



STREAMLINING RESIDENTIAL DEVELOPMENT ON BUSH FIRE PRONE LAND WITHIN URBAN RELEASE AREAS

URBAN RELEASE AREA

FACT SHEET

This fact sheet provides assistance for land owners, developers and consent authorities in relation to Post Subdivision BAL Certificate (PSBC) and sets out the steps for obtaining an exemption from further consideration of bush fire requirements of section 79BA of the *Environmental Planning and Assessment Act 1979* (EP&A Act) or through the complying development process.

By obtaining a PSBC, land owners and developers who intend to construct a house, dual occupancy or secondary dwelling on bush fire prone land located in an Urban Release Area (URA) eliminate the requirement for the reassessment of bush fire provisions at the Development Application stage.

The PSBC can also be used in the complying development process.

Introduction

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

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

Post Subdivision Bush Fire Attack Level (BAL) Certificate (PSBC)

A PSBC certifies that the Bush Fire Attack Level (BAL) of the part of the land on which development is proposed is BAL-29 or less. This determines the bush fire construction standards that will be required for the new dwelling.

Bush fire assessment exemptions

If the BAL was assessed as part of the original subdivision within an urban release area, and these BALs were endorsed by the NSW Rural Fire Service (NSW RFS), then land owners and developers can apply for a PSBC. This can be used when seeking approval for their dwelling, dual occupancy or secondary dwelling.

Process to obtain exemption from section 79BA of the EP&A Act

For development to be excluded, a PSBC must be submitted with a Development Application (DA).

For a consent authority to support an exclusion, they must be satisfied of the following matters.

- A bush fire safety authority (BFSA) for the subdivision of the land was issued that:
 - Was in force on the date on which the development application for the development was lodged; and
 - Was issued no more than five years before the date.
- The conditions of the BFSA concerning setbacks, asset protection zones, provision of water supply or other matters that are relevant to that development have been completed.
- A Subdivision BAL Plan (SBP) that was issued as part of the BFSA:
 - Must contain a notation from the NSW RFS showing that the plan was endorsed when the application for the BFSA was determined under the *Rural Fires Act 1997* (RF Act).
- A 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 Flame Zone (BAL-FZ) and is consistent with the subdivision BAL plan endorsed by the NSW RFS.

Consent Authority Responsibilities PSBC Fees & Charges

Consent authorities should impose appropriate conditions on the development consent to ensure the development meets the construction standard identified on the PSBC.

Applying for a PSBC

There are two pathways for obtaining a PSBC:

1. PSBC for the entire subdivision

A PSBC may be obtained for an entire approved subdivision once the subdivision is completed and, prior to lots being sold. This PSBC can be used to submit with a DA or as part of the complying development process.

2. PSBC for individual lots

If a subdivision was originally approved with BAL endorsed by the NSW RFS, but a PSBC was not obtained by the developer once the subdivision was completed, the PSBC can be obtained by the subsequent land owner or developer when they are obtaining approval for their dwelling, dual occupancy or secondary dwelling.

PSBC may be issued by the NSW RFS, or by a recognised Bush Fire Consultant. A list of recognised Bush Fire Consultants can be found of the Fire Protection Association of Australia website www.fpaa.com.au.

A PSBC Application made to the NSW RFS must include the following information:

- A completed PSBC Application form;
- A site plan with a reference number, dated, and drawn to scale that clearly indicates the following:
 - The proposed buildings and their uses on the site;
 - Distance from any bush fire prone vegetation, and slope underneath the vegetation;
 - Any changes to the levels of the land; and
- The appropriate fee.

PSBC applications can be sent to the following address:

NSW Rural Fire Service
Customer Service and Support
Locked Bag 17
GRANVILLE NSW 2142
Or emailed to: records@rfs.nsw.gov.au

In accordance with section 273(4) of the Environmental Planning and Assessment Regulation 2000, the NSW RFS charges the following fees for BAL Certificates:

- For a single lot - \$500.00.
- For two lots to ten lots - \$500.00, plus \$300.00 for each lot exceeding 1 lot.
- For 11 or more lots - \$3200.00 plus \$150.00 for each lot exceeding 10 lots.

The fees for recognised consultants are not set by the NSW RFS. It is recommended that you contact the consultant directly to find out their fees.

How to use the PSBC

Once you have obtained a PSBC, it can be used in the following pathways

Development Application (DA)

The PSBC can be submitted to the Consent Authority along with your DA to build a dwelling, dual occupancy or secondary dwelling.

The Consent Authority can then use the PSBC to determine the appropriate conditions of consent for your development application in regard to bush fire without the need for further assessment or referral to the NSW RFS.

The consent authority will also need to be satisfied of the following matters to provide the exemption:

- A BFSA is in force on the day the DA was lodged, and was issued no more than five years before that date;
- A Subdivision BAL Plan (SBP) was endorsed by the NSW RFS as part of the BFSA showing the BAL for all lots within the subdivision;
- The construction of the subdivision satisfies the requirements of the BFSA in regard to setbacks, asset protection zones, access, water supply and any other matters; and
- The SBP endorsed by the NSW RFS shows that the part of the land on which the development is to be carried out is not in BAL- 40 or BAL Flame Zone (BAL-FZ).

Complying Development

A PSBC may be relied upon to demonstrate compliance with clause 3.36B (2) (b) of the SEPP (Exempt and Complying Development Code). This demonstrates 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.

Frequently Asked Questions

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

The NSW Department of Planning & Infrastructure (DP&I) has identified numerous areas across NSW as URAs. A series of maps marked 'Bush Fire Planning—Urban Release Area Map' (approved by the Director-General), are held by the DP&I. These maps are available on their website www.planning.nsw.gov.au.

What if my lot is located in a URA but an SBP was not endorsed with the subdivision?

The exemption does not apply to land that did not have a Subdivision BAL Plan endorsed as part of the subdivision approval process.

What if my lot is located in a URA but a PSBC has not been issued?

Any land owner can apply for a Post Subdivision BAL Certificate, as long as the land is in a URA that has met the requirements under clause 237(1) of the Environmental Planning and Assessment Regulation

Can a PSBC be issued at the same time as the BFSA?

No, it is not possible for a PSBC to be issued at the same time as a BFSA. The requirements of the BFSA must be fulfilled before a PSBC can be issued.

Can a PSBC be issued prior to a subdivision certificate?

No. A PSBC cannot be issued prior to a subdivision certificate, as all works required under the PSBC must be completed prior to the BAL Certificate being issued.

How do I know if I need a PSBC?

A PSBC is only available where a SBP is endorsed as part of the subdivision approval. The section 149 (EP&A Act) Certificate for your property will identify if your land is bush fire prone. Alternatively, your local council can advise if your property is located upon bush fire prone land.

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)

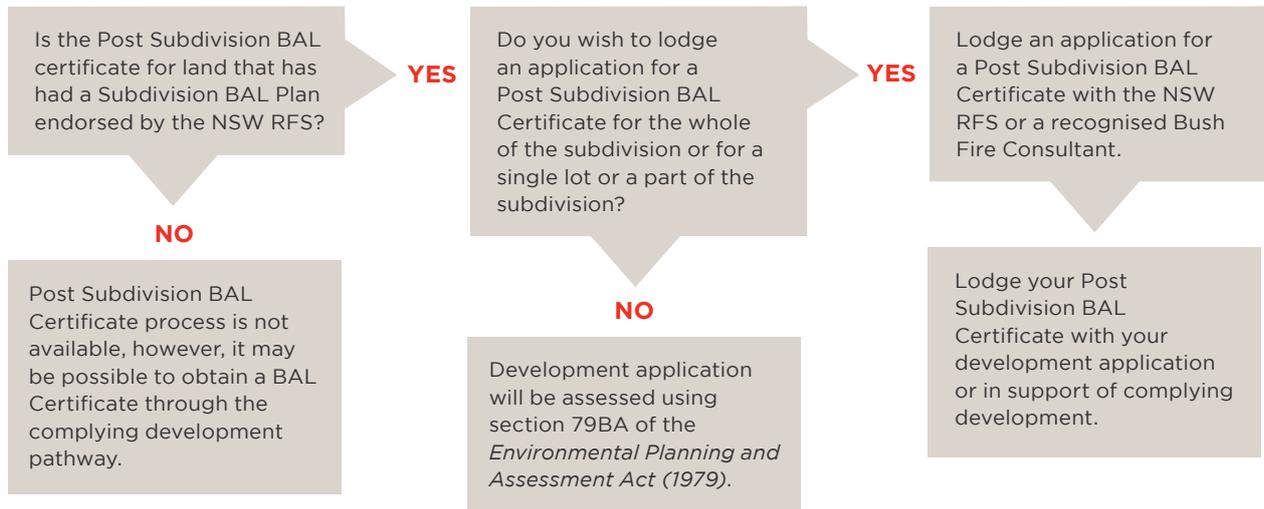
Bush Fire Safety Authority (BFSA): An approval by the Commissioner of the NSW RFS required for a subdivision for residential or rural residential purpose or for a special fire protection purpose listed under section 100B (6) of the RF Act.

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 SBP approved by the NSW RFS showing the BAL for all lots within the subdivision.

Subdivision BAL Plan (SBP): 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 obtaining and using a Post Subdivision BAL Certificate in Urban Release Areas



FOR FURTHER INFORMATION

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