



# FIRE SAFETY POLICY P2.0236.2

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# FIRE SAFETY POLICY

**DIVISION:** Planning and Environmental Services

**BRANCH:** Development Certification

**CATEGORY:** 2

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## PART 1 - INTRODUCTION

### 1. BACKGROUND

- 1.1. Council's Fire Safety Program was adopted by Council in 2001 to promote the upgrading of fire safety in existing buildings and to ensure fire safety measures are adequately maintained.
- 1.2. This policy has been prepared to inform and assist building owners and Council officers in relation to fire safety matters that are governed by the *Environmental Planning and Assessment Act 1979* (EP&A Act).

### 2. OBJECTIVE

- 2.1 To assist owners of Class 1b to 9 buildings meet their legal obligations regarding the implementation and maintenance of fire safety measures.
- 2.2 To promote fire safety compliance in buildings within the Camden LGA.
- 2.3 To ensure the community and building owners are informed on Council's role and processes in relation to fire safety and enforcement.

### 3. SCOPE

- 3.1 The policy applies to buildings classified as 1b to 9 under the NCC, including Council owned buildings.

### 4. DEFINITIONS

- 4.1 **Annual Fire Safety Statement (AFSS)** means an Annual Fire Safety Statement as defined by the *Environmental Planning and Assessment (Development and Fire Safety) Regulation 2021*.
- 4.2 **Accredited practitioner (fire safety)** means the holder of an accreditation under the *Building and Development Certifiers Act 2018* that authorises the holder to exercise the functions of an accredited practitioner (fire safety) who is acting in relation to matters to which the accreditation relates.
- 4.3 **Critical Fire Safety Measure (CFSM)** means a fire safety measure that is identified in a fire safety schedule as a critical fire safety measure, being a measure that is of such a nature, or is implemented in such an environment or in such circumstances, that the measure requires periodic assessment and certification at intervals of less than 12 months.

- 4.4 **EP&A Act** means the *Environmental Planning and Assessment Act 1979*.
- 4.5 **EP&A legislation** means *the EP&A Act* and the *EP&A Regulations*.
- 4.6 **EP&A Regulation** means the *Environmental Planning and Assessment (Development & Fire Safety) Regulation 2021* and *Environmental Planning and Assessment Regulation 2021*
- 4.7 **Essential Fire Safety Measure** means any installations or types of construction that have been incorporated into a building to ensure the safety of the occupants within the building in the event of fire or other emergency, and may include such measures as automatic fire suppression systems (e.g. sprinkler systems), fire hose reels, fire hydrants, automatic fire detection and alarm systems, fire doors, fire extinguishers, smoke exhaust systems, exit signs, emergency lighting and fire engineered solutions.
- 4.8 **Essential Service Details** means annual fire safety statement, fire safety certificates, fire safety statements, supplementary fire safety statements and/or fire safety schedules which acknowledge the existence, installation and performance standards of fire safety measures required to serve a Class 1b to Class 9 building.
- 4.9 **F&R NSW** means Fire and Rescue New South Wales.
- 4.10 **Fire Safety Certificate (FSC)** means a type of certificate submitted by the owner or the person acting for the building owner, which in effect certifies that specified essential fire safety measures have been installed and perform in accordance with the relevant Building Code of Australia requirements and Australian Standards.
- It is the first certificate issued after installation of essential fire safety measures following completion of:
- Any approved new building work or change of building use and prior to use of the new facilities; or
  - Fire safety upgrade works required by council.
- 4.11 **Fire Safety Schedule (FSS)** means a document specifying all the essential fire safety measures (both existing and proposed) serving the whole building and lists the minimum standard of performance to which each identified fire safety measure must be capable of operating to.
- 4.12 **Fire Safety Statement** means an annual fire safety statement or a supplementary fire safety statement.
- 4.13 **LGA** means Local Government Area.
- 4.14 **NCC** means the National Construction Code - Building Code of Australia.

- 4.15 **Supplementary Fire Safety Statement** means a statement applying to critical fire safety measures installed on the premises, which are measures that are of such importance that they must be certified more frequently than every 12 months and at an interval specified on the fire safety schedule for the premises. The assessment of the critical fire safety measures must be undertaken within one month of the date of issue of the statement.

## **PART 2 - POLICY STATEMENT**

### **5. FIRE SAFETY PROCEDURES AND ACTIVITIES**

- 5.1 Council will undertake the following in respect of fire safety in buildings:
- Investigate and respond to complaints and enquiries concerning fire safety.
  - Audit and require building owners to upgrade Class 1b - 9 buildings to achieve an appropriate level of fire safety.
  - Maintain a register of Class 1b - 9 buildings and monitor that building owners meet legislative requirements for fire safety statements and essential services.
  - Provide systems and processes which support the efficient delivery of this policy, including a fire safety register with relevant details of current properties.
  - Undertake enforcement in accordance with the principles outlined in this policy and Council's Compliance & Enforcement Policy.
  - Collaborate with other agencies, including F&R NSW, in relation to managing fire safety risks within the LGA.

### **6. INVESTIGATION OF FIRE SAFETY MATTERS**

- 6.1 Camden LGA has a large and diverse stock of buildings, constructed over different periods of time, where varied fire safety standards may apply.
- 6.2 Council will respond to all complaints and enquires concerning fire safety relating to buildings within the LGA.
- 6.3 Actions will be prioritised according to risk, with matters that present an immediate threat to life given the highest priority.
- 6.4 Matters reported to Council by F&R NSW in accordance with Section 9.32 of the EP&A Act will be prioritised. The report and any recommendations by F&R NSW must be investigated, and the Council investigation officer's findings reported to F&R NSW pursuant to Section 9.32 of the EP&A Act.

- 6.5 The investigation of a fire safety matter may result in a building being included on Council's Fire Safety Register and trigger the requirement for the submission of a Fire Safety Statement or upgrading. Council may require the use or activity in a building or premises cease where there is reasonable concern regarding fire safety.
- 6.6 Where an investigation identifies fire safety matters which must be addressed, Council may take enforcement action, including serving Orders under Schedule 5 of the EP&A Act.
- 6.7 Information on compliance and enforcement is outlined in Part 8 of this policy.

## **7. ANNUAL FIRE SAFETY STATEMENTS (AFSS)**

- 7.1 Under the EP&A Act, owners of Class 1b to 9 buildings are required to provide an AFSS to Council and F&R NSW. An AFSS is required to be prominently displayed in the building.
- 7.2 Council will maintain a register of known Class 1b to 9 buildings in the Camden LGA, including Council buildings.
- 7.3 Council will require an AFSS to be submitted for each building on Council's register. It is noted that Council's register may not capture all buildings that require an AFSS and owners are still required to submit an AFSS even if the building is not included on the register.
- 7.4 An AFSS must include all fire safety measures in a building as identified on the Fire Safety Schedule. If a schedule cannot be located, or clarification of installed measures is required, Council may require an Accredited Practitioner (fire safety), Registered Building Surveyor (unrestricted) or Registered Certifier (Fire Safety) to inspect and assess the building to establish an accurate fire safety schedule for the building.
- 7.5 Council may charge a fee for submission of each AFSS, payable at the time of submission, or for inspections by Council officers in respect of clause 7.4 above, in accordance with Council's adopted Fees and Charges.
- 7.6 Buildings may be added to the register in several ways including;
- Issue or submission of an Occupation Certificate.
  - Issue of Fire Safety Orders.
  - Voluntary submission of an AFSS.
  - Fire safety audit or upgrade in accordance with Council's Fire Safety Program.
  - Investigation of a complaint or referral from F&R NSW or another agency.
  - Approval for change of use, additions or alterations to an existing building.

- 7.7 To assist building owners, Council will send a reminder letter for buildings on the register prior to the due date of the AFSS. The letter will be sent to owner of the premises in accordance with the available data on Council's rates and property database. Council will take reasonable care to ensure that reminder letters are sent prior to the due date and accurate ownership details are maintained.
- 7.8 Notwithstanding clause 7.7, Council has no legislative obligation to issue reminders and accepts no responsibility for the reliance upon reminder letters by owners to fulfill their legal obligation for providing the statements when due. Failure to receive a reminder does not relieve owners of responsibility nor provide a defence for any regulatory action taken for non-compliance.
- 7.9 Where an AFSS is not received by the due date, Council will issue an overdue notice. The overdue notice will give the building owner 14 days to submit the AFSS.
- 7.10 Failure to submit an AFSS within the required timeframe is an offence under the EP&A Act to which penalty infringement notices apply. Failure to submit an AFSS could also lead to legal proceedings in the Land and Environment Court.
- 7.11 Notwithstanding clause 7.9, extensions of time may be considered where there are extenuating circumstances including, but not limited to, discrepancy of fire safety measures specified, unavailability of essential parts or unavoidable failure and/or damage of essential measures immediately prior to inspection. Delays in appointing a contractor, arranging an inspection and/or changes in strata manager will not generally be accepted as grounds for extension. Requests for extension will generally only be considered where made prior to the due date.
- 7.12 Failure to maintain essential fire safety measures is an offence under the EP&A Act and Regulations to which penalty infringement notices apply.

## **8. COMPLIANCE & ENFORCEMENT**

- 8.1 The EP&A legislation provides a range of enforcement tools to deal with fire safety matters, including:
- Orders issued under Division 9.3 and Part 2 of Schedule 5 of the EP&A Act.
  - Penalty Infringement Notices.
  - Civil and Criminal Court Proceedings.
- 8.2 All matters will be thoroughly investigated and actioned on a case-by-case basis and in accordance with Council's Compliance & Enforcement Policy. An escalating enforcement approach is normally applied unless the matter presents an immediate threat to life and safety.
- 8.3 Notwithstanding the above, all fire safety breaches are deemed by Council to be serious offences and some circumstances may warrant issuing of a penalty infringement notice without previous warning or use of emergency orders where there is a potentially life-threatening matter.

## **9. RISK ASSESSMENT**

- 9.1 Council will take a risk-based approach when determining the appropriate course of action including the nature of occupants, uses and activities, risk to the community and age of the building.
- 9.2 Notifications received from F&R NSW or under Section 135 of the EP&A Regulation 2021 or Section 60 of the EP&A (Development Certification and Fire Safety) Regulation 2021 will be considered using a risk-based approach, which may include taking no action, writing to the building owners or taking any of the actions outlined in Part 8 of this policy, as is warranted in the circumstances.
- 9.3 Buildings identified with combustible cladding, which require registration on the NSW Cladding register, will be categorised as high risk.
- 9.4 The scope of fire safety audits and upgrade works required will generally be determined in accordance with Part 10 of this policy. Building owners may be required to engage a Registered Certifier (Fire Safety) or Registered Building Surveyor (unrestricted) to undertake a fire safety audit and submit strategies for Council's approval.
- 9.5 Fire Safety upgrades will be enforced by issuing of Notices and Orders under Division 9.3 and Part 2 of Schedule 5 of the EP&A Act.

## **10. FIRE SAFETY AUDIT AND UPGRADE PROGRAM**

- 10.1 A building may be identified for a fire safety audit in several ways including;
  - Complaint relating to the fire safety of the building is received.
  - Where there is an outstanding fire safety order or notice.
  - Properties and buildings have been identified on Council's Fire Safety Register and a current AFSS has not been received. This includes properties and buildings that were once active on Council's register and the owners are not currently submitting an AFSS.
  - Buildings that are known to present a fire safety risk (e.g. due to any combination of factors such as the construction, use, nature of occupants, or age of a building).
  - Registration of a building on the NSW Cladding Register.
  - Where notification has been received from F&R NSW.
  - Notification from an accredited building certifier or Council officer indicating that the fire safety of the building is not adequate.
  - Class 1b and Class 2-9 buildings where unauthorised building works or change of use have been carried out.
  - Approved Class 1b and Class 2-9 developments where an occupation certificate has not been received and the building is occupied.
  - Where development approval is granted for change of use, additions or alterations to an existing building.
- 10.2 Buildings will be placed in one of three categories being high, moderate and low risk, with priority given to those that present the highest risk. The risk category will also guide the level of upgrading required. The types of buildings and associated risk have been categorised as detailed in Table 1 below.

- 10.3 The primary purpose of the building audit is to establish whether the building presents a fire safety risk to its occupants. This will involve an assessment of the adequacy of the existing active and passive fire safety measures, and determination as to whether an upgrade is required.
- 10.4 Council may require fire safety upgrading works as conditions of a development consent or by issuing orders under Division 9.3 and Part 2 of Schedule 5 of the EP&A Act.
- 10.5 Where it is identified that a building requires a fire safety audit and/or upgrading, Council may require a report or upgrade strategy prepared by a suitably qualified professional in accordance with Table 1 below.

**Table 1**

<b>Risk Category</b>	<b>Type of Building</b>	<b>Competency required - upgrade strategy</b>
<i>High</i>	<ul style="list-style-type: none"> <li>- Aged Care Building (private)</li> <li>- Health care building (private)</li> <li>- Nursing home</li> <li>- Hotel, motel or night club</li> <li>- Child care facility</li> <li>- School</li> <li>- Accommodation for people with disabilities</li> <li>- Residential flat building</li> <li>- Boarding house, guest house, hostel, Group homes or the like</li> <li>- Entertainment venues</li> <li>- Large assembly buildings</li> <li>- Buildings that are known to present a fire safety risk (e.g. due to any combination of factors such as the construction, use, nature of occupants, or age of a building).</li> <li>- Registration of a building on the NSW Cladding Register.</li> </ul>	<ul style="list-style-type: none"> <li>- Registered Certifier (Fire Safety), or</li> <li>- Building Surveyor (unrestricted)</li> </ul>
<i>Moderate</i>	<ul style="list-style-type: none"> <li>- Factory</li> <li>- Assembly building (e.g. church)</li> <li>- Large Warehouse or warehouse where nature of storage is considered higher than normal risk</li> <li>- Large shopping complex</li> <li>- Restaurant</li> <li>- Enclosed car park</li> </ul>	<ul style="list-style-type: none"> <li>- Registered Certifier (Fire Safety), or</li> <li>- Building Surveyor (unrestricted)</li> </ul>



<p><i>Low</i></p>	<ul style="list-style-type: none"> <li>- <i>Office building</i></li> <li>- <i>Small shop &lt; 500m<sup>2</sup></i></li> <li>- <i>Open Car park</i></li> <li>- <i>Low rise bulky goods</i></li> <li>- <i>Small industrial units</i></li> </ul>	<ul style="list-style-type: none"> <li>- <i>Registered Certifier (Fire Safety)</i></li> <li>- <i>or</i></li> <li>- <i>Building Surveyor (unrestricted)</i></li> <li>-</li> <li>- <i>Building Surveyor (restricted) as appropriate to registration conditions</i></li> </ul>
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**RELEVANT LEGISLATIVE INSTRUMENTS:** *Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2021*

*Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*

**RELATED POLICIES, PLANS AND PROCEDURES:**

Compliance & Enforcement Policy  
Fire Safety Program Procedure Manual

**RESPONSIBLE DIRECTOR:**

Director Planning & Environment

**APPROVAL:**

Council

**HISTORY:**

<b>Version</b>	<b>Approved by</b>	<b>Changes made</b>	<b>Date</b>	<b>EDMS Number</b>
1	Council	New	Adopted Council meeting 13/08/2019 for public exhibition – effective from 25/09/2019	19/292805
2	ELG	Minor amendments	21/07/2022	19/292805