

Fire Safety Certificates and Annual Fire Safety Statements

This is a guide only to the relevant legislation, which should be consulted in the event of Any required detailed interpretation. The Legislation referred includes the Environmental Planning and Assessment Act 1979 and Regulation 2000 and Building Code of Australia (BCA).

Overview

The fire protection industry exists in NSW largely due to the requirements of the Environmental and Planning & Assessment Act.

This is the Government Legislation that creates the guidelines for the design, approval, construction and occupation of all types of building.

All buildings in Australia have a classification to determine the type of construction, material and other related fire safety measure required.

The rules for construction of buildings are governed by the BCA and a range of Australian Standards. The building code is provided in two volumes 1 & 2, with a separate section of variations applicable to each State or Territory.

The BCA is now available online and in hard copy, which Survival Solutions subscribe to both. The benefit of the online BCA is that it has every BCA list from the very first one and helps when an assessment is requirement on an older building.

Normal residential dwellings such as suburban house or villa are a class 1a building and generally have a class 10a structure being an attached or detached garage, which is volume 2. These buildings are not subject to annual fire safety statements. However, class 1b buildings being a bed and breakfast or dwelling used for tourist accommodation require the submission of an Annual Fire Safety Statement.

All other buildings fall into the classification of 2-9 and are found in BCA volume 1.

When did EPA, Fire Safety Certificates and AFSS take effect?

Buildings built in NSW after July 1992, when the first Building Code of Australia (BCA) was introduced, are subject to Fire Safety Certificates & Annual Fire Safety Statements.

Prior to the introduction of the BCA the relevant building code was called ordnance 70 and buildings approved for construction during 1992 and 1996 could be constructed from BCA or Ordnance 70 and combinations of both. This has created some confusion with a number of buildings we manage and many owners avoid compliance with the BCA by claiming measure required under BCA is not applicable.

Buildings constructed under ordinance 70 are not required to submit an AFSS under the EPA ACT unless being subject to a building upgrade issued by an Order from Council, they have undertaken additions or renovations or they are registered with Council to provide a statement.

Development Applications (DA)

The journey begins when land is purchased for the purpose of construction a building.

The owner of the land decided to construct a building and engages an architect or draft person to design the required building; however there are a number of limitations for the type and size of the building based on zoning.

Zoning is where the state and local government decide in advance the limitation to construction based on a number of community and environmental considerations.

The architect and property developer design a building that they propose to construct on the land and then submit the plans and other information specific to the project to council for approval known as a Development Application.

BCA Reports

It is at this point some developers and architects may engage the service of a building surveyor (Ray Williams/ Survival Solutions) to review the type of building and plans to prepare a BCA report for submission to the council which identifies all of the BCA and relevant standards that will be required for construction. These reports will create a fire safety schedule.

The council will review these plans and documents and reject or approve development applications based on number of criteria. At this point the owner needs to engage a certifier to manage the paper work and approval aspect of the construction certificate.

There is a fee applicable for this service and the owner can engage a private certifier or council to undertake these responsibilities.

It is the certifier's responsibility to review all documentation and provide the owner, developer, architect and other stakeholders with a level of guidance.

The stakeholders and certifier would then prepare all relevant documents before seeking quotations for construction from builders.

Fire Safety Schedule

The fire safety schedule is produced when the construction certificate is approved and gives the developer and architect a clear set of guidelines as to the essential fire safety measures required. The schedules will identify the measure (i.e. Fire Hose Reels) and standard of performance (BCA E1.4 and AS 2441)

It is from this list of measures that the building is constructed and essential fire safety measures are installed.

During Construction

During construction the certifier (council or private) will attend site at critical stages to ensure all requirements are being met.

There may be a number of different trades working on a variety of essential fire safety measures (plumbers FHR/Hydrant, electricians Exit Lights, Smoke alarms and FIP)

Although the builder and certifiers are responsible for ensuring that all the requirements of the BCA and relevant standards are being met by trades. It is impractical to expect they have this intimate knowledge.

They therefore rely on a statement of compliance from each of the contractor to state that the works comply with the BCA and relevant standards.

Once the building is completed the builder will gather a statement of compliance from each of the trades that has supplied and installed the list of essential fire safety measures listed on the fire safety schedule and prepare a final fire safety certificate for submission to the certifier (council or private).

What is a fire safety *certificate*?

This is the Certificate, which indicates that fire safety measures have been installed in the building and comply with the appropriate performance standards (usually and Australian Standard). It must be lodged with Council immediately upon completion of the fire safety upgrading, development/building work, and before the new use is commenced and/or the building is occupied. It should be noted that the final fire safety certificate is required to be displayed in an area of the building viewed by the public.

Occupation Certificate (OC)

Once the development has been completed and all the relevant documentation submitted to council or private certifier proving the building meets the requirements and conditions of the development application and occupation certification is issued to the developer.

This occupation certificate allows the building to be legally occupied by people and can now be used for the design purpose.

What is an annual Fire Safety Statement (AFSS)?

Once the initial fire safety certificate has been submitted to council and the construction approved for occupation this information is entered into the councils AFSS data base and on the anniversary of its creation will be required for renewal.

The fire safety certificate now becomes an annual fire safety statement and is sent to the building owner as listed on the council documents.

This does often present problems for the council as the owner is the developer and they may no longer control the building or may have not sold very many units at all. In most cases the first renewal of the AFSS is delayed by many months, perhaps years.

When a developer is the sole owner of all the lots be it residential or commercial there will not be a strata manager appointed, but a real estate agent, whom generally coordinated the AFSS and would seek to appoint a service provider.

When the units residential or commercial are sold to a number of different owners there must be a body corporate established and a strata manager appointed to manage the combined common property affairs of all lot owner, which includes AFSS and maintaining of the essential fire safety measures.

This often does not occur for many years after construction as the developer is still the owner of most of the units and sometimes avoids the need to establish a body corporate as they have the most number of votes because they own most units.

This means that when they finally do appoint a strata manager the first item on the agenda is to appoint a fire service provider and get the AFSS issued to council and avoid penalties.

This generally puts a lot of pressure on Survival Solutions but also provides good revenue potential due to the poor maintenance routine. It is also likely that a number of measures listed on the AFSS or required in accordance with the BCA have been overlooked or simply not installed.

This is reason why it is so critical to be very thorough on our first inspection. The customer may not be in a position to rectify all problems as the early days of the body corporate may be light on for funds, however if we report and manage over the year we can in most cases get everything completed.

The Annual Fire Safety Statement (AFSS) should reflect the measure that was listed on the fire safety certificate at the approval of occupation.

Twelve months after the submission of the initial fire safety certificate an annual fire safety statement (AFSS) will be required by council and NSW Fire Brigade, providing evidence that the fire systems originally installed are still compliant with the BCA and relevant standards, and that any variation in the buildings structure or use have been accounted for.

The AFSS is prepared by Survival Solutions based on the original fire safety certificate a sent to the building owner or customer to be signed and submitted by the owner or owner's representative to Council and NSW Fire Brigade. The AFSS is required to be renewed every twelve months and must be displayed in a prominently location in the building for which it serves.

(Owners agents are Strata Manager, building manager or real estate agent)
(Survival Solutions is not the owners representative)

The annual fire safety statement lists the measures and standard of performance applicable at the time of the most recent Construction Certificate.

Our job is to determine if the minimum standard or performance is still being maintained.

We do this by determining the requirement of the BCA and that the installation standards are being achieved. This is what we are stating.

The only way in which we can determine if the measures are still functioning as designed is to inspect and test them in accordance with the relevant maintenance standards. However the EPA Act does not require the measure to be certified in accordance with the maintenance standards.

In some ways it is impractical for anyone whom has not installed the measure to state that they meet the requirements of the installation standards.

For example in many cases we cannot determine if the electrical wiring or plumbing has been installed to the standards as it is likely to be concealed from inspection.

It is also impractical to state that light weight construction (Fire check gyprock wall) meets the FRL of the wall without cutting a chunk of the wall out. Nor is it possible to inspect many fire seals, collars or dampers as they are concealed behind gyprock walls and ceiling space.

However these measures must be listed on the AFSS in accordance with the EPA Act. Some council officer will except an AFSS that states the measures that can be inspected are compliant and remove other measures, whilst others won't.

This is one aspect of the EPA Act that is unworkable, unfortunately with the NSW State Government it is unlikely to change any time soon.

So it is important to assess the building to ensure that there are adequate quantities of equipment listed and that they are working as designed.

When will a fire safety certificate be required?

Generally, the Building Code of Australia specifies in what parts and/or types of buildings the essential fire safety measures are required.

There is generally (4) four reasons a fire safety certificate will be required.

Council Upgrade Order on Older Buildings

Council can serve an upgrade order on any building (**existing buildings**) fire safety order

New Construction

When a development application is submitted for the construction of a new building

Extension or Renovations

Development application is submitted for the extension, modification or upgrade of an existing building. In most cases if the modification is less than 50% of the existing building council will only require you to upgrade the new area being developed. However if the extension is greater than 50% it is most likely the upgrade order will apply to the entire building and this can represent a substantial cost in most cases.

This often creates issues regarding the AFSS due to there being different requirements on the same AFSS document. The old part of the building may only have to comply with BCA and standards applicable at the time of construction and the new extensions current. I don't agree with this however when it does occur we need to use common sense which seems to have gone out of the window in much of this regulation.

Change of Use

When a development application is made to change the use of a building classification, such as from storage shed class 8 to a church, class 9.

Once a routine date for submission of an annual fire safety statement (AFSS) has been established Survival Solution will keep a reminder in our data base for you.

We will review all AFSS to ensure they are correct and prepare a copy each year so the owner can sign and submit the council and NSW Fire Brigade.

Who assesses the standard of performance?

The EPA Act states that the owner of the building must engage a suitably qualified person to carry out inspection of the measures listed on the schedule. This could be a licensed tradesman like a plumber for hydraulic items, an electrician for electrical items or a specialised fire protection services company such as Survival Solutions that can provide all services.

Due to the variety of different measure listed in the schedule it is often impractical for an owner to engage several different contractors, and maintain a consolidated approach.

This why specialist fire service provider are engaged as our business is to consolidate and manage all aspect of the inspection.

Who is suitably qualified?

The EPA states that the owner must engage a suitably qualified person to carry out assessment and inspection, however this is difficult to comply with this as trade qualification are not required as we are not installing, but inspecting and testing. There are a number of measures on any AFSS that do not require a trade license to install such as extinguishers. Is also the case that many trades related contractors can install equipment however do not have an intimate knowledge of the BCA and relevant standards to determine if the building in fact compliant with the schedule.

Survival Solutions has created a document called a statement of capabilities which identifies the level of experience and education each staff member and contractor have, which provided the owner with some proof of our qualifications.

What skills are required?

In order to effectively service and assess essential service measures technicians need to be suitably educated and have previous skills and or trade qualifications.

They must have a sound knowledge of the relevant sections of the BCA to determine if the measures listed are adequate, compliant or required at all. They must also have a sound knowledge of the relevant Australian Standards for both installation and maintenance.

It is only when a sound knowledge is obtained that a technician can evaluate the building they are working on and report any short fall, additional measure or issues of non compliance.

It is only technicians that have this knowledge that can be relied upon to advise clients of these issues or state to the Survival Solutions that everything is OK and that we can provide the AFSS to customer knowing the building meets the requirements of the AFSS.

The more understanding a technician can gain regarding the BCA, relevant installation and maintenance standards and the mechanics that drive the fire protection industry, the greater their value to the business will become. The greater the knowledge of the BCA and standards creates more commercial opportunities for the business and makes the technician more valuable and therefore worth paying higher remuneration and helps to retain employment with Survival Solutions.

It also makes working in the fire protection industry much more rewarding because it is this knowledge that customers need.

It will take your entire career to understand the aspects of the industry and if you desire you can continue to learn about it until you retire.

There will always be individuals including people you expect would have the knowledge that often have no idea and it is only when you have an understanding you can read between the lines and find the truth.

It is critically important that you always verify advice or statements from your peers including me about compliance issues, by evaluating the available publications of the BCA and standards. If you make statements to others including your peers, subordinates and customers about compliance and be sure you can back up your statements in writing.

One of the biggest issues regarding a lack of trust from customers is when individuals or a company makes statements about compliance which they have been told by others uneducated people.

There is more income to be made by knowing the truth and applying it than there is by making uneducated false statements.

Who completes the certificates?

Survival Solution will review and prepare annual fire safety statements (AFSS), with our statement of compliance, signed and dated by the director. Giving the owner the confidence to state to the council that the building is compliant and meet the requirement of the applicable codes and standards. The **owner (of the building)** or the owner's agent (Real estate, manager or strata manager) is to sign and date the AFSS and submit to the council and NSW Fire Brigade. It cannot be the person doing the inspection.

Who is responsible for the certification?

The **owner** must ensure that the certificates are lodged with the Council. There are substantial penalties for failing to submit any certificate by the due date.

What happens if the owner does not complete these certificates?

They may be the subject of court action or receive a penalty notice as provided for under the legislation. Severe penalties, apply for failure to give a completed certificate to Council when it is required. There is a penalty of up to \$110,000 and a further daily penalty of \$11,000 for an offence of this type.

Why is compliance important?

To ensure that essential fire safety measures are properly designed, installed, inspected and maintained to ensure that the safety of persons occupying the building is maintained.

Why are AFSS we receive often incorrect?

When the BCA and EPA Act were first introduced the fire safety certificate and AFSS were called a form 6 & 7, followed by 15 & 15a.

There have been a number of different formats and building approval methods developed and adopted over the years, with a high degree of confusion from all concerned, including developer, builders and council officers and staff.

With so much confusion many certificates starting out as form 7, than converted to 15a and now AFSS were incorrect to start with and progressively got worse as time went on.

These errors extended to incorrect measure listed, no BCA and standards reference dates and a range of inconsistencies.

Year after year they were modified and altered thanks to fire protection companies and a range of council administration personnel. This often occurred as it was council data entry clerks are entering documents that were sent in by fire protection companies and building owners that had no what they were doing and not building surveyors. As a result we receive documents that are inconsistent with the actual measure located or required on site or the reference on AFSS was incorrect.

As time has gone on and council have gained a better understanding of the process information on the AFSS has improved, however there is still many older documents being issued that are incorrect. It is only that Survival Solutions has a better understanding of what should be listed on the documents and on site that we are able to rectify these issues. Most building surveyors that are responsible for fire safety documents and building compliance will make modifications to documents based on our advice because they trust we have the skills to asses correctly.

As it is difficult to condense this information into a manageable chunk of information we do have available a (4) four part series seminar put on by the institute of building surveyors which reviews this process in detail and this is highly recommended to any staff member whom wants to gain a greater knowledge of this process.

The other reason we receive inconsistent AFSS documents is simply due to a building being built, with statements of compliance submitted without ever complying with the requirement of the development application.

This comes about because the builder and owner knew nothing about the measures required, nor what was involve in compliance with the standards, relying on a statement from the contractor that the measure required by the DA met the standard of performance.

Unfortunately when quotes for works are called for by builder they seek the cheapest and nastiest price, often engaging inexperienced contractors that do not install essential service measures in accordance with the standards even though they state they do.

The builder does not have any knowledge of exactly what is required and accepts the statement from contractors on face value and based on this submit the fire safety certificate to the certifier stating all is ok.

The certifier rubber stamps the development based on this evidence, council accepts this documentation as correct and issues an occupation certificate.

The owner than proceeds to sell the building and the purchaser buy with the knowledge all is ok.

Twelve month go by and Survival Solutions is engaged to check the building against the measure listed and find a number of non compliant issues and submit a report to the this effect. The owners are shocked as to why the building was passed by council or the private certifier if the issues were non compliant. Someone should have checked the work of the contractor to ensure the building was compliant.

The position of law states that this responsibility is the builders and unfortunately in so many cases the builder has since gone broke and the owners have no recourse accept for builder's warranty insurance.

These issues can sometimes take years to resolve and in the meantime council is sending penalty notices to the owner or body corporate for overdue AFSS.

Some examples of this are no block plans, booster incorrectly installed, inadequate exit and emergency lighting and smoke alarms. No as installed drawings for fire alarm panels. No tags or closers on fire doors and not enough extinguishers.

These problems often occur because contractors have won jobs stating they will install in accordance with the standards but in many cases do not even know what that is, because they have never read them. Very few contractors have a copy of the BCA and can read or understand it.

Some essential fire safety measures such as mechanical air handling damper, inspection panels and hoppers can have 3 or 4 different contractors be involved in different aspects the one measure, with no consolidated approach often leaving the measure compromised only to be identified at the firstly service by experience fire service contractors such as Survival Solutions.

In many cases items listed on the AFSS are not on site and not required, such as wall wetting sprinklers or fire doors. Other times they are listed on the AFSS, required on site but not installed or installed incorrectly. Whilst there are times where measure are located and required on site but not listed on the AFSS or required on site and not listed on the AFSS or on site.

It is only through a sound knowledge of what is possible, how this works and reading between the lines we have any chance of understanding and managing these issues. I have a great knowledge of most of these issues because I have been involved in the industry for over 15 years but as the business expands I need to rely on my staff to become my eyes and mind to ensure we manage this aspect of our business.

The other reason the AFSS is inconsistent with the building is when the design and construction of the building has been altered from the approval and for whatever reason has not be added, modified or deleted from the schedule and when the fire safety certificate is submitted to council it complies with the DA but not the constructed building.

Therefore when the AFSS is issued it does not match the building being assessed.

Another issues that I see is when a fire hydrant is required in accordance with BCA E1.3 because the building is greater than total 500m² and AS 2419.1 flow, pressure and coverage listed on the AFSS. However because it can be protected from the street hydrants coverage, flow and pressure it is not required on site it should be noted on AFSS or removed as the owner cannot do anything to state it complies. However it is the owner's responsibility to ensure through their service provider that the street hydrant can still provide coverage and there has been no change to prevent its use.

Understanding this is the key to success in our industry and in particular our business and your lively hood. This knowledge is valuable and as time goes on we will gain great commercial rewards for it.

Examples of AFSS

Bad AFFS CSR, Good AFSS EMPH

Create an AFSS

Create a fire safety certificate including the following measures, BCA ref and relevant installation standards and year.

For class 2 building approved and constructed in 2007 with extinguisher, FHR, exit and emergency lights, smoke alarms, FIP, doors to units, wall wetting drencher, fire seals and hydrant system.