

**POLICY NAME:** Fire Safety Statements Program  
**POLICY REF:**  
**MEETING ADOPTED:** Resolution No.  
**POLICY HISTORY:** Initial Policy



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**OBJECTIVE**

The objective of this policy is to confirm Council's standard for the management of Annual Fire Safety Statements to help:

1. Protect life and property and preserve the environment and heritage from a destructive fire; and
2. Support the framework for managing the fire safety of buildings within the Ballina Shire.

Outcomes from this policy include:

- a) Improved safety of occupants in a building in the event of a fire by monitoring of annual fire safety statements
- b) Preventing the spread of fire within a building and to adjoining buildings through adherence to the requirements of a building's annual fire safety statement
- c) Mechanisms to assist in the suppression of fire by ensuring adherence to the requirements of a building's annual fire safety statement.

**POLICY**

Under clause 177 and clause 180 of the Environmental Planning and Assessment Regulation 2000 the owner of a building having a fire safety schedule is required to provide a copy of the Fire Safety Statement (FSS) to the Commissioner of Fire & Rescue NSW (FRNSW) and to Council.

The FSS is a record of maintenance of the fire safety systems within a building. FSS must be provided at least annually to FRNSW and Council.

The inspection and maintenance of fire safety systems must be done by a competent fire safety practitioner to a standard no less than that to which the measure was originally designed, as identified on the building's fire safety schedule. The building owner is responsible for choosing competent fire safety practitioner/s to undertake the inspection and maintenance.

This policy is a formal statement on how Council will manage the FSSs.

***Fire Safety Statements (FSS) Program***

To help ensure an acceptable level of fire safety is provided to the occupants of buildings in the Ballina Shire, Council has developed a fire safety program consisting of the following actions with respect to the monitoring and enforcement of FSS.

The actions to be undertaken in that program are as follows, listed in order of priority:

***1. Community Education Program***

The program includes community education to outline the importance of installing and maintaining fire safety measures and to raise public awareness of the need for adequate fire safety in buildings on an annual basis.

The program will utilise a variety of measures including Council's website, the publication of information sheets and provision of information through local media as well as utilising fact sheets published by FRNSW Fire.

Council also provides a fee for service to remind landowners of the due date of a FSS. To encourage landowners to subscribe to this service and to encourage compliance the reminder service is available at a discount to landowners who own more than ten properties, within the same ownership, with the service cost being 75% of the standard fee.

The fees are outlined in Council's Schedule of Fees and Charges.

### *2. Essential Services Register*

Council maintains an Essential Services Register, which contains all known premises containing fire safety measures.

Council is of the view that this Register does not contain all premises with fire safety measures within Ballina Shire due to a lack of historical records, with the updating of the Register an on-going process, subject to resource limitations.

The FSS Program aims to progressively improve the data contained within the Register.

Upon receipt of a FSS, Council will review that Statement to ensure that the document, as a minimum:

- (a) has been signed by the landowner or their representative
- (b) contains a service report signed by a competent fire safety practitioner and
- (c) references the appropriate Australian Standards for the maintenance of the fire safety measures installed within that development.

Council does not check the technical accuracy of every FSS as there is a reliance on the information signed by the competent fire safety practitioner.

### *3. Inadequate Essential Fire Safety Measures Detected*

Where there is a failure to provide a compliant FSS, Council may take further action in accordance with our Enforcement Policy.

Examples where Council may take further action include:

- (a) a deficiency in the documentation of fire safety measures, (for example where there is a defect with a service or where a service is not inspected and signed off by a landowner or their Agent) or
- (b) an inconsistency between the measures installed within a building as compared to the measures that are required under the relevant Standard or
- (c) an incomplete FSS has been provided to Council or
- (d) no FSS has been provided to Council by the due date or
- (e) no records of the provision of a fire safety schedule, fire safety certificate or final occupation certificate can be located.

Council will typically issue penalty infringement notices for the offence of failure to provide the required FSS by the due date. This approach is taken as landowners are responsible for ensuring compliance with the Act and Regulations.

*4. Development Review*

Council will seek to identify all buildings which are not currently registered with Council but are required to be contained within the Essential Services Register to ensure that adequate fire safety measures have been installed and are being appropriately serviced.

This process will include the following actions, in priority order:

1. Identify and require the provision of FSS for properties which provide multi-unit, multi-storey, residential accommodation in the first instance
2. Identify land uses in either business and industrial zones which provide high numbers of patrons, for example shopping centres, places of public assembly, cinemas and large industrial or office complexes where large numbers of employees and patrons are present
3. Identify business and industrial land uses known to involve the storage of volatile fluids and combustible materials
4. Identify premises requiring an FSS not included in the above three categories. This is to ensure that all properties are identified and properly administered in relation to essential services.

*5. Rectification*

In all circumstances where inadequate essential services (fire safety) measures have been identified, the deficiencies are to be addressed as a matter of urgency, due to the need to protect property and preserve life.

Council recognises that some buildings within Ballina Shire will be required to be upgraded in order to comply with current building and fire legislation. Council also acknowledges that, due to the age of many of these buildings, strict compliance with these codes would be impossible and alternate solutions may be required.

Council's legal authority to serve a Fire Safety Order is contained in the Act.

Fire Safety Orders can be served where the following circumstances have arisen:

- (a) Provisions for fire safety or fire safety awareness is not adequate to prevent fire, suppress fire or prevent the spread of fire or ensure or promote the safety of persons in the event of fire.
- (b) Maintenance or use of the premises constitutes a significant fire hazard.

Where it has been determined that a Fire Safety Order is to be served on a landowner or building owner, Council will serve the Order in accordance with the provisions of the Act.

Any Fire Safety Order will typically require that:

1. The building is assessed by a suitably qualified and certified person with a minimum Building Professionals Board certification of A1 and

2. The suitably qualified and certified person is to provide a report to address any deficiencies and
3. Where an alternate solution is provided to achieve the relevant fire safety measures, ensure that this alternate solution is referred to FRNSW in line with the Regulations and
4. Where such comment for the alternate solution is not provided by FRNSW, require a development application be lodged for such works to enable a referral is forwarded to FRNSW for comment and
5. The works to address the deficiencies are carried out under the supervision of a suitably qualified and certified person and
6. A new Fire Safety Schedule and Fire Safety Certificate are subsequently issued by a suitably qualified and certified person on compliance with the Order.

Action taken in relation to ensuring that adequate fire safety measures are in place may include the issue of penalty infringement notices and / or legal action.

### **BACKGROUND**

The essential services provisions of the Environmental Planning and Assessment Act and Regulations came into force on 1 July 1988. These provisions include a requirement that a building owner (or building owners' representative) must submit an annual fire safety statement for the property to a Local Council and FRNSW.

The certification of fire safety measures is required to state that all installed essential fire safety measures have been inspected, have been maintained, and will operate to the design standards at the time at when they were originally installed.

Generally, all buildings other than private single dwellings (Class 1a) and non-habitable sheds and garages (Class 10a) are required to have fire safety measures installed.

Some common fire safety measures included in commercial, industrial, multi-unit multi-level residential and public buildings are:

- Automatic fire detection and alarm systems and automatic fire suppression systems
- Emergency lighting
- Exit signs
- Fire doors, fire hose reel systems, fire hydrant systems and portable fire extinguishers
- Smoke alarms and smoke and heat vents
- Solid core doors
- Wall-wetting sprinkler and drencher systems.

The essential services program involves three main areas:

- (i) the Fire Safety Schedule (provided by the Accredited Certifier)
- (ii) the Fire Safety Certificate (provided by the Accredited Certifier) and
- (iii) the Annual Fire Safety Statement (provided by the landowner or their Agent).

This policy only relates to the annual fire safety statement.

***Fire Safety Schedule***

When approval is given for a change of building use, a Construction Certificate is issued by the Accredited Certifier for a new building, or proposed building work on an existing building, or a fire safety order is given in relation to a building, then a fire safety schedule specifying the essential fire safety measures that are to be implemented in the building are attached to the approval, certificate or order.

A fire safety schedule must deal with the whole of the building, not merely the part of the building to which the Development Consent, Complying Development Certificate, Construction Certificate or Fire Safety Order relates, and must include the essential fire safety measures currently implemented in the building, and those proposed to be implemented.

A fire safety schedule must also specify the minimum installation and maintenance standard of performance for each essential fire safety measure. This is usually done by a reference to an Australian Standard that applies to the installation and maintenance of the fire safety measure.

***Fire Safety Certificate***

Where building work has been carried out, or a change of use has occurred that has one of the above approvals issued, the Principal Certifying Authority (Council or the Accredited Private Certifier) must not issue an Occupation Certificate to allow the building, or part of the building, to be used unless they have received a fire safety certificate from the owner of the building or their Agent.

A fire safety certificate is a certificate issued by the owner of a building to certify that the essential fire safety measures installed as part of the development, have been installed to the appropriate standard as specified in the fire safety schedule for the building.

This certificate is issued at the completion of the installation of the fire safety measures and is a requirement prior to the issuing of the final Occupation Certificate.

***Fire Safety Statements (FSS)***

Certification of the ongoing performance and maintenance of the approved and installed fire safety measures is to be completed on an annual basis with the statement provided to Council and FRNSW. This FSS is provided by the landowner or their Agent.

The FSS serves to check that that essential fire or other safety measures are in place and can perform in the manner intended in the event of an emergency.

The Regulations provide that the responsibility for maintenance of these systems is the responsibility of the landowner however Council has an important role in monitoring compliance.

Council has traditionally been involved in the inspection and monitoring of compliance of a variety of buildings throughout the Ballina Shire, many of which had been erected prior to the introduction of current building regulations.

Where some buildings are identified to be in a condition that is deemed to be a danger to the occupants in the event of a fire and / or an emergency event, due to a non-compliance with an annual fire safety statement, Council has the legislative authority to serve a Fire Safety Order on the owner of the building requiring the building to be upgraded to provide a reasonable level of fire safety for the occupants.

It is important that these legislative functions of Council are carried out in a responsible manner and with integrity. The community expects that fire safety is addressed in the appropriate manner to ensure safety of persons and property.

Council incurs costs in undertaking compliance and enforcement activities and there is a need to consider the long term financial sustainability of providing these services to the community in a cost-effective manner.

#### **DEFINITIONS**

<b><i>Accredited Certifier</i></b>	The holder of a certificate of accreditation as an accredited certifier under the <i>Building Professionals Act 2005</i> acting in relation to matters to which the accreditation applies
<b><i>FSS</i></b>	Annual Fire Safety Statement
<b><i>Agent</i></b>	Person appointed by a landowner to act on behalf of that landowner
<b><i>Essential Services</i></b>	Fire safety measures installed within a building
<b><i>Fire safety</i></b>	Means: <ul style="list-style-type: none"> <li>• precautions that are taken to prevent or reduce the likelihood of a fire that may result in death injury, or property damage</li> <li>• alert those in a structure to the presence of an uncontrolled fire in the event one occurs</li> <li>• better enable those threatened by a fire to survive or</li> <li>• to reduce the damage caused by a fire.</li> </ul>
<b><i>Fire safety measures</i></b>	Measures that are planned during the construction of a building and implemented into existing structures, together with education for occupants the building to minimise the chance of a fire event taking place within a building.
<b><i>Fire hazards</i></b>	An obstruction or impediment that increases the likelihood that a fire may start or may impede escape in the event a fire occurs.
<b><i>The Act</i></b>	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
<b><i>The Regulations</i></b>	<i>Environmental Planning and Assessment Regulation 2000</i> (NSW)

### **SCOPE OF POLICY**

This policy applies to the enforcement of fire safety measures with respect to annual fire safety statements and the potential unlawful activity or failure to comply with terms or conditions of consents, approvals, licenses, permits, orders and directives.

Whilst it is always preferred that cooperation is firstly sought and provided from land owners and occupants who may not be complying with Council's requirements, there will be instances where some form of enforcement action is required to achieve compliance. In these instances, each case will be assessed on its merits and an appropriate level of action will be taken.

### **RELATED DOCUMENTATION**

This policy should be read in conjunction with:

- *Environmental Planning and Assessment Act 1979 (NSW)*
- *Environmental Planning and Assessment Regulation 2000 (NSW)*
- *Ballina Shire Council Enforcement Policy*
- *Heritage Act 1977 (NSW)*
- *Local Government Act 1993 (NSW)*
- *Local Government (General) Regulation 2005 (NSW)*
- *Building Code of Australia*
- *Relevant Australian Standards.*

### **REVIEW**

This policy is to be reviewed every four years.