

ADOPTED BY COUNCIL: 26 FEBRUARY 2024

PURPOSE

This policy states Council's commitment to and responsibilities for fire safety compliance within the Wollongong Local Government Area governed under the provisions of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. It also defines Council's role in fire safety regulation and provides information for the local community and the wider public on building fire safety matters.

POLICY INTENT

This policy has been developed to state Council's commitment to and responsibilities for fire safety management and provide information for the local community and the wider public on fire safety matters within the Wollongong Local Government Area.

The main intent of this policy is to:

- 1 Assist premises owners of class 1b to 9 buildings meet their legal obligations regarding the implementation and maintenance of fire safety measures and reporting requirements. These classes of building are defined under the National Construction Codes Series – Building Code of Australia.
- 2 Give the community confidence that Council takes its obligations under the law seriously in terms of submission of fire safety certificates and annual fire safety statements.
- 3 Promote fire safety compliance in buildings within Wollongong Local Government Area.
- 4 Outline Council's relevant regulatory powers in relation to fire safety.

WOLLONGONG 2032 OBJECTIVES

This policy helps deliver the following goal from the Wollongong 2032 Strategic Plan, Goal 5.2: Urban areas are created and maintained to provide a healthy and safe living environment for our community.

POLICY

Council is strongly committed to ensuring premises owners within the Wollongong Local Government Area, are aware of and meet their statutory fire safety obligations to mitigate the risk of fire that has the potential to result in property damage and personal injury.

Council will undertake the following:

- 1 Maintain Council's electronic management system relating to class 1b to class 9 buildings with fire safety measures based on information recorded on fire safety schedules, fire safety certificates or obtained from other relevant documentation.
- 2 Send written notification to building owners regarding submission requirements for annual fire safety statements.
- 3 Respond to Fire and Rescue NSW inspection reports.
- 4 Council may engage in various proactive fire safety activities and compliance investigations.
- 5 Conduct enforcement action with due consideration of Council's Compliance and Enforcement Policy.

Under current legislation Council can:

- a. Issue Penalty Notices in accordance with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 related to:
 - i. Section 89(1) Failure to submit an annual fire safety statement or
 - ii. Section 92(1)(2) Failure to submit an annual fire safety statement in the approved form and not containing the required information.

- b. Give notice of proposed fire safety order and issue fire safety orders where Council has concerns over the provision of fire safety in a building in accordance with the Environmental Planning and Assessment Act 1979.
- 6 Respond to complaints and customer enquiries concerning fire safety in accordance with Council's Customer Service Policy.
- 7 Maintain and proactively manage a public register of fire safety schedules on Council's website.
- 8 Provide technical advice regarding fire safety matters to building owner/managers, fire safety contractors and the local community.
- 9 Maintain general fire safety information on Council's website to inform building owners of their legal obligation.
- 10 Collaborate with other agencies, including Fire and Rescue NSW and the NSW Rural Fire Service in support of managing fire safety risks within the Wollongong Local Government Area.

FIRE SAFETY REGULATORY FUNCTIONS

Electronic Management System

Fire safety details will be recorded and tracked using Council's electronic management system. This system will be used to register receipt of Fire Safety Schedules, Fire Safety Certificate/Statements and other correspondence received and sent, regarding fire safety measures serving a class 1b to class 9 building.

Reminder Notification

Council will send a courtesy reminder notification approximately three (3) months prior to the lapsed date of the annual fire safety statement. Council accepts no responsibility for any reliance upon this correspondence and the legal responsibility for providing the statement rests with the owner of the premises.

Fees

Fees and charges will apply for Council's fire safety functions as referenced in the adopted 'Revenue Policy, Rates, Annual Charges & Fees'.

Acceptability of Annual/Supplementary Fire Safety Statement

Council will check submitted Fire Safety Statements to ensure that they comply with Part 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. An Annual Fire Safety Statement must be submitted using the form approved by the Commissioner for Fair Trading, Department of Customer Service.

Overdue Statements

Failure to provide an annual fire safety statement to Council by the lapsed date, is an offence. Submission of late statements may be subject to additional fees in accordance with Council's 'Revenue Policy, Rates, Annual Charges & Fees' policy.

In addition to any administrative fees for late statements, substantial and continuing weekly Penalty Notices may apply. If the statement is not submitted by the lapsed date, enforcement action may be taken in accordance with Council's Compliance and Enforcement Policy.

The enforcement action may include the issuing of Penalty Notices and/or fire safety Notice and Orders. Penalty rates will be in accordance with the Local Government Fixed Penalty Handbook and the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Failure to submit an annual fire safety statement could also lead to legal proceedings in the Land and Environment Court.

Request to Stay Penalty Notice(s)

Although there are no provisions in the legislation for extensions of time to be given, Council may grant an extension of time in extenuating circumstances. So that Council can consider any stay in proceedings, the building owner or the person acting for the building owner will need to apply by completing Council's 'Request to Stay Penalty Notice(s)' form which includes reasons for this delay and advises an anticipated date the statement will be submitted. A partial statement must be provided to support the application, for any compliant measures contained within the building.

A Request to Stay Penalty Notice may not be supported where there is a history of late submissions.

Enforcement Action

Council, in deciding whether to take enforcement action, will base the decision on the available evidence and individual circumstances. At the conclusion of an investigation, Council may take further action in accordance with the relevant legislation and Councils Compliance and Enforcement Policy.

Proactive Fire Safety Activities and Compliance Investigations

Council may engage in various proactive fire safety activities or compliance investigations to ensure buildings within the Wollongong Local Government Area meet an acceptable level of fire safety.

A building may be brought to Council's attention through the approval of building works and issuance of an Occupation Certificate, a change in building use, or due to a complaint. Priority will be given to buildings that pose the greatest risk to human life due to the way they are used and the number of people using it, or where a building is not identified on Council's Fire Safety Register.

Council may require an assessment report of a building by an independent and qualified building code consultant. It is expected a consultant's report compares the level of fire safety in the building against the current requirements of the National Construction Code - Building Code of Australia and if there are deficiencies, make recommendations on how to achieve acceptable levels of fire protection and fire safety awareness with regard to the occupants of the building.

Some buildings may need to be upgraded. Building design and the level of risk will vary from case to case and influence the upgrade requirements, priorities, and expenses.

Upgrading is likely to be required if Council determines that the:

- a. Provisions for fire safety or fire safety awareness are 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.

Fire Safety Notices and Orders

Fire Safety Notices and Orders may be issued in accordance with the Environmental Planning and Assessment Act 1979 where Council believes that the provision for fire safety or fire safety awareness is inadequate to prevent fire, suppress fire or prevent the spread of fire, to ensure or promote the safety of persons in the event of fire due to the lack of maintenance, or the use of the premises constitutes a significant fire hazard.

LEGISLATIVE REQUIREMENTS

- Environmental Planning & Assessment Act 1979 and
- Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

REVIEW

This Policy will be reviewed every two years from the date of each adoption of the policy, or more frequently as required.

REPORTING

No external reporting is required under this policy.

ROLES AND RESPONSIBILITIES

Divisional Manager – Is responsible for:

- Leading and advocating the implementation, maintenance and action of policies, procedures, and systems to ensure compliance with statutory requirements, specifications, codes of practice, industry standards, practice notes and organisational policies, procedures, and practices.

Building + Certification Manager - is responsible for:

- Leading and advocating the adherence to the fire safety policy, procedures, and systems to ensure compliance with Council's statutory obligations relating to fire safety.

- Managing the Building and Certification staff in the implementation of Councils fire safety program.

Development Project Officer/s - are responsible for:

- Provide technical advice to both internal and external customers in relation to fire safety.
- Undertake fire safety investigations / enforcement action.
- Liaise with external agencies such as Fire and Rescue NSW and Building Commission NSW.

Administrative Officer Planning Support - is responsible for:

- Providing administrative support to Council fire safety program including the oversight of Annual Fire Safety Statements, Fire Safety Certificates and Request to Stay Penalty Notices received by Council.
- Support the Building and Certification Manager and Development Project Officers in the implementation of Council's fire safety program.

RELATED STRATEGIES, POLICIES AND PROCEDURES

- Compliance & Enforcement Policy
- Penalty Notice Review Policy
- Customer Service Policy

APPROVAL AND REVIEW	
Responsible Division	Development Assessment & Certification
Date adopted by Council	26 February 2024
Date/s of previous adoptions	25 June 2018
Date of next review	Two years from the date of adoption