



## SUBDIVISION OF URBAN RELEASE AREAS ON BUSH FIRE PRONE LAND

This user guide provides assistance for consent authorities, land owners and developers in relation to the subdivision of residential land in Urban Release Areas (URAs) mapped as bush fire prone. The guide sets out:

- submission requirements at subdivision assessment stage, and
- steps for obtaining an exemption from further consideration of bush fire requirements at Development Application (DA) stage under section 79BA *Environmental Planning and Assessment Act 1979* (EP&A Act) or through the complying development process.

### Introduction

The New South Wales Government has provided a pathway for a streamlined assessment under section 79BA of the EP&A Act for new lots in URAs located on bush fire prone land.

The amendments allow the assessment of bush fire provisions at subdivision stage in URAs and may exempt these lots from reassessment of bush fire matters when land owners are ready to develop their lots.

The amendments allow for emphasis on bush fire provisions during approval at the subdivision stage in URAs.

These changes allow land owners located within URAs to apply for a Post Subdivision Bush Fire Attack Level Certificate (PSBC) prior to lodging a DA with council or prior to proceeding through the complying development process. This only applies where the Bush Fire Attack Level (BAL) proposed is consistent with that identified on the approved Subdivision BAL Plan (SBP) and is not BAL-40 or BAL Flame Zone (BAL-FZ).

The introduction of PSBC for single dwellings, dual occupancies and secondary dwellings will eliminate the need for further re-assessment of bush fire under Section 79BA of the EP&A Act at development stage.

### Subdivision Stage

#### Bush Fire Safety Authority (BFSA)

Subdivisions on bush fire prone land require a BFSA in accordance with section 100B of the *Rural Fires Act 1997* (RF Act).

Developers can now request that a Subdivision BAL Plan be considered and approved as part of the BFSA process in order to achieve a future exclusion under section 79BA of the EP&A Act. This applies for future dwelling houses, dual occupancies and secondary dwellings (clause 44 of the Rural Fires Regulation 2014 (RF Regs)).

#### BFSA Submission Requirements

The submission requirements for a BFSA approval under this process are set out under clause 44 of the RF Regs. Such applications must be accompanied by the following information

**1. A bush fire assessment report prepared by a bush fire consultant. This is an assessment documenting compliance with the requirements of Planning for Bush Fire Protection 2006 (PBP). This should include the following specifics:**

- BAL level for all locations on all lots in accordance with PBP Addendum: Appendix 3 and Australian Standard AS3959-2009 Construction of buildings in bush fire prone areas (AS3959-2009).
- All Asset Protection Zones (APZs) including all existing and any proposed.
- Slope survey plan showing 2 metre contours out to a minimum of 100 metres from the boundary of the proposed lots.

- Distances (in metres) from boundary of lots to each change in BAL level clearly shown for all lots.
- Where staging is proposed, BAL plans to be provided for each stage, taking into consideration timing of clearing and management of future stages.
- Areas considered to be managed land and areas considered to be a bush fire hazard.
- Evidence of how the BAL levels have been calculated should be provided to support the Subdivision BAL Plan; and
- A statement certifying how managed areas will be managed for the life of the development.

## 2. A Subdivision BAL Plan that shows:

- The BALs that will apply to the property on completion of any clearing or re-vegetation proposed to be carried out as part of any subdivision; and
- The proposed setback of vegetation from the site showing asset protection zones.

## Subdivision BAL Plan Assessment Methodology

For a Subdivision BAL Plan to be approved by the NSW Rural Fire Service (NSW RFS), the following must be demonstrated:

- That all new lots can achieve BAL-29 or less in accordance with AS3959-2009.
- That all lots can suitably accommodate (as per council's requirements) a dwelling envelope achieving BAL-29 or less.
- The Subdivision BAL plan will be assessed in accordance with the methodology outlined in PBP Addendum: Appendix 3.

## Approval of Subdivision BAL Plans

Once it has been determined that a construction level of BAL-29 or less can be achieved for all lots and that the submitted Subdivision BAL Plan provides adequate information to support this, the Subdivision BAL Plan may be approved by the NSW RFS and a notation will appear on the plan of subdivision.

## Dwelling Construction Approval Stage

### Issuing a Post Subdivision BAL Certificate (PSBC)

Once a subdivision has been completed, the approved Subdivision BAL Plan can be used as the

basis for the issuing of a PSBC. This certificate can be used to obtain an exemption from the provisions of section 79BA of the EP&A Act, which means bush fire matters do not need to be reassessed at DA stage for a dwelling, dual occupancy or secondary dwelling. PSBC can also be used through the complying development process.

The NSW RFS or a recognised consultant can issue a PSBC for new dwelling houses, dual occupancies and secondary dwellings.

A list of recognised consultants can be found on the Fire Protection Association of Australia website [www.fpaa.com.au](http://www.fpaa.com.au).

Any PSBCs from consultants are required to be forwarded to the NSW RFS within seven days of issue.

### Process to obtain exemption from further consideration of bush fire matters under section 79BA of the EP&A Act (1979)

Once a PSBC is issued it should be submitted with a DA to the consent authority so that bush fire matters do not need to be reassessed at the section 79BA stage. This only applies to DAs for dwelling houses, dual occupancies or secondary dwellings. To provide for this, the consent authority must be satisfied that:

- The PSBC certifying that the part of the land on which the development is proposed to be carried out is not in BAL-40 or BAL-FZ and is consistent with the approved Subdivision BAL Plan approved by the NSW RFS.
- A BFSA for the subdivision of the land was issued that:
  - Was in force on the date on which the DA for the development was lodged; and
  - Was issued no more than 5 years before the date of application.
- The requirements of the BFSA concerning setbacks, asset protection zones, provision of water supply and other matters that are relevant to that development have been completed.
- A Subdivision BAL Plan that was issued as part of the BFSA:
  - Contains a notation from the NSW RFS showing that the plan was approved when the application for the Bush Fire Safety Authority was determined under the RF Act.

## Consent Authority Responsibilities

Consent authorities should impose appropriate conditions on the development consent to ensure that the development to be constructed meets the construction standards identified on the PSBC.

## Frequently Asked Questions

### How do I know if the land is part of a URA?

The New South Wales Department of Planning has identified numerous areas across New South Wales as urban release areas. A series of maps marked “Bush Fire Planning—Urban Release Area Map” are held by the Department of Planning and Infrastructure. These maps are available on their website [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

### Can a PSBC be used for complying development?

A PSBC can be relied upon for complying development. (Clause 3.36B(2)(b) of the SEPP (Exempt and Complying Development Code) to demonstrate that the part of the lot on which the development is to be carried out is not in bush fire attack level BAL-40 or BAL-FZ.

### Can a PSBC be issued for land that is not within an urban release area?

No, the exemption does not apply to land outside of an urban release area. BAL Certificates can only be applied for on land in an urban release area that has met the requirements under clause 237(1) of the Environmental Planning and Assessment Regulation 2000.

### Can a PSBC be issued for the whole subdivision?

Yes. The PSBC can be issued for a single lot, multiple lots or the whole subdivision.

### Can a PSBC be issued for a site where the BFSA was issued over five years ago?

No, a PSBC cannot be issued where the BFSA was issued over five years ago. Bush fire matters for the development will be required to be assessed as part of the DA under section 79BA of the EP&A Act.

## What about development which is BAL-40 or BAL Flame Zone?

A Subdivision BAL Plan cannot be approved by the NSW RFS if it includes land that cannot support development of BAL-29 or less.

DAs for lots that cannot achieve this (BAL-40 or BAL-FZ developments) will need to be referred to the NSW RFS under section 79BA of the EP&A Act by the consent authority.

## Glossary of terms

**Bush Fire Attack Level (BAL):** The severity of a building’s potential exposure to ember attack, radiant heat and direct flame contact. (Defined in Australian Standard 3959-2009 Construction of buildings in bush fire-prone areas)

**Bush Fire Safety Authority (BFSA):** An approval by the Commissioner of the NSW RFS required for a subdivision for residential or rural residential purpose or for a special fire protection purpose listed under section 100B (6) of the RF Act.

**Post Subdivision (BAL) Certificate (PSBC):** Certification that the BAL of land on which development is proposed is BAL-29 or less. The land must be the subject of a Plan of Subdivision approved by the NSW RFS showing the BAL for all lots within the subdivision.

**Subdivision BAL Plan:** A plan of subdivision that shows the bush fire attack levels for the land and contains a notation from the NSW RFS showing that the plan was considered when the application for the bush fire safety authority was determined in the RF Act.

**Urban Release Areas (URA):** Land that is shown as being within an urban release area on the series of maps marked “Bush Fire Planning—Urban Release Area Map” (approved by the Director-General, by notice published in the Gazette, and held in the head office of the Department).

## PROCESS FOR SUBDIVISION OF URBAN RELEASE AREAS ON BUSH FIRE PRONE LAND

### Subdivision Application

- Land mapped bush fire prone and designated within an Urban Release Area.
- Lodge development application with consent authority for subdivision with required information for a Subdivision BAL Plan.

### Assessment of Subdivision Application

- Development Application (DA) referred to NSW RFS in accordance with 100B of the *Rural Fires Act 1997*.
- Subdivision BAL Plan assessed in accordance with Planning for Bush Fire Protection Addendum: Appendix 3 (including AS3959-2009)
- Additional information requested where required.

### Bush Fire Safety Authority

- NSW RFS may issue a Bush Fire Safety Authority (BFSA)
- BFSA (if issued) will include conditions relating to works required prior to release of subdivision certificate
- Subdivision BAL Plan is endorsed, will include a notation by the NSW RFS.

### Council Consent

- Council may issue consent and if so, must include conditions of NSW RFS BFSA.

### Subdivision Certificate

- Conditions of BFSA are complied with and Subdivision Certificate is issued for the development once the development is completed.

### BAL Certificate

- Applicant may lodge application for PSBC with NSW RFS or a Suitably Qualified Bush Fire Consultant.
- Subdivision BAL Plan used to assess and issue PSBC if appropriate.

### Dwelling Construction Stage

- PSBC is submitted as part of DA to consent authority - no further bush fire assessment required (excluded from requirements of 79BA of Act).
- Post Subdivision BAL Certificate used in support of complying development.

### FOR FURTHER INFORMATION

Contact [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au) or 1300 NSW RFS (1300 679 737)