

9 May 2022

Grace Macdonald
Senior Planner
ESR Australia
Level 29, 20 Bond Street,
SYDNEY 2000

By email: Grace.Macdonald@esr.com

Dear Ms Macdonald,

Re: Bushfire Clarification NSW RFS – Horsley Logistics Park.

I refer to the NSW Rural Fire Service (NSW RFS) advice regarding the above State Significant Development at 327-335 Burley Road, Horsley Park.

The State Significant Development application is for industrial development and located on Bush Fire Prone Land. The original NSW RFS provided advice on 20 August 2020 (REF: DA20200520001740-EIS & DA) to DPE in respect of the matter was based on a bushfire report prepared by Eco Logical Australia dated June 2020. Additional information was subsequently submitted to support a modification of the bushfire conditions. The modification submitted was based on additional information prepared by Travers Bushfire & Ecology, dated 27 January 2022. The most recent NSW RFS response dated 4 March 2022 did not accept the recommendations of the Travers Bushfire and Ecology submission and essentially retained the previously applied conditions.

Blackash has since reviewed the matter and prepared further information. Recent liaison with the NSW RFS has resulted in revised advice (see Attachment 1) from David Boverman (NSW RFS Manager Development Planning & Policy) which provides updated conditioning. This revised advice is based on internal NSW RFS review involving both the 'assessment' and 'policy' teams and they have advised that their latest correspondence constitutes revised formal advice.

The original condition (condition 2 of NSW RFS advice dated 4 March 2022) was inconstant with their own stated policy position and that of the National Construction Code (NCC) and *Planning for Bushfire Protection 2019*. The original condition required strict compliance for all buildings with AS3959 and required non-combustible construction which is beyond the scope and application of AS3959 and PBP 2019.

The entirely prescriptive nature of the condition also limited the ability for performance-based/alternate approaches.

Based on the recent submission and liaison, the NSW RFS has agreed for the condition to be worded as follows:

"The construction shall comply with the National Construction Code (2019), Australian Standard AS 3959:2018, Construction of buildings in bush fire-prone areas and/or NASH Standard (1.7.14 updated), National Standard Steel Framed Construction in Bushfire Areas – 2014, and Section 7.5 of Planning for Bush Fire Protection 2019 on a prescriptive (deemed to satisfy and/or acceptable solution) basis and/or performance basis".

In their correspondence (attached) the NSW RFS advised that:

"...this Advice will be forwarded directly to the NSW Department of Planning and Environment (as the Consent Authority) so the issues can be resolved without further delays."

Given this latest advice, the bushfire conditioning can be updated with Condition 2 of the NSW RFS advice dated 4 March 2022, replaced with the wording identified above.

If there are any questions or concerns, please don't hesitate to give me a call on 0418 412 118.

Yours sincerely,



Corey Shackleton

Principal Bushfire & Resilience

B.Sc., Grad. Dip. (Design for Bush fires)

Fire Protection Association of Australia BPAD Level 3 –34603



Attachment 1 – NSW RFS Advice

RE: NSW RFS Policy Clarification Request - BAL Application (SSD Industrial Development)



David Boverman <David.Boverman@rfs.nsw.gov.au>

To ● Corey Shackleton
Cc ○ Built And Natural Environment

↩ Reply ↩ Reply All → Forward

Mon 9/05/2022 1:05 PM

You forwarded this message on 9/05/2022 1:12 PM.

NSW RFS Policy Clarification Request - BAL Application (SSD Industrial Development) Outlook item

Outlook item

Hi Corey,

Thank you for requesting Built & Natural Environment Advice on the attached and below emails.

Based on our review, the issues you have requested advice on are considered to have been previously addressed and sent to you (as you have stated and attached in your submissions, Advice issued on 9 February 2022 for the proposed warehouse (Warehouse 2A) at Oakdale West Estate).

Accordingly, please find the below Built & Natural Environment Response.

Conditioning

As noted, the condition as issued requires strict compliance with AS3959 as if AS3959/PBP applied to buildings greater than 100m from bush fire vegetation hazards.

It also requires non-combustible construction for the State Significant Development - Warehouse or Distribution Centre (*Request for comments – exhibited Environmental Impact Statement (EIS), Modification - 337 Burley Road Horsley Park NSW 2175, 201//DP1244593, 202//DP1244593, 204//DP1265921*) which is considered beyond the scope and application of AS3959/PBP.

The entirely prescriptive nature of the condition also limits the ability for performance-based/alternate approaches. The condition should be worded to allow performance-based compliance without the need for DA consent modification.

Accordingly, the condition is revised to read:

"The construction shall comply with the National Construction Code (2019), Australian Standard AS 3959:2018, Construction of buildings in bush fire-prone areas and/or NASH Standard (1.7.14 updated), National Standard Steel Framed Construction in Bushfire Areas – 2014, and Section 7.5 of Planning for Bush Fire Protection 2019 on a prescriptive (deemed to satisfy and/or acceptable solution) basis and/or performance basis".

Please note that the intent of this wording is to clarify that Construction Certificate issues will not be confused with Development Consent issues thereby resulting in inappropriate and unacceptable delays in development consent and associated approvals.

Please note also that this Advice will be forwarded directly to the NSW Department of Planning and Environment (as the Consent Authority) so the issues can be resolved without further delays.

If you have any questions and/or would like to discuss please let me know immediately by reply email.

Thank you, with kind regards,
David



David Boverman | Manager | Development Planning & Policy
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