



New South Wales

# **State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020**

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ROBERT STOKES, MP  
Minister for Planning and Public Spaces

## **State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020*.

### **2 Commencement**

This Policy commences on 1 March 2020 and is required to be published on the NSW legislation website.

### **3 Repeal of Policy**

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5(6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

## **Schedule 1 Amendment of local environmental plans**

### **1.1 Bathurst Regional Local Environmental Plan 2014**

#### **[1] Clause 1.8A Savings provision relating to development applications**

Insert at the end of the clause—

- (2) If an application for a complying development certificate has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

#### **[2] Clause 7.2 Bush fire prone land**

Omit the clause.

#### **[3] Schedule 2, clauses 4.2(12), 7.2(12), 27.2(9) and 32.2(11) and Schedule 3, clause 1.3(3)**

Omit “AS 3959—2009” wherever occurring. Insert instead “AS 3959:2018”.

#### **[4] Schedule 3 Complying development**

Omit “Part 4.1.3 (2) of *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) issued by NSW Rural Fire Service in 2006”, wherever occurring in Part 1, clause 2(6)(e) and Part 2, clause 1.2(22).

Insert instead “Table 7.4a of *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

#### **[5] Schedule 3, Part 2, clause 1.3(2)**

Omit “section 4.1.3 (2) and Appendix 5 of *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) issued by NSW Rural Fire Service in 2006”.

Insert instead “Table 7.4a of *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

### **1.2 Blue Mountains Local Environmental Plan 2005**

#### **[1] Clause 6 Definitions and interpretation**

Insert after clause 6(4)—

- (5) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

#### **[2] Clauses 81–84**

Omit the clauses. Insert instead—

**81 Bush fire protection for residential subdivision and development**

An asset protection zone required for a residential subdivision of bush fire prone land (including for any subsequent development of habitable buildings) is to comply with *Planning for Bush Fire Protection*.

**82 Special fire protection purposes**

An asset protection zone required for special fire protection purposes on bush fire prone land is to comply with *Planning for Bush Fire Protection*.

**83 Bush fire protection for infill development**

Except for development subject to clause 81 or 82, an asset protection zone for development of habitable buildings on existing allotments on bush fire prone land is to comply with *Planning for Bush Fire Protection*.

**84 Access to bush fire prone land**

Consent must not be granted to development on bush fire prone land involving the construction of new roads or development for a special fire protection purpose, unless the consent authority is satisfied that adequate provision is made for public and private road access in accordance with *Planning for Bush Fire Protection*.

**[3] Clause 85 Service supplies**

Omit “the Council’s *Better Living DCP*” from clause 85(1).

Insert instead “*Planning for Bush Fire Protection*”.

**[4] Clause 85(2)**

Omit “this clause”. Insert instead “*Planning for Bush Fire Protection*”.

**[5] Clause 85(3) and (4)**

Omit the subclauses.

**[6] Dictionary**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006” from the definition of *Planning for Bush Fire Protection*.

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

**1.3 Blue Mountains Local Environmental Plan 2015**

**[1] Clause 1.8A Savings provision relating to development applications**

Insert at the end of the clause—

- (2) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**[2] Dictionary**

Omit “(ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006” from the definition of *asset protection zone*.

Insert instead “, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

**1.4 Boorowa Local Environmental Plan 2012**

**[1] Clause 6.9 Development on land known as Carinya Estate**

Omit “(ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006” from clause 6.9(4).

Insert instead “, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

**[2] Clause 6.9(3A)**

Insert after clause 6.9(3)—

- (3A) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this clause applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**1.5 Campbelltown (Urban Area) Local Environmental Plan 2002**

**[1] Clause 42A Bushfire hazard**

Insert after clause 42A(2)—

- (2A) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this clause applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**[2] Clause 42A(3), definition of “Planning for Bush Fire Protection”**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006”.

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

**1.6 Lake Macquarie Local Environmental Plan 2004**

**[1] Clause 33 Bush fire considerations**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006” from clause 33(3)(a).

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

**[2] Clause 33(4)**

Insert after clause 33(3)—

- (4) A development application lodged with the Council, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* is to be determined as if that Policy had not commenced.

## **1.7 Ryde Local Environmental Plan 2014**

**[1] Schedule 3 Complying development**

Omit “AS 3959—2009” from clause 1(3). Insert instead “AS 3959:2018”.

**[2] Schedule 3, clause 1(4)**

Insert after clause 1(3)—

- (4) The amendment made to subclause (3) by *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* extends to applications for complying development certificates made, but not finally determined before the commencement of the amendment.

## **1.8 Shellharbour Rural Local Environmental Plan 2004**

**[1] Clause 15 Savings**

Insert after clause 15(2)—

- (3) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**[2] Clause 39 and Dictionary**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006” wherever occurring in clause 39(2)(e) and the definition of *asset protection zone* in the Dictionary.

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

## **1.9 Shoalhaven Local Environmental Plan 1985**

**[1] Clauses 11C(2)(k)(i) and 28(3)(a)**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006” wherever occurring.

Insert instead “, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

**[2] Clause 54K**

Insert after clause 54J—

**54K Savings provision**

If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**1.10 Sutherland Shire Local Environmental Plan 2006**

**[1] Clause 58B**

Insert after clause 58A—

**58B Savings provision—complying development**

If an application for a complying development certificate has been made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020*, the application must be determined as if that Policy had not commenced.

**[2] Schedule 3 Complying Development**

Omit “ISBN 0 9751033 2 6, dated December 2006” wherever occurring in Parts 1 and 2.

Insert instead “ISBN 978 0 646 99126 9, dated November 2019”.

**1.11 Sutherland Shire Local Environmental Plan 2015**

**[1] Clause 1.8A, heading**

Omit “provision relating to development applications”.

**[2] Clause 1.8A(3)**

Insert after clause 1.8A(2)—

- (3) If an application for a complying development certificate has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**[3] Schedule 3 Complying development**

Insert after clause 1(2)—

- (3) This Part does not apply to development on land that is—
- (a) bush fire prone land or bush fire interface property, or
  - (b) land in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).
- Note.** More information about the categories of bush fire attack, including the flame zone, can be found in Table A1.7 of *Planning for Bush Fire Protection*.
- (4) For the purposes of this Part, land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ) if the Council or a person recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment determines, in accordance with the methodology specified in *Planning for Bush Fire Protection*, that the land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).
- (5) In this Part—

*bush fire attack level-40 (BAL-40)* and *flame zone (BAL-FZ)* have the same meanings as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

*bush fire interface property* means a lot identified as bush fire interface property by a development control plan made by the Council for the purposes of this Part and in force on 22 January 2016.

*Planning for Bush Fire Protection* means the document entitled *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

**[4] Schedule 3, clause 12(2)(a) and (b)**

Omit the paragraphs. Insert instead—

- (a) the development conforms to the specifications and requirements of *Planning for Bush Fire Protection*, and
- (b) any associated access way is on land that is—
  - (i) not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or  
**Note.** See clause 1 in relation to when land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).
  - (ii) grasslands (within the meaning of *Planning for Bush Fire Protection*), and

**[5] Schedule 3, clause 12(2)(d)**

Omit “clause 4.1.3(2)”. Insert instead “Table 7.4a”.

**[6] Schedule 3, clause 12(2)(e)**

Omit “AS/NZS 1596:2008”. Insert instead “AS/NZS 1596:2014”.

**[7] Schedule 3, clause 12(2), note**

Omit “of AS 3959—2009, *Construction of buildings in bushfire-prone areas*”.

Insert instead “relating to the construction of buildings in bush fire prone areas”.

**[8] Schedule 3, clause 12(3) (including the note) and (5)**

Omit the subclauses.

## **1.12 Tweed Local Environmental Plan 2000**

**[1] Clause 39A Bushfire protection**

Omit “Bushfire Control Office established by the Council for the area” from clause 39A(2)(a).

Insert instead “NSW Rural Fire Service District Office or the Bush Fire Management Committee constituted for the area”.

**[2] Clause 39A(3)**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006”.

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.



**[3] Clause 58 Savings**

Insert at the end of the clause—

- (2) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

### **1.13 Wagga Wagga Local Environmental Plan 2010**

#### **Schedule 2 Exempt development**

Omit “(ISBN 0 9751033 2 6) prepared by the NSW Rural Fire Service in co-operation with the Department of Planning in 2006” from subclause (11) of the matter relating to “**Emergency services facilities**”.

Insert instead “, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

### **1.14 Warringah Local Environmental Plan 2011**

**[1] Clause 1.8A Savings provision relating to development applications**

Insert at the end of the clause—

- (2) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**[2] Clause 6.8 Subdivision of certain land**

Omit “(ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006” from the definition of *Planning for Bush Fire Protection* in clause 6.8(4).

Insert instead “(ISBN 978 0 646 99126 9) prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

## Schedule 2 Amendment of State environmental planning policies

### 2.1 State Environmental Planning Policy (Affordable Rental Housing) 2009

#### [1] Clause 46B

Omit the clause. Insert instead—

#### 46B Development standards for bush fire prone land

- (1) Except as provided by subclause (2), this clause applies to development to which this Division applies that is carried out on a lot that is wholly or partly bush fire prone land.
- (2) This clause does not apply to the following development—
  - (a) development to which Division 7 of Part 2 applies,
  - (b) the erection of non-habitable ancillary development that is more than 6m from any dwelling house, landscaping, a non-combustible fence or a swimming pool,
  - (c) development that is carried out on any part of a lot that is land in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).

**Note.** More information about the categories of bush fire attack, including the flame zone, can be found in Table A1.7 of *Planning for Bush Fire Protection*.
- (3) The development may be carried out on the lot only if—
  - (a) the development conforms to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development, and
  - (b) any associated access way is on land that is—
    - (i) not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
    - (ii) grasslands, and
  - (c) the lot has direct access to a public road or a road vested in or maintained by the council, and
  - (d) the development is located within 200m of that road, and
  - (e) there is sufficient access designed in accordance with the acceptable solutions identified in Table 7.4a of *Planning for Bush Fire Protection*, and
  - (f) a reticulated water supply is connected to the lot, or a water supply with a 65mm metal Storz outlet with a gate or ball valve is provided for fire fighting purposes on the lot (the gate or ball valve, pipes and tank penetrations are to be designed to allow for a full 50mm inner diameter water flow through the Storz fitting and must be of a metal construction), and
  - (g) the size of the non-reticulated water supply mentioned in paragraph (f) is—
    - (i) for a lot with an area no greater than 10,000m<sup>2</sup>—10,000L, and
    - (ii) for a lot with an area greater than 10,000m<sup>2</sup>—20,000L, and
  - (h) reticulated or bottled gas on the lot is installed and maintained in accordance with AS/NZS 1596:2014, *The storage and handling of LP Gas* and the requirements of relevant authorities (metal piping must be used), and

- (i) all fixed gas cylinders on the lot are located at least 10m from flammable materials and are enclosed on the hazard side of the installation, and
- (j) any gas cylinders on the lot that are within 10m of a dwelling house—
  - (i) have the release valves directed away from the dwelling house, and
  - (ii) have metal connections to and from the cylinders, and
- (k) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to the dwelling.

**Note.** The requirements relating to the construction of buildings in bush fire prone areas set out in the *Building Code of Australia* also apply.

- (4) For the purposes of this clause, land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ) if—
  - (a) the council or a person recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment determines, in accordance with the methodology specified in *Planning for Bush Fire Protection*, that the land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
  - (b) in the case of development carried out on grasslands—the development conforms to the specifications and requirements of Table 7.9a of *Planning for Bush Fire Protection* that are relevant to the development.

- (5) In this clause—  
***bush fire attack level-40 (BAL-40)*** and ***flame zone (BAL-FZ)*** have the same meanings as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

***grasslands*** has the same meaning as in *Planning for Bush Fire Protection*.

***Planning for Bush Fire Protection*** means the document entitled *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

## [2] Clause 57

Insert after clause 56—

### **57 Savings and transitional provision—2020 amendments (bush fire prone land)**

If an application for a complying development certificate has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

## **2.2 State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

### [1] Clause 5 Interpretation

Insert in alphabetical order in clause 5(2)—

***bush fire attack level-40 (BAL-40)*** has the same meaning as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

*flame zone (BAL-FZ)* has the same meaning as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

*grasslands* has the same meaning as in *Planning for Bush Fire Protection*.

*Planning for Bush Fire Protection* means the document entitled *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

**[2] Clause 13 Consultation with public authorities other than councils**

Omit “the publication of the NSW Rural Fire Service, titled *Planning for Bush Fire Protection*, 2006” from Note 2 to clause 13(2)(e).

Insert instead “*Planning for Bush Fire Protection*”.

**[3] Clause 19A**

Insert after clause 19—

**19A Land on which complying development may not be carried out—bush fire prone land**

- (1) To be complying development for the purposes of this Policy, the development must not be carried out on land in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).

**Note.** More information about the categories of bush fire attack, including the flame zone, can be found in Table A1.7 of *Planning for Bush Fire Protection*.

- (2) For the purposes of this Policy, land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ) if—
- (a) the council or a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment determines, in accordance with the methodology specified in *Planning for Bush Fire Protection*, that the land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
- (b) in the case of development carried out on grasslands—the development conforms to the specifications and requirements of Table 7.9a of *Planning for Bush Fire Protection* that are relevant to the development.
- (3) Nothing in this clause prevents complying development being carried out on part of a lot that is not land referred to in subclause (1) even if other parts of the lot are such land.

**[4] Clause 30 Home-based child care—complying development**

Omit clause 30(3)(a). Insert instead—

- (a) an asset protection zone that is not on a slope exceeding 18 degrees and that is in accordance with *Planning for Bush Fire Protection* must be established for the dwelling,

**[5] Clause 30(3)(c)**

Omit the paragraph. Insert instead—

- (c) any associated access way is on land that is—
- (i) not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
- Note.** See clause 19A in relation to when land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).

(ii) grasslands,

**[6] Clause 30(3)(e) and (f)**

Omit the paragraphs. Insert instead—

(e) there must be—

- (i) a reticulated water supply connection to the lot and a fire hydrant within 70m of the part of the lot on which the development is to be carried out, or
- (ii) a 10,000 L capacity water tank on the lot,

**[7] Clause 30(3), note**

Omit “of AS 3959—2009, *Construction of buildings in bushfire-prone areas*”.

Insert instead “relating to the construction of buildings in bush fire prone areas”.

**[8] Clause 30(4)**

Omit the subclause.

**[9] Schedule 3 Universities and TAFE establishments—complying development**

Omit clause 14(2)(a) and (b). Insert instead—

- (a) the development conforms to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development, and

**[10] Schedule 3, clause 14(2)(e)**

Omit “60m”. Insert instead “70m”.

**[11] Schedule 3, clause 14(2), note**

Omit “of AS 3959—2009, *Construction of buildings in bushfire-prone areas*”.

Insert instead “relating to the construction of buildings in bush fire prone areas”.

**[12] Schedule 3, clause 14(3) and note**

Omit the subclause and the note.

**[13] Schedule 5 Savings and transitional provisions**

Insert at the end of the Schedule, with appropriate clause numbering—

**Complying development applications—bush fire prone land**

If an application for a complying development certificate has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

## **2.3 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

**[1] Clause 1.5 Interpretation—general**

Omit “AS 3959—2009” wherever occurring in the definitions of *bush fire attack level-40 (BAL-40)* and *flame zone (BAL-FZ)* in clause 1.5(1).

Insert instead “AS 3959:2018”.

**[2] Clause 1.5(1)**

Insert in alphabetical order—

***Planning for Bush Fire Protection*** means the document entitled *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

**[3] Clause 1.13 Savings provisions**

Insert after clause 1.13(3)—

- (4) If an application for a complying development certificate has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**[4] Clause 1.19A**

Insert after clause 1.19—

**1.19A Land on which complying development may not be carried out—bush fire prone land**

- (1) To be complying development specified for any complying development code (except the Housing Alterations Code)—
- (a) the development must not be carried out on land in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
  - (b) in the case of development specified for the Rural Housing Code—any associated access way to the development must be on land that is—
    - (i) not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
    - (ii) grasslands.
- Note.** More information about the categories of bush fire attack, including the flame zone, can be found in Table A1.7 of *Planning for Bush Fire Protection*.
- (2) This clause does not apply to the following development—
- (a) non-habitable detached development that is more than 6m from any dwelling house,
  - (b) landscaped areas,
  - (c) non-combustible fences,
  - (d) swimming pools.
- (3) For the purposes of this clause, land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ) if—
- (a) the council or a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment determines, in accordance with the methodology specified in *Planning for Bush Fire Protection*, that the land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
  - (b) in the case of development carried out on grasslands—the development conforms to the specifications and requirements of Table 7.9a of *Planning for Bush Fire Protection* that are relevant to the development.

- (4) Nothing in this clause prevents complying development being carried out on part of a lot that is not land referred to in this clause even if other parts of the lot are such land.
- (5) In this clause, *grasslands* has the same meaning as in *Planning for Bush Fire Protection*.
- [5] **Clauses 2.42AB(e), 3.4(2)(d)(i), 3A.37(2)(g), 3B.4(2)(d)(i), 3C.5(2)(d)(i) and 5A.29(2)(g)**  
Omit “AS/NZS 1596:2008” wherever occurring. Insert instead “AS/NZS 1596:2014”.
- [6] **Clauses 3.4(1)(a), 3A.37(1)(a), 3B.4(1)(a), 3C.5(1)(a) and 3D.6(1)(a)**  
Omit “10m” wherever occurring. Insert instead “6m”.
- [7] **Clauses 3.4(1), 3A.37(1), 3B.4(1), 3C.5(1), 3D.6(1) and 5A.29(1)**  
Insert after each subclause—  
**Note.** See clause 1.19A for additional provisions relating to bush fire prone land.
- [8] **Clause 3.4(2)(a)**  
Omit the paragraph.
- [9] **Clauses 3.4(2)(g)(i) and (h)(ii), 3B.4 (2)(g)(i) and (h)(ii), 3C.5(2)(g)(i) and (h)(ii), 3D.6(2)(g)(i) and (i)(ii) and 5A.29(2)(e)**  
Omit “60m” wherever occurring. Insert instead “70m”.
- [10] **Clauses 3.4(2)(i) (including the notes) and (3)**  
Omit the provisions. Insert instead—  
(i) the development must conform to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development.  
**Note 1.** *Attached development, council, detached* and *dwelling house* are defined in clause 1.5.  
**Note 2.** *Bush fire prone land, landscaped area, road* and *swimming pool* have the same meanings as they have in the Standard Instrument.
- [11] **Clause 3A.37 Development standards for bush fire prone land**  
Omit clause 3A.37(2)(a) and (b). Insert instead—  
(a) the development conforms to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development, and
- [12] **Clause 3A.37(2)(e)**  
Omit “clause 4.1.3(2) of *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006”.  
Insert instead “Table 7.4a of *Planning for Bush Fire Protection*”.
- [13] **Clauses 3A.37(2)(i) (note) and 5A.29(2) (note)**  
Omit “of AS 3959—2009, *Construction of buildings in bushfire-prone areas*” wherever occurring.  
Insert instead “relating to the construction of buildings in bush fire prone areas”.

**[14] Clause 3A.37(3) and note**

Omit the subclause and the note.

**[15] Clause 3B.4 Complying development on bush fire prone land**

Omit clause 3B.4(2)(a).

**[16] Clause 3B.4(2)(i) (including the notes) and (3)**

Omit the provisions. Insert instead—

- (i) the development must conform to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development.

**Note 1. Attached development, council and detached development** are defined in clause 1.5.

**Note 2. Bush fire prone land, landscaped area, road and swimming pool** have the same meanings as they have in the Standard Instrument.

**[17] Clause 3C.5 Complying development on bush fire prone land**

Omit clause 3C.5(2)(a).

**[18] Clause 3C.5(2)(i) (including the notes) and (3)**

Omit the provisions. Insert instead—

- (i) the development must conform to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development.

**Note 1. Attached development, council, detached and dwelling house** are defined in clause 1.5.

**Note 2. Bush fire prone land, landscaped area, road and swimming pool** have the same meanings as they have in the Standard Instrument.

**[19] Clause 3D.6 Complying development on bush fire prone land**

Omit clause 3D.6(2)(a).

**[20] Clause 3D.6(2)(j) (including the notes) and (3)**

Omit the provisions. Insert instead—

- (j) the development must conform to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development.

**Note 1. Attached development, council, detached and dwelling house** are defined in clause 1.5.

**Note 2. Bush fire prone land, landscaped area, road and swimming pool** have the same meanings as they have in the Standard Instrument.

**[21] Clause 4.6A Development standards for bush fire prone land**

Omit clause 4.6A(2) (including the note). Insert instead—

- (2) The development may be carried out on the lot only if the development conforms to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development.

**Note.** The requirements relating to the construction of buildings in bush fire prone areas set out in the *Building Code of Australia* also apply.

**[22] Clauses 5A.29 Development standards for bush fire prone land**

Omit clause 5A.29(2)(a) and (b). Insert instead—



- (a) the development conforms to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development, and

**[23] Clause 5A.29(3) and note**

Omit the subclause and the note.

**2.4 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

**[1] Clause 27 Bush fire prone land**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006” from clause 27(1).

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

**[2] Clause 27(1) and (2)**

Insert “, “Bush fire prone land—vegetation category 3”” after “category 2”” wherever occurring.

**[3] Clause 54B**

Insert after clause 54A—

**54B Savings provision—bush fire prone land**

If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**2.5 State Environmental Planning Policy (Infrastructure) 2007**

**Clause 16 Consultation with public authorities other than councils**

Omit “Protection 2006” from the second note to clause 16(2)(f).

Insert instead “Protection 2019”.

**2.6 State Environmental Planning Policy (Kurnell Peninsula) 1989**

**Clause 34 How are trees and bushland vegetation preserved?**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006” from clause 34(8)(c)(i).

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.

### **Schedule 3      Amendment of Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment**

**[1]    Clause 6 Savings**

Insert at the end of the clause—

- (2) If a development application has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.

**[2]    Clause 11 Planning control table**

Omit “ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006” from item 21 of the Planning Control Table.

Insert instead “ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019”.