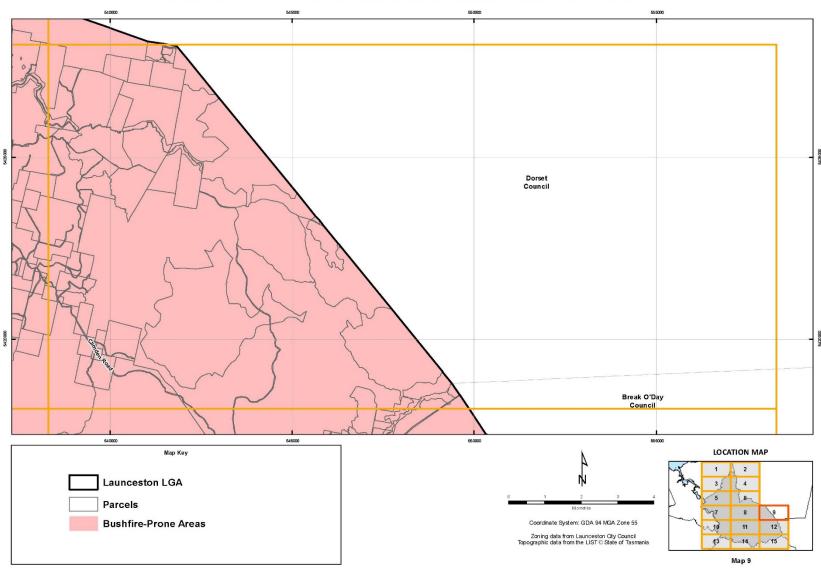


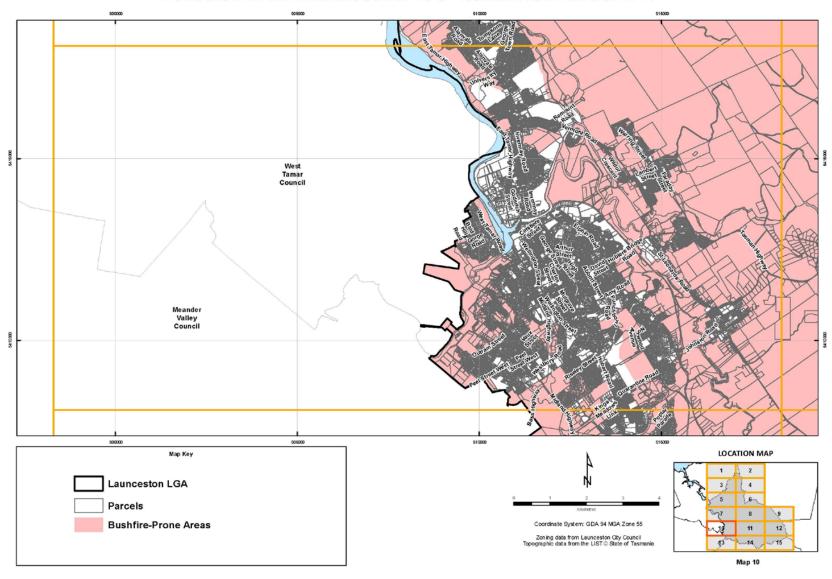


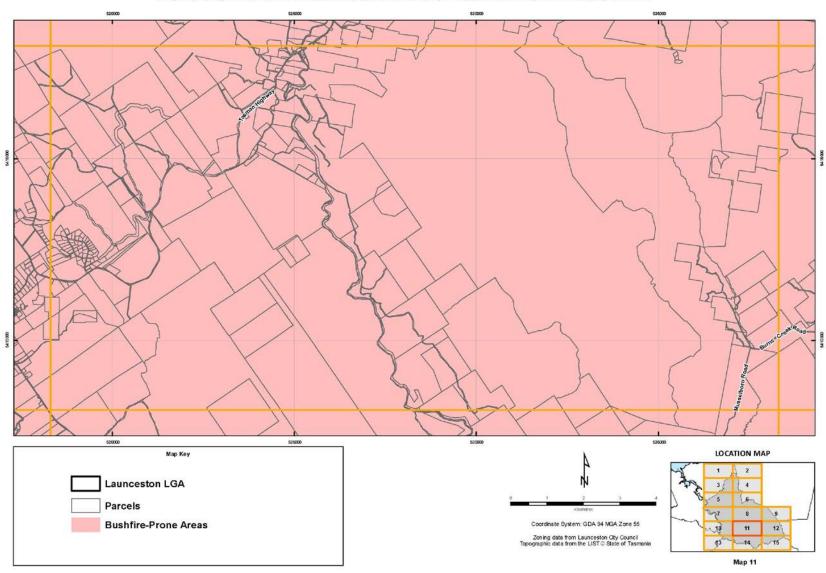


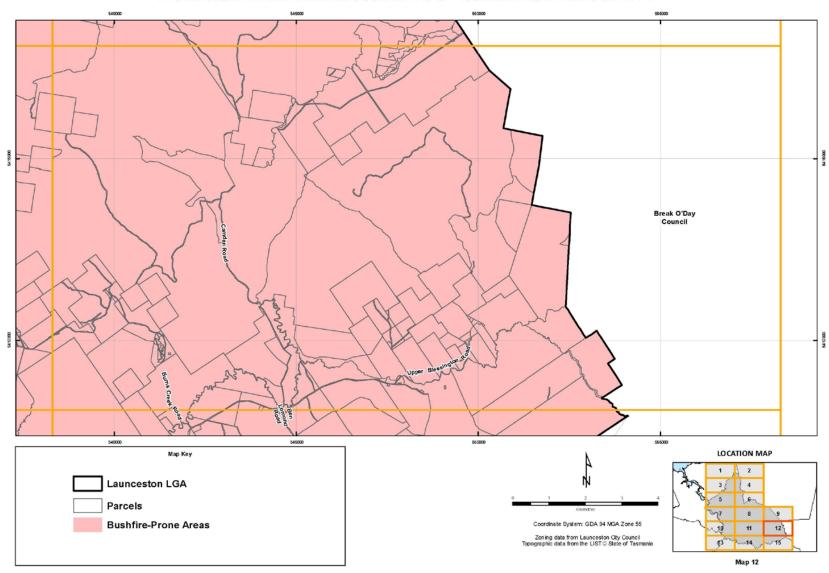


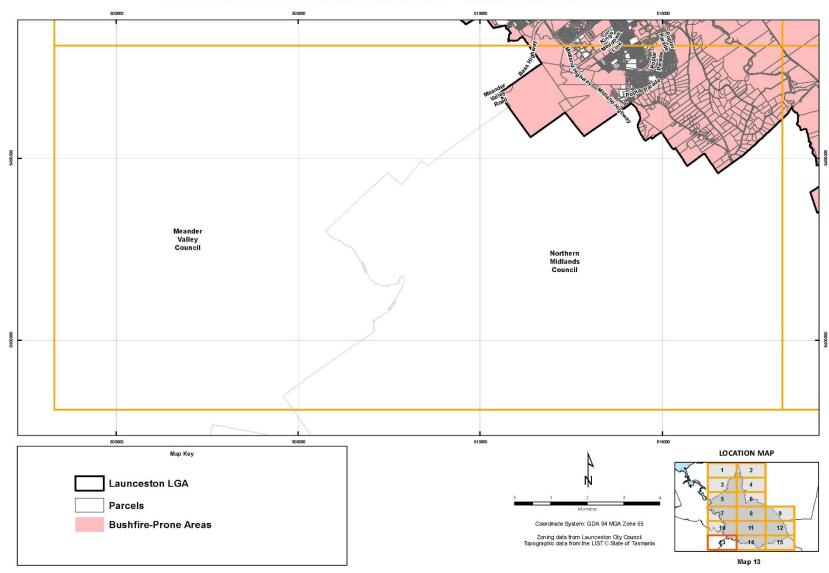


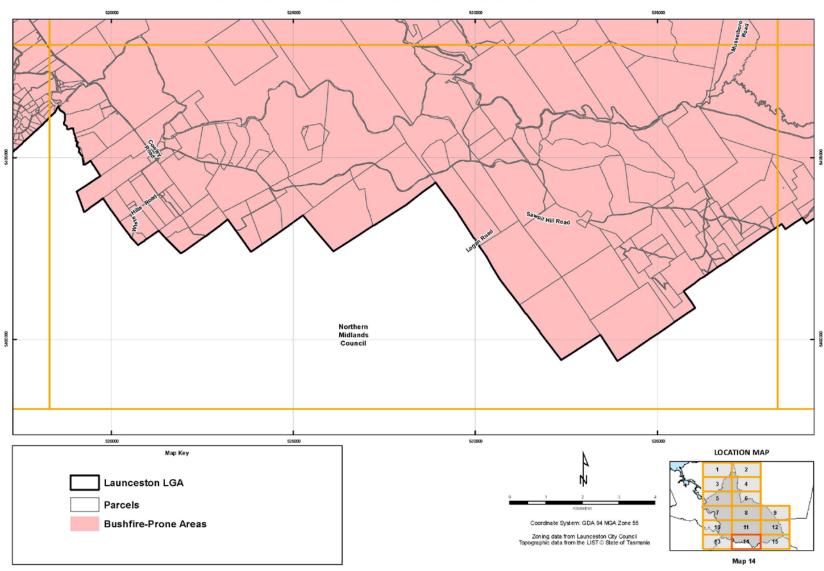


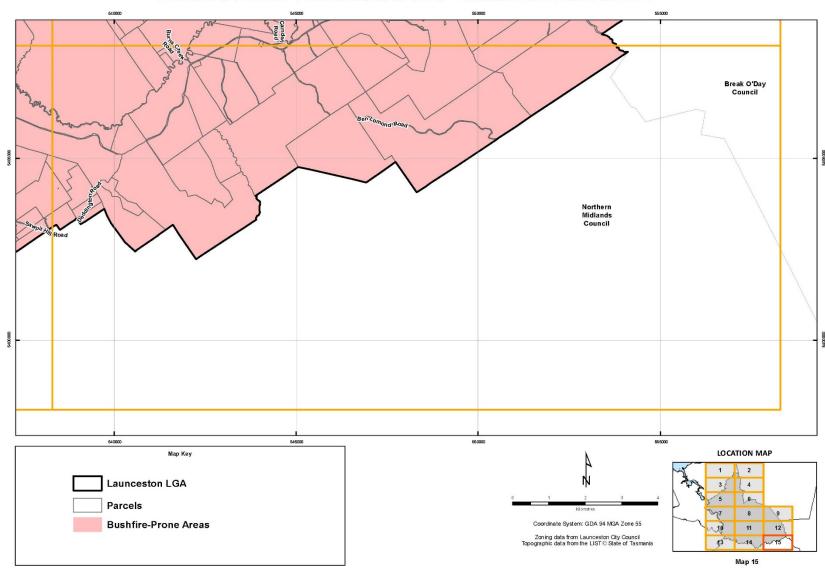


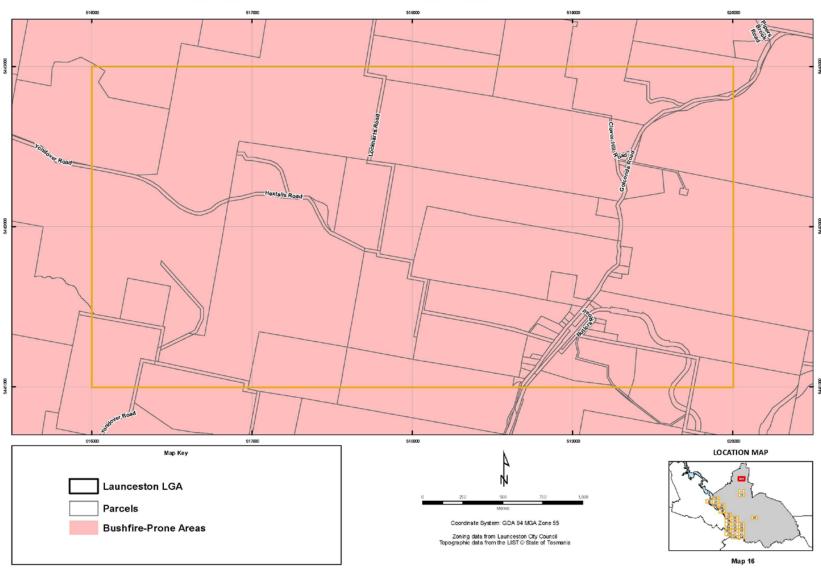


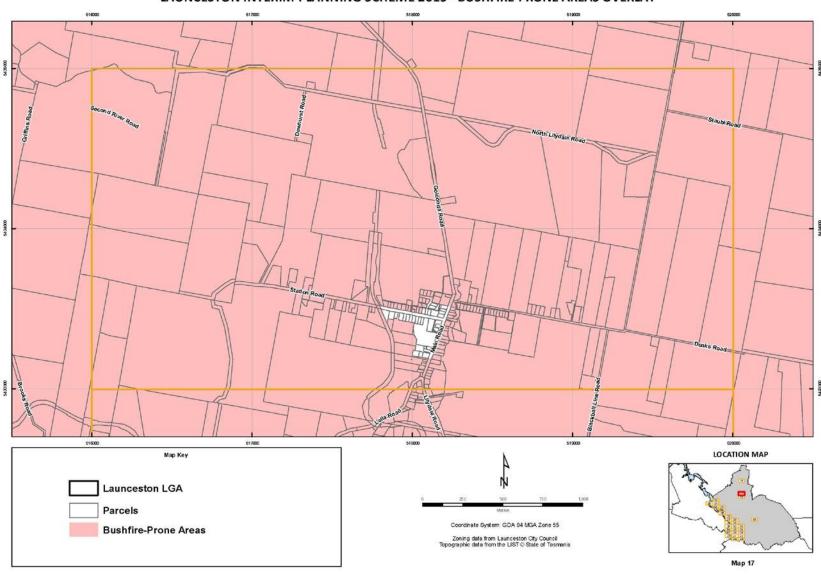


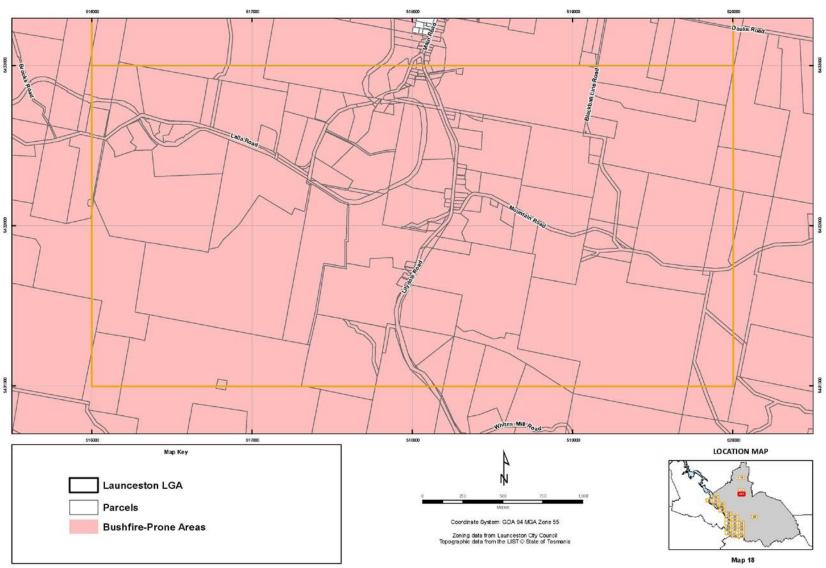


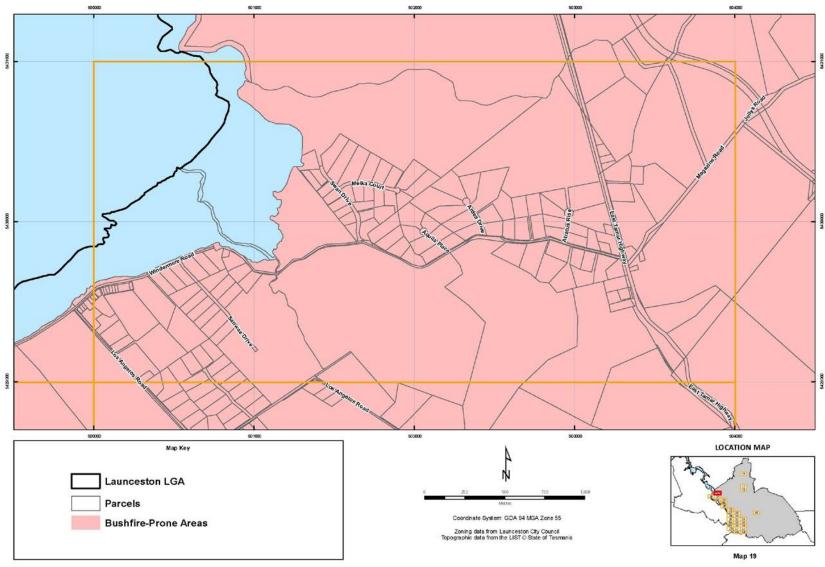










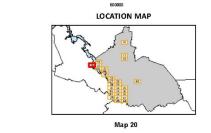


# West Tamar Council

Coordinate System: GDA 94 MGA Zone 55

Zoning data from Launceston City Council Topographic data from the LIST © State of Tasmania

LAUNCESTON INTERIM PLANNING SCHEME 2015 - BUSHFIRE-PRONE AREAS OVERLAY

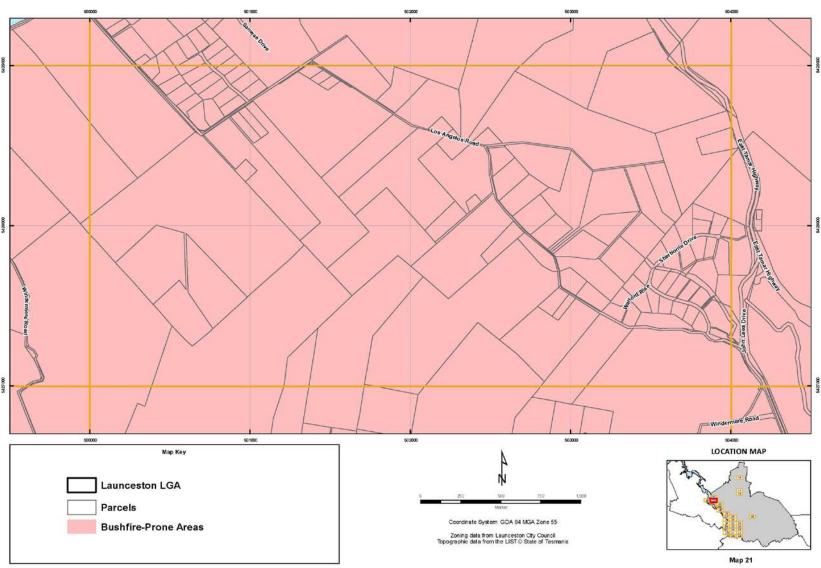


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Launceston LGA

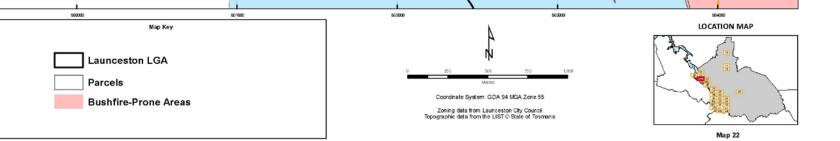
**Bushfire-Prone Areas** 

**Parcels** 



## 9 900

LAUNCESTON INTERIM PLANNING SCHEME 2015 - BUSHFIRE-PRONE AREAS OVERLAY



West Tamar Council

