

ESSENTIAL SAFETY PROVISIONS

Frequently Asked Questions

Essential Safety Provisions are a standard part of owning a commercial or multi-unit residential building and are critical to the safety of the property and its occupants. This guide aims to provide basic information for property owners regarding the issuing and maintenance of Essential Safety Provisions.

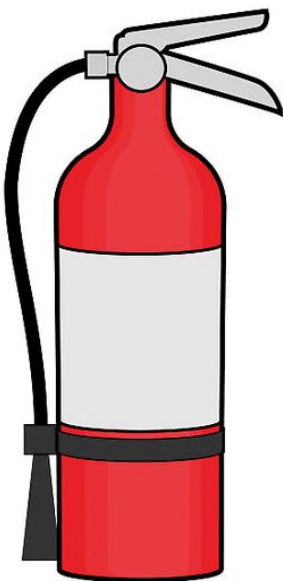
ESP requirements for a building are set when development approval is granted, in the form of:

- Form 1 – schedule of ESPs to be installed in the building, specifies installation and maintenance standards
- Form 2 – to be completed by the installer of each item (e.g builder), then returned to Council
- Form 3 – if applicable to the building, must be completed and returned to Council annually.

Failure to comply with ESP requirements is an expiable offence in South Australia:

- Failure to provide a Form 3 within 60 business days after the end of the calendar year (\$750)
- Failure to maintain ESPs (\$750)
- Failure to produce proof of maintenance upon request (\$500)

Regulation 94 applies in relation to a building in which essential safety provisions (fire extinguishers, exit signs, emergency lighting, hydrants, smoke alarms etc) are installed or required to be installed or to be inspected, tested or maintained under the Building Code of Australia called up by reference *Pursuant to Regulation 94(11) of the Planning, Development and Infrastructure (General) Regulations 2017* or any former regulations under the *Building Act 1971* or the *Development Act 1993*.



What are Essential Safety Provisions (ESPs)?

Fire safety items which prevent the spread of fire and protect occupants and property in the event of an emergency, such as fire extinguishers, non-flammable linings, and exit doors. ESPs as they are today, were introduced in 1994 – prior to these buildings operated on a Logbook system.

Where do ESPs come from?

When assessing a Development Application, the relevant authority (Council or a private certifier) determines based on the National Construction Code the fire safety equipment required to be installed on the property to ensure an adequate level of protection. The relevant authority then attaches a list of ESPs to be installed on the property to the Building Consent, which forms part of the Development Approval.

How can I find out what ESPs apply to my building?

Refer to previous Development Approval documents if you have them or ask Council for a list of ESPs.

Whose responsibility is it to maintain ESPs?

Under the Planning, Development and Infrastructure (General) Regulations 2017, the responsibility and liability of building fire safety ultimately falls on the property owner. Whilst owners and tenants might have lease agreements in place about who is responsible for undertaking the maintenance of the fire safety equipment on the property, the owner will always be held responsible should anything go wrong.

What is a Form 3 (Certificate of Compliance with Maintenance Procedures) and why do I need to do one?

A Form 3 is a document required to be returned to Council in January of each year certifying that all required ESPs have been tested and maintained for the year prior. The Form 3 lists all applicable ESPs and their relevant maintenance standards. Form 3s are only required for high-risk buildings, such as:

- Class 3, 4, 5, 6, 7, 8, or 9b buildings which exceed two storeys or 500m² ; or
- Class 2, 9a or 9c buildings of any size; or
- The relevant authority has requested a Form 3 due to there being a performance solution; or
- The building has been subject to a fire safety defect notice.

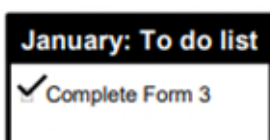
A Form 3 is attached to a building forever (vacant or otherwise) until it's either demolished or the Form 3 is replaced by a new one.

Why has Council written to me requesting a Form 3?

Because a Form 3 is required for your building, but Council has not yet received it for this year. If this is the first time you've been asked to provide a Form 3 to Council, it may be that your property was audited, and we discovered that a Form 3 has not been provided for some time (or maybe even never). It is the responsibility of the property owner to remember to return their Form 3 to Council annually.

How do I complete my Form 3?

Ensure that you have tested and maintained all items listed on the Form 3 for the year prior, then sign and send the Form 3 to Council at either light@light.sa.gov.au or PO Box 72, Kapunda SA 5373.



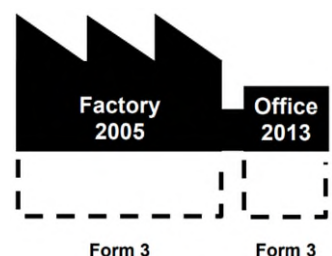
Tip: Ask Council for a PDF version of the Form 3 for your building, then save a copy along with a reminder for January of each year to make future years easier.

There's an item on my Form 3 which I don't have on the property.

Put simply, all ESPs which have been issued for a property must be installed per the approved plans and conditions of approval. The ESPs required for a property have been determined by a qualified person from either Council or a private certifier, who has assessed the development against the National Construction Code. Council cannot accept a Form 3 which is incomplete, missing items, or has had items crossed out. If you identify some ESPs which are not present on your property but have been issued with a Development Approval, your best course of action is to install them in accordance with the approved plans as soon as possible. Council can help you locate plans if required.

Why does my property have multiple Form 3s?

It's common to have multiple Form 3s for one property and practically it makes little difference when it comes to undertaking maintenance of ESPs. Form 3s relate to Development Approvals rather than buildings specifically, therefore if your building was built in multiple stages, you will likely have multiple Form 3s.



It is possible to request that Council or a private certifier consolidate all ESPs for a building onto one Form 3, however you may have to provide plans and details relating to the fire services on site. Please note Council prefers to keep individual buildings separate.

I want to change the ESPs that my property relies on.

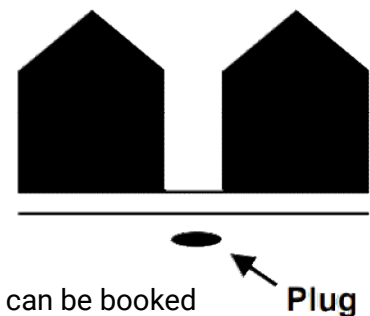
Please contact whoever issued the Building Rules Consent for the Development Application you wish to amend (either Council or a private certifier) to discuss lodging an amendment. You will likely need to provide amended plans and documents to do this. Please note, a new fire upgrade application may be required.

Who can test ESPs?

Engaging a suitably qualified fire contractor is the best way to go. We recommend searching online or in the yellow pages for 'fire testing and maintenance'. Unfortunately, Council cannot recommend specific businesses.

What is a street plug (AKA street fire hydrant) and why do I have to test it?

A connection to the water main, often on the street, which your property relies on. Whilst the nearest street plug might be on the road some distance from your building, you are still required to regularly ensure that the street plug is present and has adequate water flow to support firefighting efforts as your property relies on it in such an event. If you are unsure where the nearest street plug/s are, please contact SA Water.



Street plugs must have a 'flow test' undertaken every five years. This can be booked with SA Water. SA Water will send you the flow test results afterwards, which you should then provide to Council along with your Form 3.

Tip: your neighbours might also rely on this street plug – you may wish to coordinate testing.

What happens if I don't install or maintain the ESPs for my property?

We recognise that ESPs can be complex at times, and we are always available to provide information and guidance to assist you if required. The safety of the community is of the upmost importance to Council however, and we may become concerned if the owners of a property fail to install or maintain ESPs as required. ESPs are not simply red tape – they are a critical (and effective) means of ensuring the safety of a building, its occupants and fire fighters. Council will always first provide you with the opportunity to rectify the deficiency, however if you fail to do so Council may eventually determine that the only remaining course of action is to commence legal action against the property owner. Council may then seek to either revoke the Certificate of Occupancy for the building (meaning it may not be occupied anymore) or refer the matter to the Council Building Fire Safety Committee.

Failure to meet ESP obligations can void insurance and open owners up to serious legal issues in the event of a fire.

Further reading and relevant legislation:

- Planning, Development, and Infrastructure (General) Regulations 2017
- Ministerial Building Standards, MBS 002 - Maintaining the performance of essential safety provisions.
- Development Regulation 1993
- Development Regulation 2008