

POLICY P6.1.1

DEVELOPMENT ASSESSMENT AND PLANNING

ITEM	DESCRIPTION
Version Number	3.0
SOPs	<ul style="list-style-type: none"> ➤ SOP P6.1.1-1 Bush Fire Prone Land Mapping ➤ SOP P6.1.1-2 Development Assessment and Planning – Requests for Independent Reviews
Owner	Executive Director, Operations
Contact	Director, Community Resilience
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1 Purpose

- 1.1 The NSW Rural Fire Service (NSW RFS) has a statutory obligation to assess development applications in bush fire prone areas in accordance with relevant guidelines and policy. This policy outlines the NSW RFS requirements for the identification of bush fire prone land and the assessment of development on bush fire prone land.
- 1.2 This policy applies to all staff members of the NSW RFS involved in the development assessment and planning process.
- 1.3 The *Environmental Planning and Assessment Act 1979* (EP&A Act) establishes a system for requiring bush fire protection measures for development on bush fire prone land at the planning and development application (DA) stage by way of the following:
 - a. a formal consultative role for the Commissioner of the NSW RFS under Section 4.14 of the *EP&A Act*;
 - b. a consultative role for the Commissioner of the NSW RFS under Section 4.15 of the *EP&A Act*;
 - c. a role as an approval body for the Commissioner of the NSW RFS under Section 4.46 of the *EP&A Act* for the issue of a Bush Fire Safety Authority under Section 100B of the *Rural Fires Act 1997* (the Act);
 - d. a consultative role for the Commissioner of the NSW RFS for development applications lodged under relevant *State Environmental Planning Policies* (SEPPs) and for Secretary’s Environmental Assessment Requirements for the preparation of Environmental Impact Statements (EIS);
 - e. a formal consultative role for the Commissioner of the NSW RFS for planning proposals captured by Direction 4.4 *Planning for Bush fire Protection* under Section 9.1 of the *EP&A Act*; and
 - f. a role as the bush fire prone land map certifying body for the Commissioner of the NSW RFS under Section 10.3 of the *EP&A Act*.

- 1.4 To ensure consistency and equity in the exercise of the Commissioner's powers, it is essential that the implementation of planning and development controls is undertaken in line with this Policy, related Standard Operating Procedures (SOPs) and the principles of bush fire protection.
- 1.5 This Policy and related SOPs should be read in conjunction with the related documents in section 4 of this Policy.

2 Definitions

- 2.1 For the purpose of this Policy, the definitions are the same as those in the *Rural Fires Act 1997*, the *Environmental Planning and Assessment Act 1979* and *Planning for Bush Fire Protection*.

3 Policy

- 3.1 No development in a bush fire prone area can be guaranteed to be entirely safe from bush fires. Planning, design and construction provisions for developments in bush fire prone areas provide one of the most effective ways of enhancing community resilience through minimising the impacts of bush fires on life and property. This section details considerations that are to be taken into account for planning and development assessment in bush fire prone areas.
- 3.2 When considering development on bush fire prone land, the NSW RFS must consider the aims, objectives and bush fire protection measures in *Planning for Bush Fire Protection*.
- 3.3 When considering the strategic planning of bush fire prone areas (e.g. through Local Environmental Plans and other key planning documents) the NSW RFS must ensure that the development is consistent with the strategic planning principles within *Planning for Bush Fire Protection*.
- 3.4 Any Development Application (DA) must be referred to the NSW RFS:
 - a. within a bush fire prone area for consultation under Section 4.14, where the consent authority, after assessing the DA determines it does not conform to the requirements of *Planning for Bush Fire Protection*;
 - b. within a bush fire prone area for concurrence as integrated development in accordance with Section 4.46 of the EP&A Act and Section 100B of the *Rural Fires Act 1997*; or
 - c. for consultation under Section 4.15, where the consent authority, after assessing the development, determines there is a bush fire risk, which has not been mapped on a Bush Fire Prone Land Map.
- 3.5 The NSW RFS shall:
 - a. assess any referrals within legislative timeframes and service level agreements;
 - b. register details of all applications using corporate records and assessment management systems;
 - c. assess, make determinations, and/or provide advice; and
 - d. undertake auditing of assessments.
- 3.6 NSW RFS assessing officers must ensure that they act in accordance with *Service Standard 1.1.32 Fraud and Corruption Prevention*, and *Service Standard 1.1.7 Code of Conduct and Ethics*, at all times.
- 3.7 NSW RFS staff members must:
 - a. if lodging a development application that is referred to the NSW RFS, declare their interest and not attempt to influence the NSW RFS assessing officer;
 - b. advise the NSW RFS Professional Standards Unit if any of the above occurs by a NSW RFS staff member;
 - c. advise the NSW RFS Professional Standards Unit if any of the above occurs by any other official in a local and state government capacity; and
 - d. ensure they act in accordance with *Service Standard 1.1.32 Fraud and Corruption Prevention*, and *Service Standard 1.1.7 Code of Conduct and Ethics*, at all times.

Approvals and refusals

- 3.8 The NSW RFS Planning and Environmental Services section will issue approvals and refusals in accordance with *Service Standard 1.3.1 Delegations and Authorisations (Incl. Supplementary Delegations - Unincorporated Area of NSW)*.

Complaints Management

- 3.9 The NSW RFS is committed to an accessible, transparent, fair and equitable complaints handling process, working together with its customers, the community and staff to resolve issues and achieve improvements in service delivery.
- 3.10 Refer to Policy *P7.1.2 Public Complaints Management* for more detail.

Independent Reviews

- 3.11 An independent review is when a party requests that a decision relating to a development assessment be reviewed by an independent third party.
- 3.12 Where an independent review of a decision is requested, the review will be undertaken in accordance with *SOP P6.1.1-2 Development and Planning – Requests for Independent Reviews*.

4 Related documents

- [Environmental Planning and Assessment Act 1979](#)
- [Environmental Planning and Assessment Regulation 2000](#)
- [Rural Fires Act 1997](#)
- [Rural Fires Regulation 2013](#)
- [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#)
- [Planning for Bush Fire Protection](#)
- Australian Standard AS3959 – Construction of Buildings in Bushfire-prone Areas
- [Development Assessment & Planning Practice and Procedures Manual](#)
- [Service Standard 1.1.7 Code of Conduct and Ethics](#)
- [Service Standard 1.1.32 Fraud and Corruption Prevention](#)
- [Service Standard 1.3.1 Delegations and Authorisations \(Incl. Supplementary Delegations - Unincorporated Area of NSW\)](#)
- [Policy P5.1.6 Records Management](#)
- [Policy P7.1.2 Public Complaints Management](#)
- [NSW RFS Community Resilience Fact sheets](#)
- [NSW RFS Community Resilience Practice Notes](#)
- [Guide for Bush Fire Prone Land Mapping](#)
- [Urban Release Areas - Guide to Bush Fire Prone Land Mapping](#)

Note: *Planning for Bush Fire Protection*, Community Resilience Fact Sheets, Community Resilience Practice Notes and content detailed on the NSW RFS website and the NSW RFS intranet provide further detail, guidance and NSW RFS positions on aspects of the development assessment and planning process. Fact Sheets clarify and expand on provisions within *Planning for Bush Fire Protection*.

5 Amendments

AMENDMENT DATE	VERSION NO	DESCRIPTION
1 August 2002	1.0	<ul style="list-style-type: none"> ➤ Initial release as SS 4.1.1 Development Control
26 May 2003	1.1	<ul style="list-style-type: none"> ➤ Repealed and remade SS 4.1.1 v1.0
28 November 2006	1.0	<ul style="list-style-type: none"> ➤ Repealed and remade SS 4.1.1 v1.1 ➤ Initial release as P6.1.1 Development Control v1.0
3 April 2008	1.1	<ul style="list-style-type: none"> ➤ Repealed and remade P6.1.1 v1.0 ➤ Addition of new SOPs P6.1.1-1 and P6.1.1-2
6 November 2012	2.0	<ul style="list-style-type: none"> ➤ Repealed and remade P6.1.1 v1.1 ➤ Changed title to Development Assessment and Planning ➤ Comprehensive review to reflect current statutory obligations and organisational alignment and practices
17 May 2019	3.0	<ul style="list-style-type: none"> ➤ Repeals and remakes P6.1.1 v2.0 ➤ Removal of definitions, and other detail and replacing with reference to the source documents ➤ Removal of technical assessment SOPs (this information now included in the Development Assessment & Planning Practice and Procedures Manual) ➤ Addition of two new SOPs

SOP P6.1.1-1

BUSH FIRE PRONE LAND MAPPING

1 Purpose

- 1.1 This Standard Operating Procedure sets out the process by which bush fire prone land maps are developed, amended and certified.

2 Definitions

- 2.1 For the purpose of this Policy, the definitions are the same as those in *Planning for Bush Fire Protection, the Rural Fires Act 1997 and the Environmental Planning and Assessment Act 1979* unless defined below.
 - a. **Bush Fire Prone Land Mapping (BFPLM):** The process of identifying and mapping bush fire prone land.
 - b. **Guide for Bush Fire Prone Land Mapping:** A guideline produced by the NSW RFS to provide a standardised mapping process for the mapping of bush fire prone land in NSW
 - c. **Digital Data:** The electronic data-set containing the bush fire prone land polygons and metadata. This includes the bush fire vegetation dataset and the bush fire vegetation buffer dataset e.g. ESRI Arc Geodatabase (Personal or File), ESRI shape or MapInfo tab/mid/mif GDA 94 and in either of the following map projections: Geographics, Lamberts or Transverse Mecator Projection (MGA54, 55 or 56).

3 Procedures

- 3.1 Under Section 10.3 of the *Environmental Planning and Assessment Act 1979*, the Commissioner of the NSW RFS is responsible for:
 - a. designating land to be bush fire prone land and recording any such land on a map; and
 - b. certifying the map as a bush fire prone land map for the Council area.
- 3.2 The *Guide for Bush Fire Prone Land Mapping* establishes the process for designating land to be bush fire prone.
- 3.3 A request for an amendment to a Bush Fire Prone Land Map may be made by either the Council, the NSW RFS, or those identified in the document *Urban Release Areas - Guide to Bush Fire Prone Land Mapping*.
- 3.4 Council is responsible for:
 - a. preparing the initial BFPLM in accordance with the *Guide to Bush Fire Prone Land Mapping*;
 - b. assisting in the review of any BFPLM as required and providing justification for any amendments requested and providing supporting evidence; and
 - c. making the BFPLM available for public inspection.
- 3.5 The District/Team/Zone (DTZ) is responsible for:
 - a. assisting in the production of the map or amendments in accordance with the *Guide to Bush Fire Prone Land Mapping*, and the review process in accordance with this Policy and SOP; and
 - b. acting as advisory body for the NSW RFS Development Planning & Policy team and the Commissioner on all matters relating to bush fire prone land mapping including but not limited to the review and amendment process.

- 3.6 The Development Planning & Policy (DPAP) is responsible for:
- a. coordinating the production, certification, and distribution of the BFPL map;
 - b. ensuring the required documentation is received from Council and the DTZ;
 - c. ensuring maps comply with standards set out in the *Guide for Bush Fire Prone Land Mapping*;
 - d. presentation of the map and appropriate supporting documentation for certification;
 - e. distribution of certified maps to Council and DTZs;
 - f. liaising with GIS to facilitate the distribution of the maps in digital form to Council and DTZs and Fire and Rescue NSW (where appropriate);
 - g. managing central BFPLM repository of certified maps;
 - h. recording all information relating to the bush fire prone land maps through established processes from production to certification; and
 - i. answering queries from stakeholders (e.g. councils, DTZs and the public) regarding the legislative responsibilities, amendment process, and any other bush fire prone land mapping information.
- 3.7 The Geographic Information Systems Services Unit (GIS) is responsible for:
- a. establishing the protocol for the management of the digital data and maintaining its quality and accuracy including, but not limited to:
 - i. defining the BFPL Map Symbolology;
 - ii. establish data storage, maintenance and delivery methods in line with NSW RFS requirements;
 - iii. management of the BFPL digital data;
 - iv. ensuring GIS Quality Control procedures and assure these are followed and the BFPL dataset meets the standards set out in the *Guide for Bush Fire Prone Land Mapping* ;
 - v. producing comparison maps before a proposed dataset is certified;
 - vi. production of certified maps based on standards and priorities defined by DPAP;
 - vii. production of bush fire prone land maps with suitable disclaimers and DPAP defined maps standards;
 - viii. delivery of digital BFPL map data to NSW Government, Councils, public and private agencies under guidance from DPAP;
 - ix. maintenance of the digital BFPL data for associated RFS websites;
 - x. track and report digital delivery history for DPAP;
 - xi. supporting DPAP in relation to the bush fire prone process and to ensure all maps are prepared and presented to meet legislative and mapping standards; and
 - xii. ensuring the timely updating of corporate datasets particularly where they relate to legislative matters (i.e. 10/50).
- 3.8 Bush fire prone digital data is to be accurate and readily available for use by all NSW RFS staff.
- 3.9 The NSW RFS will endeavour to supply a copy of the certified map and accompanying digital data to the council within 28 days of receiving the amendments. If there are inconsistencies with the map that need to be investigated, a 'stop the clock' will occur until all information is received and checked for accuracy.
- 3.10 Bush Fire Prone Land Maps shall be recertified every 5 years after the commencement of Section 10.3 of the *EP&A Act*.
- 3.11 All amendments / re-certification of the BFPLM will be tracked by DPAP using the appropriate corporate system.

4 Related forms

- None

SOP P6.1.1-2

DEVELOPMENT ASSESSMENT AND PLANNING – REQUESTS FOR INDEPENDENT REVIEWS

1 Purpose

- 1.1 This SOP outlines the handling of requests for independent reviews. The aim is to provide a consistent procedure for the management of, and response to, requests for independent reviews from the public to the NSW RFS. This is to be consistent with the NSW Government's transparent decision-making position.
- 1.2 This SOP does not deal with request for reviews under Clause 55 of the *Environmental Planning and Assessment Regulations 2000* or 4.55 of the *Environmental Planning and Assessment Act 1979*. (Please note that it is the applicant's responsibility to ensure that any relevant consent modifications are obtained from the consent authority).
- 1.3 The objectives of this SOP include:
 - a. identify what constitutes an independent technical review and an independent process review;
 - b. ensure requests for reviews are received, recorded and resolved in an appropriate manner;
 - c. deal with requests for reviews in a fair and equitable manner;
 - d. use requests for reviews as a means to improve the NSW RFS service delivery quality, policies and procedures;
 - e. demonstrate the NSW RFS commitment to dealing with requests for reviews in a positive manner; and
 - f. ensure requests for reviews are dealt with in a timely manner.

2 Definitions

- 2.1 For the purposes of this policy document, the following definitions apply:
 - a. **Independent Process Review:** when a party requests that a development assessment and planning decision made by the NSW RFS be reviewed by an independent third party, with the focus on the process and procedural steps of the assessment, rather than the technical aspects.
 - b. **Independent Technical Review:** when a party requests that a development assessment and planning decision made by the NSW RFS be reviewed by an independent third party, with the focus on the technical nature of the assessment and not the procedural process.

3 Procedures

- 3.1 Where an independent review of a decision is requested, it will be undertaken by an officer independent from the original assessment. This may be another officer from the Development Assessment and Planning section within Planning and Environment Services (PES) or an officer from the Development Planning & Policy (DPAP) section of Community Resilience, depending on the nature of the request.
- 3.2 Upon receipt of a request for an independent review, the relevant PES Team Leader and Director Planning & Environment Services will be notified.
- 3.3 When considering who will undertake the review, the following factors will be considered:
 - a. complexity of proposal;
 - b. organisational risk; and/or
 - c. previous involvement of staff.

- 3.4 In some cases the Executive Director Operations will determine who undertakes the independent review.
- 3.5 Following receipt of a request for an independent review, advice will be provided to the applicant and the relevant NSW RFS officers of the expected time frames and any other appropriate details. This advice must be provided in writing within 5 working days of receiving the review request.
- 3.6 The PES director or their delegate will then determine if the original approval or refusal is required to be amended.
- 3.7 The outcomes of an independent review will be documented and distributed to the PES Director and Team Leaders to ensure transparency of decision making and open communication.

Independent Technical Review

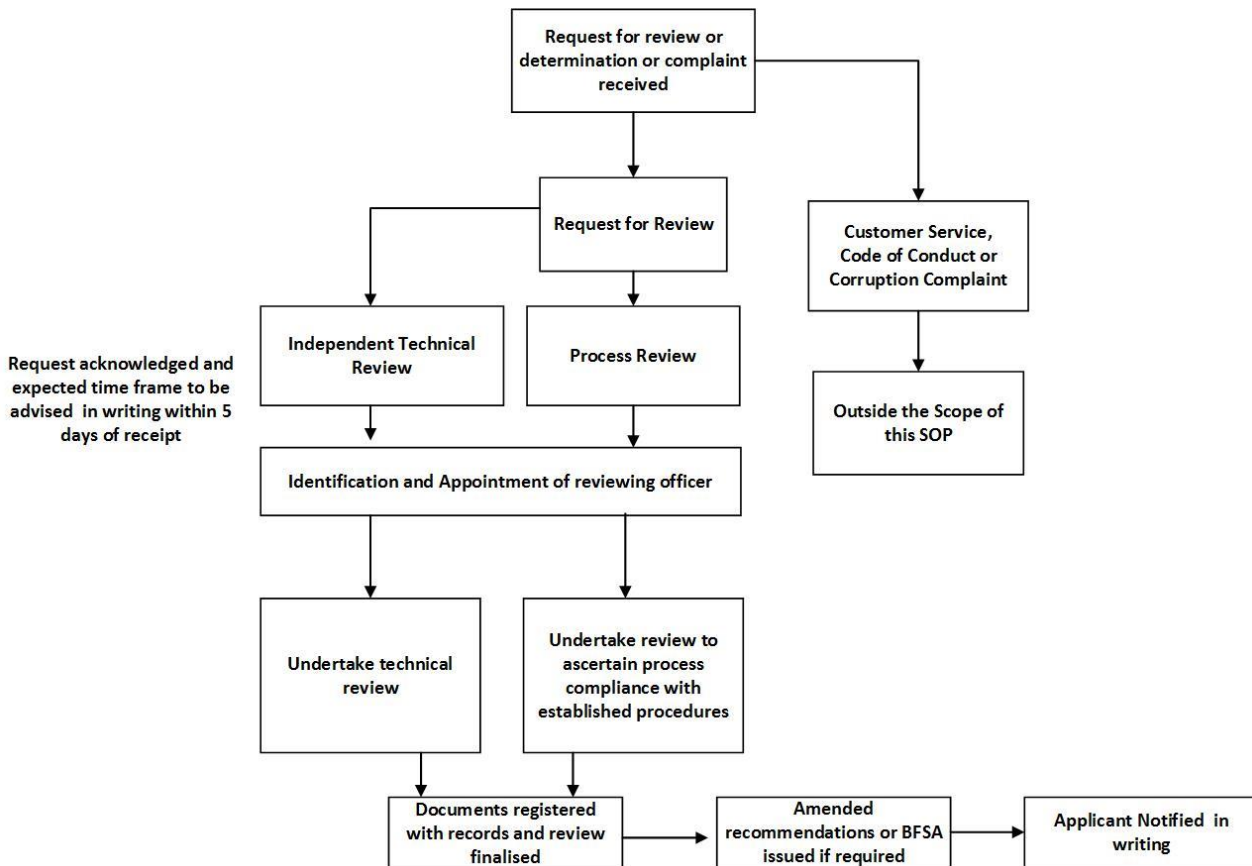
- 3.8 The independent technical review may include:
 - a. meetings;
 - b. analysis of the documentation;
 - c. site visits; and/or
 - d. interviews with appropriate personnel.

Independent Process Review

- 3.9 The independent process review will be undertaken to ascertain if established assessment procedures were properly followed.

Process

- 3.10 The following flow chart outlines the process for the team leader or manager to manage requests for reviews:



Unsatisfactory review resolution

- 3.11 The process detailed above is deemed to be an appropriate response to a request for review.
- 3.12 If the review requester is still dissatisfied, the decision may be further reviewed. The appropriate officer will be determined at that time.
- 3.13 If the matter cannot be resolved within the NSW RFS, the matter may be referred to an external agency such as the NSW Ombudsman or the NSW Land and Environment Court by the review initiator.

Unreasonable requests for Review

- 3.14 Those requesting a review may be distressed, angry or upset. Dealing with distressed, angry and upset people is a normal part of handling reviews, and staff should be trained to deal fairly, objectively and empathetically with all requests.
- 3.15 In some cases however, a requester's conduct can go beyond what is acceptable. They may contact the NSW RFS repeatedly, demand outcomes that are not practicable, and be unwilling to accept the review handler's decision or be threatening.
- 3.16 One of the strategies to reduce the possibility of difficult conduct from a requester is to manage all requests appropriately from the beginning, so as to minimise delays, misunderstandings and unrealistic expectations. Certain guiding principles for effective review handling should be kept in mind, such as:
 - a. people have a right to request a review by the NSW RFS about its decisions. They may be forceful in expressing their request, particularly if they perceive that they will suffer financial loss. All requesters will expect their request to be treated seriously and promptly by the NSW RFS;
 - b. the NSW RFS has a right to decide how to deal with a request. This includes making decisions on the issues that will be reviewed, who will conduct the review, and the time and resources that will be allocated to the review;
 - c. the NSW RFS's responsibility is to treat all clients fairly and with respect. Staff need to show impartiality and professionalism when faced with challenging behaviour. This does not mean that staff should tolerate conduct that is violent, threatening, aggressive or abusive; and
 - d. unreasonable conduct by a client can affect the NSW RFS's responsibility to deal professionally with the complainant. A review may reveal a genuine problem even if the person's conduct is unreasonable. Such a review should be in accordance with NSW RFS *Policy 7.1.2 Public Complaints Management*.
- 3.17 It is important to identify specifically why particular conduct is unreasonable, so that the NSW RFS's response can be tailored to the nature of the conduct. Doing so will also shift the focus away from the requester and their personality and on to the assessment of the matter that is problematic.
- 3.18 Unreasonable conduct may include:
 - a. Unreasonable persistence – refusing to accept that a review is closed, re-framing an old request, persevering obstinately with an argument, continuing to phone or contact the NSW RFS after a matter is closed.
 - b. Unreasonable demands – raising issues beyond the NSW RFS's responsibility, asking for a remedy that is impractical or disproportionate, insisting on more time being spent on the review than is warranted, insisting on speaking to an executive, or directing the NSW RFS on how to handle the review.
 - c. Unreasonable lack of cooperation – poor or confused definition of the review request, unnecessary presentation of a large quantity of material, failing to provide key documents or dishonestly presenting the facts.
 - d. Unreasonable arguments – exaggerating issues, holding irrational beliefs, being obsessed with irrelevancies or trivialities, refusing to consider counter-arguments, or being guided by conspiracy theories.
 - e. Unreasonable behaviour – threatening violence, abusing staff, being rude or aggressive or threatening including threatening self-harm.

- 3.19 It can sometimes be necessary to limit a requestor's access to the NSW RFS. Restrictions may be placed on when a person can make contact, who they can contact, or how to make contact (for example, only in writing). Such decisions should be made at a Director level, following an established written procedure for taking this step. A requester must be advised in writing of the decision and the options for reviewing its appropriateness.

Customer Service Complaints, Code of Conduct and Corruption Complaints

- 3.20 Customer Service complaints and allegations of breaches of the NSW Rural Fire Service Code of Conduct and Ethics, including allegations of corruption are outside the scope of this SOP.
- 3.21 Complaints and allegations regarding the actions and behaviour of Development Assessment and Planning staff will be handled in accordance with the relevant NSW RFS Policy *P7.1.2 Public Complaints Management*.

4 Related forms

- None