

PART B: Site planning controls

Section B2 Bush fire protection

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1.0 Introduction

Bush fire prone land is an area of land that can support a bush fire or is likely to be subject to bush fire attack. The *Environmental Planning and Assessment Act 1979* (EP&A Act) requires councils to map bush fire prone land within their local government area (LGA).

The bush fire prone land map for Newcastle local LGA has been prepared using the NSW Rural Fire Service's (NSW RFS) '[Guideline for Bush Fire Prone Land Mapping](#)'.

Mapping of bush fire prone land provides a trigger for assessment of development.

Development on land that has been mapped as bush fire prone land must meet requirements of NSW RFS '[Planning for Bush Fire Protection, 2019](#)' (as amended). NSW RFS *Planning for Bush Fire Protection, 2019* requires certain protective measures in order to make a building less susceptible to damage or destruction from bush fire.

2.0 Application

This section applies to all development, including subdivision, on bush fire prone land.

3.0 Objectives

1. Ensure risks associated with bush fire, including projected increase in the occurrence and severity of hazards as a result of climate change, are appropriately and successfully managed through effective and innovative design.
2. Preserve the ecological values of the site/subject land and adjoining lands.

4.0 Definitions

A word or expression has the same meaning as it has in *Newcastle Local Environmental Plan 2012* ([LEP 2012](#)), unless otherwise defined. Other words and expressions include:

- **Asset Protection Zone (APZ)** – has the same meaning as is defined in *Planning for Bush Fire Protection*, NSW RFS 2019. The term is defined as a fuel-reduced area surrounding a built asset or structure which provides a buffer zone between a bush fire hazard and an asset. The APZ includes a defensible space within which firefighting operations can be carried out. The size of the required APZ varies with slope, vegetation and Forest Fire Danger Index.
- **Bush fire prone land** – has the same meaning as in the EP&A Act, where the term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 10.3 (2) of the EP&A Act.

In general, bush fire prone land identifies a range of vegetation types and associated buffer zones. Bush fire prone land is described as Category 1, Category 2, Category 3 or associated vegetation buffer. Factors that determine the level of bush fire threat include elevation, slope, orientation, the vegetation type and distance to or proximity to the subject property.

- **Bush fire prone mapping** – identifies a property's potential to be threatened by bush fire and to initiate an assessment under NSW RFS *Guideline Bush Fire Prone Land Mapping, 2015* to determine whether land management and building construction measures need to be adopted to help safeguard a development from bush fire.

Note: Detailed Bush Fire Prone Land maps for specific parts of the LGA are available for viewing on City of Newcastle's web site or at its Customer Enquiry Centre.

- **Bush fire protection measures** – (as defined by Planning for Bush Fire Protection, NSW RFS 2019) A range of measures used to minimise the risk from a bush fire that need to be complied with. Bushfire protection measures include APZ, construction provisions, suitable access, water and utility services, emergency management and landscaping.
- **Category 1 vegetation** – appears as red on the Bush Fire Prone Land Map and represents forests, woodlands, heathlands, pine plantations and wetlands. Land within 100m of this category (indicated by the Vegetation Buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bush fire attack.
- **Category 2 vegetation** – appears as light orange on the Bush Fire Prone Land Map and represents grasslands, scrublands, rainforests, open woodlands and mallee. The land within 30m of Category 2 vegetation (i.e., as indicated by the Vegetation Buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bush fire attack.
- **Category 3 vegetation** – appears as yellow on the Bush Fire Prone Land Map and represents grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands. The land within 30m of Category 3 vegetation (i.e., as indicated by the Vegetation Buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bush fire attack.
- **Residential infill development** – refers to the development of land by the erection of, alteration or addition to, a dwelling which does not require the spatial extension of services including public roads, electricity, water or sewerage and is within an existing lot.
- **Special fire protection purpose development** – is one which is occupied by people who are considered to be at risk members of the community. In a bush fire event, these occupants may be more susceptible to the impacts of bush fire. Evacuating at risk members of the community is more challenging because they may be physically or psychologically less able to relocate themselves or are unfamiliar with their surroundings.

5.0 Application requirements

Development category	Application requirements	Explanatory notes
<p>All development (except single dwellings and ancillary development) on, or subdivision of, land identified as being bush fire prone land.</p>	<p>Submit a bush fire assessment report completed by a suitably qualified consultant who has been accredited by a recognised accreditation scheme:</p> <ol style="list-style-type: none"> a. establishes the requirements for construction under the <i>Australian Standard AS 3959:2018 – Construction of buildings in bush-fire prone areas</i> (as amended or replaced) b. demonstrates compliance with the requirements of the NSW RFS publication: <i>Planning for Bush Fire Protection</i> (2019) (as amended or replaced). 	<p>A bush fire assessment report is required regardless of the extent to which the hazard projects into the property, even if only partially.</p> <p>The NSW RFS requirements can be met if evidence is provided that demonstrates the proposed development conforms to the specifications and requirements of <i>Planning for Bush Fire Protection</i> (2019) (as amended or replaced); or</p> <p>For more complex applications or performance-based solutions (as defined in <i>Planning for Bush Fire Protection</i> (2019), a recognised consultant should be engaged to prepare a bush fire assessment report and Bush Fire Management Plan. Search http://www.fpaa.com.au/bpad for a list of Accredited Practitioners.</p> <p>The NSW RFS provides a pre-development application advice service for proponents of development to seek information and obtain clarity about the NSW RFS position on a proposal before a formal DA is lodged with the consent RFS website.</p>
<p>Single dwellings and ancillary development</p>	<p>Submit a bush fire assessment report by a suitably qualified person.</p>	<p>The NSW RFS has various tools and publications such as the 'Single Dwelling Application Kit' that facilitate the bush fire assessment of low-density residential development.</p>
<p>Development that proposes fire trails and/or APZs.</p>	<p>Where development proposes fire trails and/or APZs, the fire trail and APZ spatial data, including associated metadata that references the relevant assessments and management plans are provided in a format as requested.</p>	

6.0 General requirements

Objectives 1. Ensure the protection of life and property from bush fire. 2. Manage the risks associated with bush fire prone land. 3. Enhance community resilience to bush fire attack.	
Controls (C)	Explanatory notes
<u>The following controls apply for all development, including subdivision</u>	
C-1.All development on, or subdivision of, land identified as being bush fire prone land must provide a bush fire assessment report, as per the application requirements.	
C-2.Bush fire protection measures, including an APZ and fuel management zones, are placed wholly within the development site– not through the clearing, adjustment or management of vegetation on adjacent land or public land.	
C-3.An APZ is located outside of areas of environmental significance, including: <ul style="list-style-type: none"> a. a key habitat such as threatened species and populations and threatened ecological communities b. vegetated riparian zones c. other vegetation to be retained or protected due to environmental constraints. 	
<u>Additional controls apply to subdivision</u>	
C-4.Fire trails, if required, are not accepted on existing Council owned land.	An APZ imposed by a development consent condition must be maintained for the lifetime of the development, unless modified by a subsequent consent.
C-5.In any instance where the NSW RFS requires an APZ or fire trails to be the subject of an easement, restriction, or covenant registered against the title of existing or future lots pursuant to section 88 of the Conveyancing Act 1919, Council is not to be identified as a Prescribed Body having benefit of such an easement, restriction, or covenant. However, Council shall be noted as a party whose consent is needed to release, vary or modify the easement, restriction, or covenant.	
C-6.Applications for subdivision that are proposed to be constructed in stages should demonstrate how effective bush fire protection measures can be temporarily established, maintained and then released when future stages are completed, and those temporary measures are made redundant. A temporary APZ should not conflict with the environmental protection criteria set out in the controls above.	

<p><u>The following controls apply for Integrated Development</u></p>	
<p>C-7. The bush fire assessment report outlines the proposed development's consistency with the NSW RFS guidelines <i>Planning for Bush Fire Protection (2019)</i> (as amended or replaced) and <i>Australian Standard AS3959:2018 – Construction of buildings in bush-fire prone areas</i> (as amended or replaced), and any other relevant documents that have been adopted by NSW RFS.</p>	<p>The following types of development are considered Integrated Development under s4.46 of the EP&A Act and require a Bush Fire Safety Authority from the NSW RFS under s100B of the <i>Rural Fires Act 1997</i>:</p> <ul style="list-style-type: none"> • subdivision of land that could be used for residential or rural residential purposes • development of bush fire prone land for a Special Fire Protection Purpose (including but not limited to educational establishments, tourist and visitor accommodation, seniors housing or group home). <p>Search http://www.fpaa.com.au/bpad for a list of Accredited Practitioners.</p> <p>Where the NSW RFS refuses to grant a Bush Fire Safety Authority, Council cannot approve the Integrated development application.</p>
<p>C-8.All Integrated development applications on bush fire prone land will be referred to the RFS Headquarters for appropriate review and determination as to whether a Bush Fire Safety Authority will be authorised.</p>	