



Application of section 100B of the Rural Fires Act 1997 (Bush Fire Safety Authority)

Guidance document

23 July 2025

This document provides guidance to landowners, councils, planners, consultants and developers on the application of section 100B of the *Rural Fires Act 1997* (RF Act). This includes guidance on the issuing of a bush fire safety authority (BFSA) under section 100B of the RF Act for development on land mapped as bush fire prone land, the planning pathways for application of section 100B of the RF Act, and the application of section 100B of the RF Act on partially mapped bush fire prone land.

This Guidance document replaces the RFS document “*Fast Facts Application of 100B*” dated 2012.

The issuing of a BFSA for development on bush fire prone land

Under section 100B(1) of the RF Act, a BFSA is required from the Commissioner of the NSW Rural Fire Service (RFS) for:

- a) a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or
- b) development of bush fire prone land for a special fire protection purpose (SFPP), as defined in section 100B(2) of the RF Act.

A BFSA authorises development to the extent that it complies with standards regarding setbacks, provision of water supply and other matters considered by the Commissioner to be necessary to protect persons, property or the environment from danger that may arise from a bush fire.

An application for a BFSA is to be made to the Commissioner and is required before developing bush fire prone land, being land that is mapped pursuant to section 10.3 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), for the purposes as described in section 100B(1)(a) or (b) of the RF Act.

Section 10.3 of the EP&A Act identifies bush fire prone land as land within an area of a council designated as bush fire prone land by the Commissioner and recorded on a map certified by the Commissioner. Cadastral (lot) boundaries are not relevant to the assessment of whether a development is on bush fire prone land.

Planning pathways for the application section 100B of the *Rural Fire Act 1997*

The primary pathway to issue a BFSA will differ depending on the planning approval pathway that is adopted under the EP&A Act and are summarised in **Table 1**.

Table 1: Planning pathways under the EP&A Act for the issuing of BFSA under section 100B of the RF Act

Planning approval pathway	Description of planning pathway as it relates to BFSA requirements
Development requiring consent under Part 4 of the EP&A Act.	For development that requires both development consent under Part 4 of the EP&A Act and a BFSA authority under section 100B of the RF Act, the development is classified as integrated development and section 4.46 of the EP&A Act applies.
Development permitted without consent under Part 5 of the EP&A Act	<p>Under Part 5, Division 5.1 of the EP&A Act certain projects undertaken by councils, government departments or State agencies do not require consent under Part 4 of the EP&A Act. Many of these activities are allowed to be carried out under State Environmental Planning Policy (Transport and Infrastructure) 2021.</p> <p>A BFSA under section 100B of the RF Act may still be required for an SFPP permitted without consent under Part 5 of the EP&A Act.</p>
Exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW) (Codes SEPP)	<p>There is no exclusion from a BFSA under section 100B of the RF Act or the EP&A Act for exempt development identified in the Codes SEPP. There is an overlap between the Codes SEPP and the exclusions listed in section 100B(5) of the RF Act and clause 46(1) of the RF Regulation from the requirements for a BFSA for a SFPP on bush fire prone land or a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes.</p> <p>There is no formal assessment or referral process to the RFS for exempt development. In most cases there is no need for the Commissioner to issue a BFSA.</p>

Development not requiring a BFSA

Development excluded from a BFSA

- 1) Development listed in clause 46(1) of the RF Regulation;
- 2) The carrying out of internal alterations to any building (section 100B(5)(a) of the RF Act);
- 3) Development that requires a BFSA under section 100B(5)(b) of the RF Act cannot be complying development for the purposes of the EP&A Act;
- 4) State significant development (SSD) (section 4.41(1)(f) EP&A Act); and
- 5) State significant infrastructure (SSI) (section 5.23 of the EP&A Act).

The RFS will generally be consulted on the proposed development in accordance with processes required under the SSD or SSI pathway as requested by the Department of Planning Housing and Infrastructure.

Modification applications made under 4.55 of the EP&A Act

A modification application made under section 4.55 of the EP&A Act, should not ordinarily require a new BFSa. In the event that such significant modifications are proposed, the Commissioner can be consulted on whether a new BFSa is required.

Requesting a BFSa from the Commissioner

Under Part 4 of the EP&A Act

Prior to a consent authority (e.g. council) issuing consent for integrated development, they must obtain general terms of approval (GTAs) from the Commissioner for the purposes of the issuing of a BFSa through this process.

The GTAs in relation to a development application must include written notice of whether the Commissioner will grant the BFSa. Through this decision, the Commissioner may indicate that it will not grant the BFSa unless particular criteria are met.

If GTAs are issued under Part 4 of the EP&A Act, the application for the BFSa must be made within 3 years after the date consent is granted.

Under Part 5 of the EP&A Act

A request for a BFSa can be made directly to the RFS via records@rfs.nsw.gov.au.

This type of development triggers a requirement for the Commissioner to consider the environmental impact of the proposed development and to determine the corresponding Review of Environmental Factors (REF) for the development.

Upon receipt of an application for a BFSa, the Commissioner would exercise their discretion in accordance with section 100B of the RF Act to either issue or refuse the BFSa. If the Commissioner refuses the request for a BFSa, development of bush fire prone land cannot lawfully occur.

What must an application for a BFSa include?

Section 100B(4) of the RF Act and clause 45 of the RF Regulation describes what must be included in an application for a BFSa. That application must include certain matters relating to the property on which the development, the subject of the application is proposed to be carried out (not just the mapped bush fire prone land).

The application would include an assessment of the extent to which the development complies with the standards considered by the Commissioner to be necessary to protect persons, property or the environment from danger that may arise from a bush fire and the extent to which the proposed development conforms with or deviates from *Planning for Bush Fire Protection* (PBP).

For a proposed subdivision for the purposes of dwelling houses, dual occupancies or secondary dwellings on property in an urban release area must be accompanied by the prescribed information as defined in clause 45(4) of the RF Regulation.

What if the bush fire prone land mapping changes prior to development commencing?

It is the responsibility of the certifier to ensure all the relevant approvals are obtained prior to the development of bush fire prone land. Bush fire prone land mapping may be subject to change.

In the event that the bush fire prone land mapping is different between the development consent date and the certifier's assessment date, the bush fire prone land mapping on the date that the assessment is being considered by the certifier is the relevant bush fire prone land map reference date to make the assessment, and not the bush fire prone land mapping that was in effect at the time of development approval.

If the land was not previously mapped as bush fire prone land when development consent was issued by a consent authority and the land is now mapped as bush fire prone land, a person must obtain a BFSA before for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or development of bush fire prone land for a SFPP.

Application of section 100B of the RF Act on partially mapped bush fire prone land

Is a BFSA required for a SFPP of partially mapped bush fire prone land?

Not all SFPP developments located on a lot which is partially mapped as bush fire prone land constitute a development of bush fire prone land for a SFPP for the purposes of section 100B(1)(b) of the RF Act.

The proposed development is a development of bush fire prone land where it involves doing any of the acts, matters or things specified in section 1.5(1) of the EP&A Act, on the bush fire prone land portion of the land. It is only where any of those acts, matters or things are proposed to be done on the bush fire prone land portion of the land for a SFPP listed in section 100B(6) of the RF Act, that a BFSA will be required.

Cadastral (lot) boundaries are not relevant to the assessment of whether a development is on bush fire prone land.

Worked examples are provided in **Appendix A**.

Is a BFSA required for a subdivision of partially mapped bush fire prone land?

A BFSA is required where a lot is partially mapped as bush fire prone and is proposed to be subdivided for residential or rural purposes for the purposes of section 100B(1)(a) of RF Act even if the portion of the lot that is bush fire prone land is not itself divided into two or more parts.

A BFSA is required only for subdivision of bush fire prone land, not for the development on the resulting lots following subdivision, except if the resulting development is for a SFPP.

Section 272(a) EP&A Regulation excludes development from section 4.14 of the EP&A Act. However, the consent authority must be satisfied that the development complies with relevant standards specified in BFSA relating to setbacks, asset protection zones, provision of water supply or other matters.

For further information regarding the Application of section 100B of the *Rural Fires Act, 1997*, email development.policy@rfs.nsw.gov.au



Appendix A

Table 2 contains examples of when a BFSA is or isn't required for SFPP or subdivision development on partially mapped bush fire prone land.

Example No.	Scenario	Is the proposed development on bush fire prone land?	Comment
SFPP – School			
1	A new café building and landscaping within an existing high school located on land mapped as bush fire prone that will occasionally be used for student and staff meetings. There are no plans to increase the number of students on site.	Yes	<p>A BFSA is required.</p> <p>Yes, as the development relates to adding a building to a school. The construction of a new café building and associated landscaping constitutes a development as it involves the erection of a building.</p> <p>The development is for a SFPP as it forms part of a high school complex and would be used primarily by persons attending the school.</p>
2	As per Example 1, however the new café on the school grounds will not be on land mapped as bush fire prone land. The existing school buildings are situated on bush fire prone land.	No	<p>A BFSA does not apply.</p> <p>The new development is not on bush fire prone land (even if other parts of the lot are).</p>
3	As per Example 1, the new café is proposed to be situated in an existing building which is partially on bush fire prone land and the development of the café required the making of alterations to, or the enlargement or extension of the existing building.	Partially	<p>A BFSA is required.</p> <p>A BFSA is required because the development relates to the modification of the “building” itself which is partially on bush fire prone land. This would apply even if the particular area on which the café is to be located is not on bush fire prone land.</p>
4	New classrooms are being added to an existing school. The school is mostly mapped bush fire prone land, however, the new classrooms are outside of the mapped bush fire prone land. No new access roads are proposed. Students and teachers will access the classrooms using existing roads within the school which pass through bush fire prone land.	Partially	<p>A BFSA does not apply.</p> <p>A BFSA not required as the construction of the new classrooms are not on bush fire prone land.</p>

Example No.	Scenario	Is the proposed development on bush fire prone land?	Comment
5	Example 4, however the school is proposing to increase student numbers.	Partially	A BFSA is required. The increase in student numbers can amount to an intensification of the use of the school.
6	A new school is being built on a vacant lot. A 2-hectare section of one corner of the lot is mapped bush fire prone land. The bush fire prone land area is proposed to be fenced off to restrict access and managed and the remainder of the site is proposed to be used for school buildings and playgrounds.	Partially	A BFSA does not apply. However, the extended definition of “erection of a building” and “development” may apply if the fencing intrudes into the bush fire prone land portion of the land and that land satisfies the definition of a “public place”.
7	Example 6, however the area to be fenced off has no management plan and is therefore likely to create vegetated areas that would meet the criteria to be mapped as bush fire prone land in the future. This could mean the proposed school buildings would be on bush fire prone land in the future.	Partially	A BFSA does not apply. Nothing in section 100B of the RF Act extends the definition of bush fire prone land to include land that might become bush fire prone land in the future.
SFPP – Childcare			
8	The construction of a childcare centre where the proposed building is outside of the bush fire prone land mapping. However, a new access to the proposed building (e.g. a driveway) and landscaping works are located on bush fire prone land.	Partially	A BFSA does not apply. A BFSA is not required because section 100B(5)(a1) of the RF Act provides that development to which section 100B(1) of the RF Act applies does not include the carrying out of any development excluded by the regulations. Clause 46(1)(k) of the RF Regulation provides that development that involves the “construction or installation of a driveway, pathway or other paved area” is excluded from the operation of section 100B of the RF Act.
9	As per Example 8, however the development includes water and gas utilities proposed to be located on land that is mapped	Yes	A BFSA is required. The installation of water and gas utilities constitutes a “development” as it is part of the “erection of a building”. This is

Example No.	Scenario	Is the proposed development on bush fire prone land?	Comment
	bush fire prone land, and a proposed building (an SFPP development) is not located on land that is mapped bush fire prone land.		defined to include “extending ... an essential service pipe beyond the alignment of a public road”. Accordingly, the connection of water and gas utilities from land that is mapped bush fire prone land to the building forms part of the erection of the building. As the development is for a SFPP, a BFSA will be required.
SFPP - Retirement Village			
10	A retirement village proposes to create a flat lawn area for residents and their guests to use. This will require the clearing of existing vegetation, earth moving works, and drainage work to be carried out. The lawn area is on bush fire prone land but the retirement village dwelling buildings are not.	Partially	<p>A BFSA is required.</p> <p>The proposed works form part of the retirement village use of the land. The landscaping and associated works require an BFSA as it is on bush fire prone land for SFPP. The creation of a flat lawn area constitutes a development as it can be characterised as the “carrying out of a work” or use of land.</p> <p>It is development for a SFPP as it forms part of the retirement village and would be used primarily by residents and staff of that village.</p>
11	As per Example 10, however the development relates to the creation of the lawn which involves only earthworks and drainage works	Partially	<p>A BFSA does not apply</p> <p>Such developments are excluded from the operation of section 100B of the RF Act by clause 46(1)(l) of the RF Regulation.</p>
SFPP - Hospital			
12	The construction of a stand-alone new helipad as part of a hospital precinct that is not on bush fire prone land. Parts of the existing hospital are on land mapped as bush fire prone land.	No	<p>A BFSA does not apply.</p> <p>The helipad is a standalone structure and is not on bush fire prone land; therefore there is no development of bush fire prone land.</p>
13	The construction of a new helipad on top of, or to be attached to, an existing hospital building which is either completely or partially on bush fire prone land.	Partially	<p>A BFSA is required.</p> <p>As the existing hospital building is either completely or partially on bush fire prone land, this would be development of bush fire prone land. This is because “development” includes the “erection of a building”, and this is defined to include</p>

Example No.	Scenario	Is the proposed development on bush fire prone land?	Comment
			the “making of alterations to, or the enlargement of, a building”. In these circumstances, the development relates to the existing hospital building.
14	The construction of a helipad as part of a hospital precinct, and a new helipad is on land mapped as bush fire prone land.	Yes	<p>A BFSA is required.</p> <p>As the proposed development is on bush fire prone land and is for a SFPP, a BFSA is required.</p>
Subdivision			
15	It is proposed to subdivide a two-hectare site zoned R5 (residential zoning) into three smaller lots. One small section in the eastern corner is mapped as bush fire prone land.	Partially	<p>A BFSA is required.</p> <p>If any part of the existing lot is mapped as bush fire prone land, any subdivision will require a BFSA, even if some of the new smaller lots that are being created will not be mapped as bush fire prone land.</p>