



**Guidance for Accredited Practitioners (Fire Safety)
with supporting information for building owners**

**Annual Fire Safety Statements (AFSS): Standard of
Performance Evidentiary Requirements**



Purpose

This guidance clarifies the requirements for Accredited Practitioners (Fire Safety) when undertaking inspections and assessments for the purpose of supporting an Annual Fire Safety Statement (AFSS), particularly in relation to:

- identification of required standards of performance and
- missing or incomplete documentation

It is intended to support consistent application of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Nature of an Annual Fire Safety Statement

An Annual Fire Safety Statement is a declaration issued by or on behalf of the owner of a building that confirms:

- each essential fire safety measure has been assessed by an Accredited Practitioner (Fire Safety) as capable of performing to the required standard, and
- the building has been inspected and found not to disclose grounds for prosecution under Part 15.

Identifying the required standard of performance

When undertaking an assessment for the purposes of an AFSS, accredited practitioners must identify the required standard of performance in accordance with the Regulation:

- For measures specified in a Fire Safety Schedule:
The standard of performance is that specified in the Fire Safety Schedule.
- For original measures (within the meaning of the Regulation):
The standard of performance is the standard to which the measure was originally designed and implemented.

Previous Annual Fire Safety Statements must not be relied upon as the sole basis for determining the required standard of performance.

Role of the Fire Safety Schedule

The Fire Safety Schedule is the primary approval-based document that identifies applicable fire safety measures and their required standards of performance for a building.

Assessment without a Fire Safety Schedule

Where a Fire Safety Schedule cannot be located, the building owner or owner's agent should be advised in writing to contact the relevant Council regarding the status, availability or potential reissue of the Fire Safety Schedule.

Where a Fire Safety Schedule is not available, an AFSS should only be progressed where the practitioner can establish a defensible evidentiary basis for the required standard of performance of each essential fire safety measure.



In these circumstances, practitioners must:

- Identify essential fire safety measures
- Identify the required standard of performance

Evidence requirements

Where a Fire Safety Schedule or supporting approval documentation was unavailable, the assessment report should include:

- the documentation that was requested but unavailable at the time of assessment; and
- how the applicable standard of performance was identified.

Where a Fire Safety Schedule is not available and practitioners are required to establish the required standard of performance from available evidence, consideration should be given to whether this scope of work is appropriately covered by professional indemnity insurance arrangements.

Where sufficient approval or certification evidence cannot be obtained, practitioners should carefully consider whether there is an adequate evidentiary basis to support endorsing the AFSS.

Where the APFS considers that there is insufficient evidence to support endorsing the AFSS, the accredited practitioner may still provide the building owner with an assessment report. However, the report must clearly identify the evidentiary basis for the standard of performance applied and document the absence of the Fire Safety Schedule or approval documentation.

Practitioner responsibilities

Practitioners must:

- Apply the Fire Safety Schedule as the primary basis for identifying the applicable fire safety measures and standards of performance, where available. This guidance does not address circumstances where the Fire Safety Schedule may contain errors or inconsistencies
- establish performance standards from authoritative sources
- avoid reliance on previous AFSS as primary evidence, and
- document within your written report to the owner, how the standard of performance was identified where it is not derived from the Fire Safety Schedule (this will be a requirement for audit)

Owner support

Where a Fire Safety Schedule cannot be located, building owners should assist in obtaining relevant approval or certification records issued under the development approval process to support identification of the fire safety measures and their required standards of performance.

For further information on an owner's legal obligations please see the section of this guidance document for Building Owners/Owner Agents.



Building Owners/Owners Agents

Below are some legal requirements relevant to building owners under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*

Section 89 (4) *As soon as practicable after an annual fire safety statement is issued for a building, the owner of the building must—*

(a) give a copy of the statement and a copy of the current fire safety schedule to the Fire Commissioner, and

(b) ensure a copy of the statement and a copy of the current fire safety schedule are prominently displayed in the building.

Section 92 (2) *A person must not issue a fire safety statement for a building unless the statement is accompanied by a fire safety schedule for the building.*

Section 88 (1)

(a) each essential fire safety measure specified in the statement has been assessed by an accredited practitioner (fire safety) as capable of performing—

(i) for an essential fire safety measure specified in the fire safety schedule—to a standard no less than that specified in the schedule, or

(ii) for an original measure within the meaning of section 81—to a standard no less than that to which the measure was originally designed and implemented, and

(b) the building has been inspected by an accredited practitioner (fire safety) and was found, when it was inspected, to be in a condition that did not disclose grounds for a prosecution under Part 15.

81 Essential fire safety measures to be maintained

(2) The owner of a building to which an original measure applies may request from the council a schedule of the original measures for the building.

(3) The council must provide the schedule to the owner as soon as practicable after receiving the request.

NSW AS1851-2012 Good Practice Guide

"For all class 1b and class 2 to 9 buildings constructed after 1988, an FSS is the key piece of information required by building owners to maintain their building's essential fire safety measures. These should be accurate and issued prior to occupancy. Unfortunately, FSS's are not always accurate and are sometimes unavailable.

Following the 2021 Industry report on reforms to improve fire safety in new and existing buildings, the NSW Government developed a regulation that allows local government to recreate a lost FSS and correct errors on an FSS. The regulation is in section 80A of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

[Refer to Appendix F](#) for case studies in relation to the re-issuing and correcting of fire safety schedules.

Building owners and local councils are the key stakeholders in the re-issuing process. Other stakeholders may include; principal certifiers, Fire and Rescue NSW (FRNSW), fire safety engineers and fire safety contractors depending on individual circumstances."

*** Please note this section reproduces relevant provisions of the Regulation and Good Practice Guide and is provided for reference only**

