



PRE-RELEASE EDITION OF PLANNING FOR BUSH FIRE PROTECTION 2018

COMMUNITY RESILIENCE

INFORMATION RELEASE
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This Information Release provides guidance regarding the use and application of the Pre-release edition of Planning for Bush Fire Protection (PBP) 2018.

The NSW RFS has facilitated an extensive review of *Planning for Bush Fire Protection 2006* (PBP). PBP provides for the necessary planning framework for bush fire protection in NSW.

Following a period of targeted consultation in 2016, the Draft PBP was revised and placed on public exhibition in 2017. The NSW RFS received a total of 45 submissions during public exhibition, comments were considered and the Draft PBP was revised accordingly.

Since that time, the NSW RFS has worked extensively with representatives from the NSW Department of Planning and Environment (DPE) and stakeholders to prepare a pre-release version of the document.

It is expected that modifications to legislation necessary to enact PBP 2018 will not occur until mid-2019 to coincide with enactment of the National Construction Code 2019. The period from the publication of Pre-Release PBP 2018 to the time at which the legislative modifications occur will be the transitional period.

Status of the Pre-release edition of PBP 2018

PBP is referenced and given effect in the *Environmental Planning and Assessment Regulation 2000*, the *Rural Fires Regulation 2013* and various other instruments.

PBP 2006 will continue to remain in force until PBP 2018 is adopted through referencing in relevant legislation and instruments. However, to assist in the interim period, proposals that comply with the requirements of the pre-release edition of PBP 2018 may still be considered as detailed below.

It is anticipated that PBP 2018 will come into effect on 1 May 2019 to align with the adoption of the National Construction Code 2019 in NSW.

Section 4.14 *Environmental Planning and Assessment Act 1979* (EP&A Act)

Under section.4.14 of the EP&A Act, development consent can only be granted on bush fire prone land where the consent authority is satisfied that, or has been provided with a certificate from a recognised consultant stating that development conforms with PBP 2006. During the interim period this provision continues to give effect to PBP 2006.

Section 4.14(1A) of the EP&A Act also provides that where compliance with PBP 2006 is not achieved, the consent authority may issue consent for the development, but only after it has consulted with the Commissioner of the NSW Rural Fire Service (NSW RFS).

Prior to the adoption of PBP 2018, developments that conform with the requirements of the pre-release edition of PBP 2018 can be considered under section 4.14(1A) of the Act. Compliance with the pre-release edition of PBP 2018 may be used as means of satisfying the NSW RFS concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire.

Referral to the NSW RFS is also still required where a development application proposes development on bush fire prone land that:

- i) involves a performance solution to achieve compliance with PBP 2006; or
- ii) is within Bushfire Attack Level Flame Zone (BAL-FZ).

Complying Development

A number of State Environmental Planning Policies (SEPPs) allow complying development on bush fire prone land. To constitute complying development, the proposal must satisfy the relevant development standards, which includes complying with certain provisions of PBP 2006. Prior to the adoption of PBP 2018, PBP 2006 will continue to apply to developments assessed under the complying development pathway.

Complying Development Certificates cannot therefore be issued for developments conforming to the pre-release edition of PBP 2018 and instead a development consent will be required.

Section 100B Rural Fires Act 1997 (RFA)

Under section 100B of the RFA, the Commissioner of the NSW RFS may issue a Bush Fire Safety Authority (BFSA) for subdivision or special fire protection purpose (SFPP) development. The application for a BFSA must be made to the Commissioner in accordance with the *Rural Fires Regulation 2013* (RFR).

Clause 44 of the RFR provides that an application for a BFSA must be made in writing and must include an assessment of the extent to which the proposed development conforms with or deviates from the standards, specific objectives and performance criteria set out in Chapter 4 (Performance Based Controls) of PBP 2006.

During the interim period up to the adoption of PBP 2018, the NSW RFS will assess applications for a BFSA under either PBP 2006 or the pre-release edition of PBP 2018. An assessment to which the proposal conforms with or deviates from either PBP 2006 or the pre-release edition of PBP 2018 will be required to accompany development applications which fall under section 100B of the RFA Act.

Further Information

Information documents, including some frequently asked questions detailing the pre-release of PBP-2018, have been placed on the NSW RFS website (www.rfs.nsw.gov.au).

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