

4.02 Bush Fire Protection

Amendment history

Version Number	Date Adopted by Council	Commencement Date	Amendment Details
1	15/11/2011	15/06/2012	New

Savings provisions

Any development application lodged but not determined prior to this section coming into effect will be determined taking into consideration the provisions of this section.

Land to which this section applies

This section applies to all land that is affected by Council's Bush Fire Prone Land Maps.

Development (type/s) to which this section applies

This section applies to all development comprising:

- residential subdivision
- residential accommodation
- out-buildings.

Applicable environmental planning instruments

The provisions of Newcastle Local Environmental Plan 2012 also apply to development applications to which this section applies.

In the event of any inconsistency between this section and the above environmental planning instrument, the environmental planning instrument will prevail to the extent of the inconsistency.

Note 1: Additional environmental planning instruments may also apply in addition to those listed above.

Note 2: Section 74E (3) of the *Environmental Planning and Assessment Act 1979* enables an environmental planning instrument to exclude or modify the application of this DCP in whole or part.

Associated technical manual/s

- *Planning for Bush Fire Protection*, 2006, NSW Rural Fire Service.
- *Planning for Bush Fire Protection – Addendum: Appendix 3*, 2010, NSW Rural Fire Service.
- *NSW Rural Fire Service Guidelines for Single Dwelling Development Applications*, 2007, NSW Rural Fire Service.

Additional information

- NSW Rural Fire Service website.
- *Australian Standard 3959-2008 – Construction of Buildings in Bush Fire Prone areas*.
- *Guideline Bush Fire Prone Land Mapping*, 2006, NSW Rural Fire Service.

Definitions

A word or expression used in this development control plan has the same meaning as it has in Newcastle Local Environmental Plan 2012, unless it is otherwise defined in this development control plan.

Other words and expressions referred to in this section are defined within Part 9.00 - Glossary, of this plan, and include:

- **Bush fire prone land** has the same meaning as in the Act.

Note 1: 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 146 (2) of the Act.

Note 2: 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 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 the NSW Rural Fire Service *Guideline Bush Fire Prone Land Mapping, 2006* 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 Newcastle Local Government Area are available for viewing on Council’s web site or at its Customer Enquiry Centre.

- **Category 1 vegetation** - appears as orange 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 red 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 yellow on the Bush Fire Prone Land Map and represents grasslands, scrublands, rainforests, open woodlands and mallee. The land within 30m of Category 2 vegetation (ie as indicated by the red buffer on the map) is also captured by the Bush Fire Prone Land Map due to the likelihood of bush fire attack.

Aims of this section

1. To outline Council’s requirements for development on land classified as being Bush Fire Prone Land within the Newcastle Local Government Area (LGA).

Objectives

1. Ensure the statutory requirements of the *Rural Fire Service Act 1997* are considered in development assessment where relevant.
2. Ensure risks associated with bush fire are appropriately and effectively managed.
3. Ensure bush fire risk is managed in connection with the preservation of the ecological values of the site and adjoining lands.

Controls

The following controls apply to all development to which this section applies

1. Development complies with the NSW Rural Fire Service *Planning for Bush Fire Protection, 2006, Guidelines*.

The following controls apply to subdivision

2. Applicants seeking consent for subdivision and development on bush fire prone land should satisfy the requirements of *Planning for Bush Fire Protection, 2006, Guidelines* NSW Rural Fire Service.
3. Bushfire protection measures are placed wholly within the development site. All proposed Asset Protection Zones are within the property to be subdivided and incorporated into affected lots or within the existing or proposed road reserve, or a combination of both. Asset Protection Zones will not be accepted on existing Council reserves, other public lands or in reserves proposed to be dedicated through the subdivision.
4. Fire trails, if required, are not accepted on existing Council reserves proposed to be dedicated through the subdivision.

The following control applies to dwelling houses

5. Any development application involving the erection of a dwelling house, alterations and additions to an existing dwelling house within bush fire prone land or other development that is in proximity to bush fire prone land addresses the requirements contained in the NSW Rural Fire Service publication titled "Building in Bush Fire Prone Areas Single Dwelling Applicants Kit".

The following controls apply to Integrated Development – Section 91 of the *Environmental Planning and Assessment Act 1979* and Section 100B of the *Rural Fire Act 1997*

Note: Integrated development requires a Bush Fire Safety Approval from the NSW Rural Fire Service under s100B of the Rural Fires Act 1997 for the following types of development:

- (a) subdivision of land that could be used for residential or rural residential purposes
- (b) development of bush fire prone land for a special fire protection purpose (educational establishments, senior living self-care or residential care facilities)

6. Any Integrated Development Application is accompanied by a Bush Fire Risk Assessment report prepared by a suitably qualified and experienced bush fire consultant.
7. The Bush Fire Risk Assessment report outlines the proposed development's consistency with the NSW Rural Fire Service's *Planning for Bush Fire Protection 2006 Guidelines*, *Australian Standard AS3959 – 2009 Construction of Buildings in Bush Fire Prone Areas*, and any other documents that have been adopted by NSW Rural Fire Service.

8. All Integrated Development Applications on bush fire prone land will be referred to the Rural Fire Service Headquarters for appropriate review and determination as to whether a Bush Fire Safety Authority will be authorised.

Note 1: Where the Rural Fire Service refuses to grant a Bush Fire Safety Authority, Council cannot approve the Integrated Development Application.

Note 2: Applications to build within the flame zone or proposing an alternate solution under the *Planning for Bush Fire Protection, 2006 Guidelines* will generally be referred by Council to the district Rural Fire Service Fire Control Centre for comment, prior to the determination of the application by Council.