



FIRE SAFETY POLICY P2.0236.3

FIRE SAFETY POLICY

DIRECTORATE: Planning and Environment
BRANCH: Development Certification
CATEGORY: 2

1. Purpose

- 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.

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)*, *Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)* and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*. Alignment with Community Strategic Plan**

- 2.1 Council's Community Strategic Plan 2025-2040 identifies five key directions to guide Council towards achievement of the vision that "Camden is a diverse, vibrant community embracing sustainable growth, honouring heritage, and protecting our environment together". The following objectives and strategies are applicable to this Policy and relevant to the key direction of 'Welcoming':
- W2.1 Promote and facilitate programs and services that support good community health and wellbeing.
 - W2.2 Improve access to public spaces and places for people of all ages and abilities.
 - W3.1 Implement programs targeting key community safety concerns.
 - W3.2 Seek active partnerships to address community needs.
 - W3.3 Address community needs through the provision of services and facilities targeting specific user groups.

3. Scope

- 3.1. The Policy applies to buildings classified as 1b to 9 under the National Construction Code - Building Code of Australia (NCC), including Council owned buildings.

4. Objectives

- 4.1. 'The main objectives of this Policy are to:

- Assist owners of Class 1b to 9 buildings to meet their legal obligations regarding the implementation and maintenance of fire safety measures, to ensure the health and safety of occupants of these buildings.
- Promote fire safety compliance in buildings within the Camden Local Government Area (LGA).
- Ensure the community and building owners are informed on Council's role and processes in relation to fire safety and enforcement.
- Outline Council's relevant regulatory powers relating to fire safety.

5. Policy Statement

5.1 Fire Safety Procedures and Activities:

Council will undertake the following in respect of fire safety in buildings:

- Investigate and respond to complaints and enquiries concerning fire safety in accordance with Council's Customer Service Charter.
- Audit existing buildings and require building owners to upgrade Class 1b - 9 buildings to achieve an adequate level of fire safety.
- Add new buildings to the Fire Safety Register once the Occupation Certificate has been issued. A fee is payable by the owner of the building when it is entered into Council's Fire Safety Register.
- Maintain and monitor a register of Class 1b - 9 buildings to ensure that building owners meet legislative requirements for fire safety statements and essential fire safety measures.
- Maintain a public register of fire safety schedules on Council's website.
- Maintain general fire safety information on Council's website to inform building owners of their legal obligation.

- Liaise with building owner/managers, accredited practitioners (fire safety) (APFS) and the local community regarding fire safety matters.
- Undertake enforcement in accordance with the principles outlined in this policy and Council's Environment and Regulatory Services Enforcement Policy.
- Collaborate with other agencies, including Fire and Rescue NSW (FRNSW) in relation to managing fire safety risks within the LGA.

5.2 Investigation of Fire Safety Matters

Camden's LGA has a large and diverse stock of buildings, constructed over different periods of time. Essential Fire Safety Measures have evolved over time and will continue to be updated, resulting in varied fire safety standards. During an investigation there is the possibility that existing fire safety measures will need to be upgraded to ensure that an adequate level of fire safety is achieved, noting that an old existing building may not be able to be upgraded in every aspect to meet the requirements of the current version of the NCC or a new Australian Standard.

A fire safety investigation may occur in accordance with Part 5.6 of this Policy.

- 5.2.1. Council will respond to all complaints and enquiries concerning fire safety relating to buildings within the LGA, to ensure they achieve an adequate level of fire safety.
- 5.2.2. Actions will be prioritised according to risk, with matters that present an immediate threat to life given the highest priority.
- 5.2.3. Matters reported to Council by FRNSW in accordance with Cl. 17 Schedule 5 of the EP&A Act will be prioritised; investigated and reported to Council in accordance with the legislation.
- 5.2.4. 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 of the building's Fire Safety Measures. Council may require the use or activity in a building or premises to cease where there is reasonable concern regarding fire safety.
- 5.2.5. Where an investigation identifies fire safety matters which must be addressed, Council may take enforcement action, including issuing Fines and or serving Notices and Orders under Schedule 5 Part 2 of the EP&A Act.

- 5.2.6. Information on compliance and enforcement is outlined in Part 5.4 of this policy.

5.3 Annual Fire Safety Statements (AFSS) and Supplementary Fire Safety Statements (SFSS)

- 5.3.1 Under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, owners of Class 1b to 9 buildings are required to provide an AFSS to Council and FRNSW. A copy of the AFSS and a copy of the current fire safety schedule are required to be displayed in a prominent location within the building. Failure to display these is an offence under *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, for which a fine may apply.
- 5.3.2 Should a building contain a critical fire safety measure, as well as submitting the annual fire safety statement when due, the owner of the building must provide a SFSS at intervals of less than 12 months, specified for the measure in the current fire safety schedule for the building. A copy of this statement is to be provided to Council and FRNSW, and a copy displayed in a prominent location within the building, in accordance with *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- 5.3.3 Council will maintain a Fire Safety Register of known Class 1b to 9 buildings in the Camden LGA, including Council buildings.
- 5.3.4 Council will require a fire safety statement to be submitted for each building on Council's Fire Safety Register. It is noted that Council's register may not capture all buildings that require a fire safety statement and owners are still required under legislation to submit a fire safety statement even if the building is not included on the register.
- 5.3.5 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 a fire safety statement.
 - Fire safety audit or upgrade in accordance with Council's Fire Safety Program.
 - Investigation of a complaint or referral from FRNSW or another agency.

- Approval for change of use, additions or alterations to an existing building.

5.3.6 A fire safety statement must include all fire safety measures in a building as identified on the Fire Safety Schedule (FSS). If a schedule cannot be located, or clarification of installed measures is required, the following may be required:

- The original certifier that issued the FSS to provide an amended schedule;
- Engage Council's Registered Building Surveyor, a Registered Building Surveyor - unrestricted or a Registered Certifier (Fire Safety) to inspect the building to establish an accurate fire safety schedule for the building; or
- Council to issue a new FSS in accordance with Clause 5.3.7 of this Policy.

5.3.7 The owner of a building may request the reissue of a fire safety schedule under section 80A of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*. Council may reissue a fire safety schedule if it is satisfied that it has been lost or destroyed or there are errors or omissions in the schedule that require correction. Council may charge a fee for the reissue in accordance with Council's adopted Fees and Charges.

5.3.8 Council may charge a fee for:

- The submission of each fire safety statement – fees are based on the number of fire safety measures contained in the building/s, payable at the time of submission.
- Fire safety inspections by Council officers in respect of Clause 5.3.6 of this Policy, in accordance with Council's adopted Fees and Charges.

5.3.9 To assist building owners, Council will send a reminder letter for buildings on the register prior to the due date of the fire safety statement. The letter will be sent to the owner (or nominated agent) 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.

- 5.3.10 Notwithstanding Clause 5.3.9, 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 Annual Fire Safety Statement or Supplementary Fire Safety 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.
- 5.3.11 Where a fire safety statement 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 statement.
- 5.3.12 Failure to submit a fire safety statement within the required timeframe is an offence under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, for which fines apply. Failure to submit a fire safety statement could also lead to legal proceedings in the Local Court or the Land and Environment Court.
- 5.3.13 Notwithstanding Clause 5.3.12, 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 fire safety measures immediately prior to inspection.

NOTE: Delays in appointing a contractor, arranging an inspection and/or changing the 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.

- 5.3.14 A request for an extension of time to submit a fire safety statement can be made by the owner (or owners' agent) by fully completing the approved form, attaching any supporting evidence and paying of the appropriate fee. The fee is dependent on whether the request is submitted prior to the fire safety statement due date or after the due date, in accordance with Council's adopted Fees and Charges.

The owner/agent will be advised in writing if the request has been approved or refused.

- 5.3.15 Failure to maintain essential fire safety measures is an offence under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, for which fines apply.

5.4 Compliance and Enforcement

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

5.5 Risk Assessment

- 5.5.1 Council will take a risk-based approach when determining the appropriate course of action, including consideration of the nature of the occupants, uses and activities, risk to the community and age of the building.
- 5.5.2 Notifications received from FRNSW or under section 135 of the EP&A Regulation or section 60 of the *Environmental Planning and Assessment (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 5.4 of the Policy, as is warranted in the circumstances.
- 5.5.3 Buildings identified with combustible cladding, which require registration on the NSW Cladding Regulation Online Registration System, will be categorised as high risk.
- 5.5.4 The scope of fire safety audits and upgrade works required will generally be determined in accordance with Part 5.6 of this Policy. Building owners may be required to engage a Registered Building Surveyor - unrestricted or a Registered Certifier (Fire Safety) to undertake a fire safety audit and submit strategies for Council's approval.
- 5.5.5 Fire Safety upgrades will be enforced by the issuing of Notices and Orders under Schedule 5 Part 2 of the EP&A Act.

5.6 Fire Safety Audit and Upgrade Program

5.6.1 A building may be identified for a fire safety audit in several ways including:

- A 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 fire safety statement is late or has not been received. This includes properties and buildings that were once active on Council's register and the owners are not currently submitting a fire safety statement.
- 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 the occupants or age of a building).
- Registration of a building on the NSW Cladding Regulation Online Registration System.
- Where notification has been received from FRNSW.
- Notification from a registered certifier or Council officer indicating that there is a significant fire safety issue with the building.
- Where unauthorised building works or change of use have been carried out on a Class 1b-9 building.
- Where an occupation certificate has not been received for an approved Class 1b-9 building and the building is occupied.
- Where development approval is granted for change of use, additions or alterations to an existing building.

5.6.2 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.

5.6.3 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.

- 5.6.4 Council may require fire safety upgrading works as conditions of a development consent or by issuing orders under Schedule 5 Part 2 of the EP&A Act.
- 5.6.5 Where it is identified that a building requires a fire safety audit and/or upgrading, Council may require a report or upgrade strategy from a Registered Building Survey - unrestricted or a Registered Certifier (Fire Safety) in accordance with Table 1 below.

Table 1

Risk Category	Type of Building	Competency required - upgrade strategy
High	- Aged Care Building (private) - Health care building (private) - Nursing home - Hotel, motel, or night club - Childcare facility - School - Accommodation for people with disabilities - Residential flat building - Boarding house, guest house, hostel, Group homes or the like - Entertainment venues - Large assembly buildings - 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 Regulation Online Registration System	- Registered Building Surveyor -unrestricted, or - Registered Certifier (Fire Safety)
Moderate	- Factory - Assembly building (e.g. church) - Large Warehouse or warehouse where nature of storage is considered higher than normal risk - Large shopping complex	- Registered Building Surveyor - unrestricted, or - Registered Certifier (Fire Safety)

	- Restaurant - Enclosed car park	
Low	- Office building - Small shop < 500m² - Open Car park - Low rise bulky goods - Small industrial units	- Registered Building Surveyor - unrestricted, or - Building Surveyor – restricted (all classes of building) , or - Registered Certifier (Fire Safety)

6. Roles and Responsibilities

6.1. Manager Development Certification

The Manager Development Certification will be responsible for the following functions in relation to this Policy:

- Ensure compliance with this Policy and referenced Procedures for all buildings on the Camden Council Fire Safety Register.
- Provide support and guidance, when required, to the Fire Safety Team.

6.2. Team Leader Building Certification

The Team Leader Building Certification will be responsible for this Policy and will coordinate the following functions in relation to the Policy:

- Provide support and guidance, as and when required, to the Fire Safety Team.
- Keeping this Policy current.
- Implementing communications, education and monitoring strategies.

6.3. Fire Safety Officers

The Fire Safety Officers will be responsible for the following functions in relation to the Policy:

- Maintaining Records / Register.
- Reporting.

- Investigating breaches and enforcing compliance.
- Providing a point of contact about the meaning and application of the Policy.

6.4. Fire Safety Team

All staff within Council's Fire Safety team are to adhere to this Policy to successfully manage the Council Fire Safety Register.

7. Reporting

- Monthly status reports will be generated on the Fire Safety Register and provided to the Team Leader Building Certification for review and action as required.
- Monthly status reports will be generated on Fire Safety Audits of buildings in the LGA and provided to the Team Leader Building Certification for review and action as required.

8. Evaluation

8.1 The evaluation of this Policy will be measured by:

- Monitoring the Fire Safety Register to ensure there are no breaches of this policy.
- Producing a monthly status report of the Fire Safety Register.
- Monitoring Fire Safety Tracking items for buildings where:
 - Fire Safety Upgrades have been conditioned on Consents; or
 - Fire Safety Orders have been issued.

8.2 The success of this Policy will be measured by:

- Action taken in relation to the Fire Safety Register monthly status report and fire safety upgrades tasks as they fall due.

9. Review

9.1. This Policy will be reviewed every three years or more frequently as required by changes to the National Construction Code or relevant legislation.

10. Definitions

Accredited Practitioner (Fire Safety)

An accredited fire safety practitioner is a person who is accredited under a government approved industry accreditation scheme as an 'accredited practitioner (fire safety)' (APFS). The practitioner must hold relevant accreditation to assess the specific fire safety measure or inspect the fire exit systems serving the building.

Annual Fire Safety Statement (AFSS)

An annual fire safety statement is a declaration by or on behalf of a building owner that an accredited fire safety practitioner has:

- assessed, inspected and verified the performance of each fire safety measure that applies to the building; and
- inspected the exit systems serving the building and found they do not contravene the provisions of part 15 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

A building owner must ensure that an AFSS is issued each year.

Australian Standard (AS) or (AS/NZS)

Means an Australian Standard or Australian/New Zealand Standard referenced in the NCC-BCA and can be listed as a minimum standard of performance on the Fire Safety Schedule. Each AS or AS/NZS has a reference number for the Fire Safety Measure that it addresses and if listed on the fire safety schedule it means that the measure was designed and installed to that standard.

Critical Fire Safety Measure (CFSM)

A critical fire safety measure 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.

EP&A Act

Means the *Environmental Planning and Assessment Act 1979*.

EP&A legislation	Means <i>the EP&A Act and the EP&A Regulation</i> .
EP&A Regulation Fire Safety	Means the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> .
FRNSW	Means Fire and Rescue New South Wales.
Fire Safety Measure	Fire Safety Measure, in relation to a building, means a measure, including an item of equipment, form of construction or fire safety strategy, that is, or is proposed to be, implemented for that building to ensure the safety of persons using the building if there is a fire.
Fire Safety Certificate (FSC)	Means a type of certificate issued by or on behalf of the building owner upon the completion of new building work. The certificate confirms that each of the fire safety measures that apply to a building (as listed in the fire safety schedule) have been assessed by an accredited practitioner (fire safety) as capable of performing to at least the standard required by the current fire safety schedule. 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.
Fire Safety Schedule	A fire safety schedule specifies each of the fire safety measures that apply to the building. The measures detailed in the fire safety schedule will vary for each building and can include both essential and critical fire safety measures. The schedule also specifies the minimum standard of performance for each of the measures. This reflects the standard to which each measure must be designed, installed and capable of operating.
Fire Safety Statement	Means an annual fire safety statement or a supplementary fire safety statement issued by or on behalf of the owner(s) of an existing building. The building owner is declaring that an accredited fire safety

practitioner has assessed, inspected and verified the performance of each fire safety measure that applies to the building.

LGA

Means Local Government Area.

NCC

Means the National Construction Code - Building Code of Australia

Supplementary Fire Safety Statement

A supplementary fire safety statement is a declaration by or on behalf of a building owner that an accredited fire safety practitioner has assessed, inspected and verified the performance of each critical fire measure that applies to the building. This statement will be submitted at intervals of less than 12 months, as nominated in the fire safety schedule.

11. Related Materials
11.1 Related Legislation

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*
- National Construction Code (NCC)

11.2 Related Policies, Procedures and Other Guidance Material

- ABCB Handbook: Upgrading existing buildings Environment and Regulatory Services Enforcement Policy
- Fire Safety Procedure

Approval and Review	
Responsible Branch	Development Certification
Responsible Manager	Manager Development Certification
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Version Control				
Version	Date Adopted	Approved By	EDMS Ref.	Description
1	Adopted Council meeting 13/08/2019 for public exhibition – effective from 25/09/2019	Council	19/292805	Initial adoption of policy
2	21/07/2022	ELG	19/292805	Minor amendments
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