

Reuse of Rezoning Reports on Bush Fire Prone Land

This Practice Note provides guidance on when bush fire assessments prepared as part of a rezoning in a bush fire prone area can be used for subsequent development applications submitted to the NSW Rural Fire Service (RFS)¹.

There are three main stages for planning and development on bush fire prone land; strategic planning (planning proposals), development applications (DAs) for subdivision or Special Fire Protection Purposes (SFPPs) and DAs for infill development. The consideration of bush fire is different at each stage as outlined below:

1. **Strategic Planning** – includes planning proposals for the rezoning of land and the creation of Local Environment Plans. Under the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 117 Direction 4.4 requires that where planning proposals will affect or are in proximity to bush fire prone land, certain requirements must be met regarding bush fire. The RFS is consulted prior to exhibition and the Department of Planning and Infrastructure (DoPI) determines compliance with the direction.
2. **DAs for Subdivision/SFPPs** – applications for subdivisions or SFPPs on bush fire prone land must obtain a Bush Fire Safety Authority (BFSA) under Section 100B of the *Rural Fires Act 1997*

(RF Act). This requires compliance with the relevant requirements of *Planning for Bush Fire Protection*. The RFS is an approval body.

3. **DAs for Infill Development** - applications for infill development (including dwellings and alterations and additions) are required to be assessed against the provisions of PBP under 79BA of the EP&A Act. The RFS is consulted when the proposal cannot meet the deemed to satisfy provisions of PBP. Where infill development is not mapped as bush fire prone but the consent authority believes there is a bush fire hazard, PBP can be considered under 79C of the EPA Act.

Requirements at each stage

Each stage has different requirements for assessing the impact of bush fire. For the majority of circumstances a bush fire assessment must be undertaken at the various stages irrespective of what has been previously approved. Detailed below are the key considerations for the 3 stages.

Planning Proposals – requirements and outcomes for bush fire are broad and often lack the detail required for subsequent development applications. The focus tends to be on the zoning of land uses relevant to bush fire risk and any environmental impacts on the provision of asset protection zones (APZs. Written advice from the RFS is

¹ Department of Planning and Infrastructure Planning Circular S12-003 Issued 06 June 2012



required detailing that no objection is made to the progression of the planning proposal.

Ultimately the DoPI will determine what level of detail is required for the planning proposal and the RFS will be guided by the information received with any referral.

DAs for Subdivision/SFPPs – legislative requirements and bush fire protection measures for subdivisions/SFPP are generally more detailed and specific than at the planning proposal stage. Unlike planning proposals, DAs for subdivisions must demonstrate compliance with PBP, or the RFS will not issue a BFSAs.

DAs for Infill –infill requirements are also more detailed and specific compared to planning proposals. They also differ to subdivision and focus more on achieving the best outcome for the site in terms of bush fire (e.g. balancing construction levels and APZs).

When can rezoning bush fire assessments be used for subsequent DAs?

Although a development is required to be assessed at multiple stages it is possible for a single bush fire assessment to be used more than once.

For example a bush fire report for rezoning that includes an indicative lot layout with relevant bush fire protection measures and a

detailed sit assessment can then be used at the subdivision stage (if circumstances remain the same). To be considered for future DAs, a rezoning report should address the requirements outlined in Clause 44 of the *Rural Fires Regulation 2008*.

Another example is a bush fire report prepared at the subdivision stage that outlines bush fire protection measures for each specific lot that can then be used at the 79BA stage (if the situation remains the same). For this to occur the bush fire report would need to outline specific construction requirements for each lot in addition to the requirements outlined in Clause 44.

In other cases reports will merely need to be updated to include the relevant development, current site characteristics and specific bush fire protection measures.

In all circumstances, the person responsible for signing off the bush fire report is to be consulted to ensure it has addressed issues specific to the proposed development. Advice is to be obtained that their intellectual property can be used and that copyright will not be breached.

Further information

For further information contact the NSW RFS on 1300 NSW RFS.

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