

Item	Relevant clauses	Specific comments or suggestions
1.	[1] Clause 3	<p>There are no other definitions under clause 3 that directly refers to another clause within the regulation. It is recommended that the definition be amended to be consistent with existing definitions under clause 3, e.g. the definition for BASIX certificate.</p> <p>Proposed wording: competent safety practitioner means a class of persons recognised by the Secretary under clause 167A.</p>
2.	[2] Clause 130 (2A)	<p>The term alternative solution is likely to be phased out of the National Construction Code (NCC), and is currently referred to as a performance solution within the Building Code of Australia (BCA).</p> <p>It is recommended that the regulation be amended to reference 'performance solution' throughout. The existing regulation refers to 'alternative solution' on 20 occasions, inclusive of the definition under clause 3.</p> <p>Alternatively, consultation with the Australian Building Codes Board (ABCB) be sought to confirm that the term 'alternative solution' will remain a defined term in future variations of the NCC.</p>
3.	[2] Clause 130 (2A) (a)	<p>Alternative solution report is currently not a defined term within the regulation.</p> <p>In the proposed amendments, the term alternative solution report is always attached to a competent fire safety practitioner, which suggests that alternative solution reports relating to other matters such as energy efficiency, accessibility, mechanical carpark ventilation, etc. are not intended.</p> <p>To avoid any future issues associated with the term alternative solution report, which could apply to matters other than fire safety requirements, the term used within the legislation should be 'fire safety engineering report' or 'fire engineering report'.</p> <p>Irrespective of the terminology selected, it is recommended that a definition for alternative solution report be inserted in clause 3. This will also be tidier in the other clauses that refer to the alternative solution report, i.e. clauses 134, 144A, 147, 152B and 155.</p> <p>Proposed wording: alternative solution report means a written report that:</p> <ul style="list-style-type: none"> (a) is authorised by a competent fire safety practitioner, and (b) includes the title or unique reference number of the report, and (c) includes the date on which the report was made, and the version number of the report, and (d) includes a statement that the alternative solution complies with the relevant performance requirements of the Building Code of Australia, and (e) identifies the relevant performance requirements of the Building Code of Australia that the alternative solution it is intended to meet, and (f) describes and justifies the alternative solution, including the acceptance criteria and parameters on which the justification is based and any restrictions or conditions of the alternative solution, and (g) includes a copy of the fire engineering brief for the fire engineering analysis. <p>Alternatively, an additional subclause should be inserted in the relevant clauses to clarify what an alternative solution report is. This should be written in a similar manner as an initial fire safety report and final fire safety report as per clauses 144 and 152, respectively.</p> <p>Under clause 130, insert into subclause (2C): 'In subclause (2A): alternative solution report means a written report that: [insert subclauses (a)-(g) above]...'</p>

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4.	[2] Clause 130 (2A) (a) (i)	<p>Subclause 130 (2A) (a) (i) refers to an alternative solution report that 'was prepared by a competent fire safety practitioner'.</p> <p>It is recommend that 'was prepared' is modified to 'is authorised' or 'is issued'. The wording 'was prepared by' does not permit an alternative solution report to be prepared by other staff under the supervision of the competent fire safety practitioner. The wording of being 'authorised' or 'issued' by the competent fire safety practitioner is better suited. Furthermore, the phrase 'is issued' is consistent with existing phrases within the regulation.</p>
5.	[2] Clause 130 (2A) (a) (ii)	<p>Subclause 130 (2A) (a) (ii) refers to an alternative solution report that 'includes a statement that the alternative solution complies with the relevant performance requirement of the Building Code of Australia'.</p> <p>Modify 'performance requirement' to be plural i.e. 'performance requirements'.</p> <p>It is also recommended that the wording should be similar to clause 144 e.g. 'includes a statement that the alternative solution will meet such of the performance requirements as it is intended to meet'.</p> <p>Alternatively, this subclause should require that the statement explicitly identifies the relevant performance requirements that the alternative solution is intended to meet. This suggestion is linked to the next comment.</p>
6.	[2] Clause 130 (2A) (a) (iii)	<p>Subclause 130 (2A) (a) (iii) refers to an alternative solution report that 'identifies the deemed-to-satisfy provisions of the Building Code of Australia being varied and the corresponding performance requirements'.</p> <p>This particular subclause implies that the deemed-to-satisfy provisions of the BCA are the superior method of meeting compliance with the NCC. The ABCB are very clear that compliance with the NCC for a building solution is achieved by satisfying the performance requirements by way of a performance solution (alternative solution), a deemed-to-satisfy solution or a combination of a performance and deemed-to-satisfy solution.</p> <p>Whilst in practice, a fire safety engineer will generally identify the deemed-to-satisfy provisions of the BCA being varied in their fire engineering report, it is recommended that this particular subclause be removed on the basis that its inference is incorrect and that the preceding subclause already requires that a statement be included within the alternative solution report.</p> <p>If necessary, subclause 130 (2A) (a) (ii) should require that the statement specifies the relevant performance requirements that the alternative solution is intended to meet.</p> <p>Alternatively, modify the wording to omit the phrase 'deemed-to-satisfy' such that it only refers to the 'provisions of the Building Code of Australia', which is consistent with the wording in the definitions for Category 1, 2 and 3 fire safety provisions.</p> <p>Proposed wording: (iii) identifies the relevant performance requirements of the Building Code of Australia that the alternative solution it is intended to meet, and</p> <p>This will then also be consistent with subclause 136AA (2) (b) (i).</p>
7.	[2] Clause 130 (2A) (a) (iv)	<p>Subclause 130 (2A) (a) (iv) refers to an alternative solution report that 'describes and justifies the alternative solution, including the acceptance criteria and parameters on which the justification is based and any restrictions or conditions of the alternative solutions'.</p> <p>Modify 'alternative solutions' to be singular i.e. 'alternative solution'.</p>

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8.	[2] Clause 130 (2A) (a) (v)	<p>Subclause 130 (2A) (a) (v) refers to an alternative solution report that 'if the certifying authority requires its inclusion—includes a copy of the brief for the fire engineering analysis'.</p> <p>This subclause is subjective as it requires the certifying authority to determine if 'a copy of the brief' is to be included within the alternative solution report. This subjectivity will result in variance amongst industry both from the certifying authorities and the competent fire safety practitioners. Subjective requirements are a major factor contributing to the disparity within the industry, which is the one of the drivers for the fire safety reforms. The proposed amendments to the regulation should aim to remove this subjectivity.</p> <p>In practice, a well-documented fire engineering report will include the fire engineering brief or at the very least a summary of the outcomes of the fire engineering brief. It is acknowledged that a simple alternative solution may not need to be accompanied by a detailed fire engineering brief, but a fire safety engineer will generally include a statement within their fire engineering report to document that due to the simple nature of the alternative solution, a detailed fire engineering brief was not undertaken.</p> <p>Proposed wording: (v) includes a copy of the brief for the fire engineering analysis, and</p> <p>This will remove subjectivity from the certifying authority and set the expectation for the fire safety industry that the fire engineering brief should always be documented within the fire engineering report. The main responsibility for the certifying authority is that it will need to be determine what level of detail is provided within the fire engineering report, and if it is to their satisfaction, which is proposed under subclause 130 (2A) (b).</p> <p>Furthermore, 'the brief' is currently not a defined term within the regulation and is not adequately defined or described within the proposed amendments to the regulation. Similarly to the term alternative solution report, 'the brief' is always attached to the competent fire safety practitioner.</p> <p>It is recommended that the term used within the legislation be 'fire engineering brief' and the intent of introducing regulation such that the fire engineering brief be included within the alternative solution report be clear. If needed, a definition within the applicable clauses should be inserted to specify the contents of the fire engineering brief e.g. 'describes/documents stakeholder agreement for the acceptance criteria and parameters on which the fire engineering analysis is based'.</p> <p>Alternative proposed wording: (v) includes a copy of the fire engineering brief, which documents stakeholder agreement for the acceptance criteria and parameters on which the fire engineering analysis is based, and</p>
9.	[2] Clause 130 (2A) (b)	<p>Subclause 130 (2A) (b) requires that the certifying authority 'has endorsed the alternative solution report with a statement that the certifying authority is satisfied that it has been appropriately prepared'.</p> <p>It is recommend that the regulation clarify how or where the certifying authority's statement of endorsement for the alternative solution report should be provided e.g. on the complying development certificate or construction certificate. If it is to be provided on the complying development certificate or construction certificate, the statement of endorsement for the alternative solution will need to be inserted into clauses 134 and 147.</p>

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10.	[3] Clause 134 (1) (f1)	<p>Subclause 134 (1) (f1) requires that a complying development certificate must contain 'the following details of any alternative solution report about the building work that complies with clause 130 (2A) (a) and (b)'.</p> <p>It is recommended that the word 'about' is replaced with something to the effect of 'affecting', 'that applies to', 'relating to' or 'pertaining to'.</p> <p>Furthermore, to be consistent with the existing subclauses under clause 134, it is suggested that subclause 134 (1) (f1) be reworded.</p> <p>Proposed wording: (f1) if any of the building works involve an alternative solution in accordance with clause 130 (2A) (a) and (b), the details of the alternative solution report</p>
11.	[3] Clause 134 (1) (f1) (i)	<p>Subclause 134 (1) (f1) (i) requires that a complying development certificate must contain 'the title of the report', if an alternative solution applies to the building works.</p> <p>The title of the alternative solution report may be generic such as 'Alternative solution report' or 'Fire engineering report'.</p> <p>It is recommended that subclause 134 (1) (f1) (i) be modified to include a unique identifier for the alternative solution report.</p> <p>Proposed wording the title or unique reference number of the report</p>
12.	[3] Clause 134 (1) (f2)	<p>Subclause 134 (1) (f2) requires that a complying development certificate must contain 'if any of the building work is exempt from compliance with the Building Code of Australia because of clause 164B —the details of that exemption'.</p> <p>To be consistent with the existing subclauses under clause 134, it is suggested that subclause 134 (1) (f2) be slightly reworded.</p> <p>Proposed wording: (f2) if any of the building work is exempt from compliance with the Building Code of Australia under clause 164B, the details of the exemption,</p>
13.	[4] Clause 134 (2)	<p>Subclause 134 (2) requires: 'A complying development certificate for the erection of a building must be accompanied by a fire safety schedule for the building. If any of the building work is exempt from compliance with the Building Code of Australia because of clause 164B, that fire safety schedule must include details of that exemption.'</p> <p>The proposed amendment to this subclause makes specific mention for an exemption under clause 164B. It is recommended that this subclause include any building works that involve an alternative solution in accordance with clause 130 (2A) (a) and (b), and for the details of the alternative solution report to also be included in the fire safety schedule.</p>
14.	[5] Clause 136AA (1)	<p>Subclause 136AA (1) refers to a complying development certificate for building work that 'must be issued subject to the condition required by this clause'.</p> <p>Modify 'condition' to be plural i.e. 'conditions'.</p> <p>This will then be consistent with the proposed subclause 146B (1).</p> <p>Alternatively, modify 'conditions' in subclause 146B (1) to be singular.</p> <p>It is noted that subclause 136AA (2) refers to 'The condition required by this clause...' which is singular.</p>

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15.	[5] Clause 136AA (2) (a)	<p>Subclause 136AA (2) (a) require that building work involving the installation, modification or extension of the relevant fire safety system cannot commence unless certain documents have been endorsed by a competent fire safety practitioner.</p> <p>It is recommend that the regulation clarify how the competent fire safety practitioner is to endorse plans and specifications referred to in subclauses 136AA (2) (a) (i) and (ii). For instance, what details are required? Is the competent fire safety practitioner expected to review and sign the plans and specifications? Can the principal certifying authority accept a letter or statement of endorsement from the competent fire safety practitioner?</p> <p>Existing examples in the regulation refer to plans being endorsed with the endorser's registered number and the date of its receipt.</p>
16.	[5] Clause 136AA (2) (a) (ii)	<p>Subclause 136AA (2) (a) (ii) refers to 'specifications that describe the basis for design, installation and construction of the relevant fire safety system, including any alternative solutions proposed for the system'.</p> <p>Modify 'alternative solutions' to be singular i.e. 'alternative solution'.</p>
17.	[5] Clauses 136AA (2) (a) and (b)	<p>Subclause 136AA (2) (a) refers to documents have been endorsed by a competent fire safety practitioner and subclause 136AA (2) (b) also refers to the same documents being endorsed by a competent fire safety practitioner.</p> <p>It is recommended that the duplicated phrase 'endorsed by a competent fire safety practitioner' be removed from subclause 136AA (2) (a). This will then be consistent with the proposed clause 146B.</p>
18.	[5] Clause 136AA (2) (b) (i)	<p>Subclause 136AA (2) (b) (i) refers to 'complying with the relevant provisions of the Building Code of Australia'.</p> <p>It is recommended that clarification be provided with regards to whether relevant provisions of the BCA refers to the specific deemed-to-satisfy provisions or the performance requirements that the plans and specifications are to be endorsed to. Refer to item 6 above for subclause 130 (2A) (a) (iii), in relation to the regulation specifically mentioning compliance with deemed-to-satisfy provisions.</p>
19.	[5] Clause 136AA (2) (b) (ii)	<p>Subclause 136AA (2) (b) (ii) refers to 'building work involving the minor modification or minor extension of an existing fire safety system only'.</p> <p>Insert 'relevant' before 'fire safety system' to link back to subclause 136AA (3) i.e. 'an existing relevant fire safety system'.</p> <p>The terms 'minor modification' and 'minor extension' are currently not defined terms within the regulation. Reference to these two terms within this subclause is subjective as it requires the certifying authority to determine, in their opinion, if such building work involving the modification or extension of any relevant fire safety system are of a minor nature. This subjectivity will result in variance amongst industry from the certifying authorities. As previously mentioned, subjective requirements are a major factor contributing to the disparity within the industry, which is the one of the drivers for the fire safety reforms. The proposed amendments to the regulation should aim to remove this subjectivity.</p> <p>Existing examples in the regulation, such as clause 41, could refer to limitations on the floor space of the premises that the existing relevant fire safety system serves or an appropriate percentage (10%) that the existing relevant fire safety system is being modified or extended.</p>

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20.	[5] Clause 136AA (3) (c)	<p>Subclause 136AA (3) (c) defines a relevant fire safety system to include 'mechanical ducted smoke control system'.</p> <p>A mechanical ducted smoke control system seems to be specifically selective wording. However, it is currently not a defined term within the regulation, nor is it defined with the BCA.</p> <p>The current wording suggests that all ducted mechanical air-handling systems that incorporate smoke control provisions would be considered a relevant fire safety system. This could include zone smoke control systems, smoke exhaust systems, stair pressurisation systems, air purge systems, lift shaft pressurisation systems, etc. On this basis, this clause could apply to every building if lift shaft pressurisation systems is considered to be a mechanical ducted smoke control system.</p> <p>On the other hand, the current wording could be open to interpretation and not include certain systems because it is not 'ducted'. For example, a smoke exhaust system can be designed with smoke exhaust system inlets or ceiling plenums, that are not necessarily ducted. AS/NZS 1668.1:2015 permits smoke exhaust air to pass within a fire-resisting shaft, which is therefore not required and considered to be ducted.</p> <p>Additional examples of smoke hazard management systems that are not ducted include:</p> <ul style="list-style-type: none"> • independent stair pressurisation systems that operate via system activated fans directly installed within the stair shaft • smoke-and-heat vents and natural smoke ventilated systems that rely on mechanically activated components to provide supply air, such as louvres or door openings. <p>The above examples are active smoke hazard management systems that require a competent fire safety practitioner to design so that it will operate correctly.</p> <p>It is recommended that the regulation be reworded or an additional definition, similar to the hydraulic fire safety system in clause 165, be inserted to provide clarity on the intended smoke hazard management systems that are applicable to this clause.</p> <p>Proposed wording: (c) active smoke hazard management systems.</p>
21.	[6] Clause 144A (1)	It is recommended that 'alternative solution' is amended to 'performance solution' – refer to item 2.
22.	[6] Clause 144A (1) (a)	It is recommended that 'alternative solution report' is amended to 'fire safety engineering report' or 'fire engineering report' and that the selected term be defined within clause 3 or as a separate subclause of the relevant clauses – refer to item 3.
23.	[6] Clause 144A (1) (a) (i)	It is recommended that 'was prepared' is amended to 'is authorised' or 'is issued' – refer to item 4.
24.	[6] Clause 144A (1) (a) (ii)	<p>Modify 'performance requirement' to be plural i.e. 'performance requirements'.</p> <p>It is recommended that the wording be similar to clause 144 or that the subclause require that the statement explicitly identifies the relevant performance requirements that the alternative solution is intended to meet – refer to item 5.</p>
25.	[6] Clause 144A (1) (a) (iii)	It is recommended that the phrase 'deemed-to-satisfy' be omitted – refer to item 6.
26.	[6] Clause 144A (1) (a) (iv)	Modify 'alternative solutions' to be singular i.e. 'alternative solution'.
27.	[6] Clause 144A (1) (a) (v)	<p>It is recommended that the subclause be worded to:</p> <p>'(v) includes a copy of the fire engineering brief, which documents stakeholder agreement for the acceptance criteria and parameters on which the fire engineering analysis is based, and'.</p> <p>Refer to item 8.</p>

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28.	[6] Clause 144A (1) (b)	It is recommend that the regulation clarify how or where the certifying authority's statement of endorsement for the alternative solution report should be provided – refer to item 9.
29.	[7] Clause 146B (1)	Ensure wording for 'condition' or 'conditions' is consistent with subclause 136AA (1) – refer to item 14. It is noted that subclause 146B (2) refers to 'The condition required by this clause...' which is singular.
30.	[7] Clause 146B (2) (a) (ii)	Modify 'alternative solutions' to be singular i.e. 'alternative solution'.
31.	[7] Clause 146B (2) (b)	Clarify how the competent fire safety practitioner is to endorse plans and specifications – refer to item 15.
32.	[7] Clause 146B (2) (b) (i)	Clarify whether relevant provisions of the BCA refers to the specific deemed-to-satisfy provisions or the performance requirements – refer to item 18.
33.	[7] Clause 146B (2) (b) (ii)	It is recommended that 'relevant' be inserted before 'fire safety system' to link back to subclause 146B (3). Provide additional clauses to define/scope 'minor modification' and 'minor extension' – refer to item 19.
34.	[7] Clause 146B (3) (c)	It is recommend that the subclause be reworded to '(c) active smoke hazard management systems.' – refer to item 20.
35.	[8] Clause 147 (g)	It is recommended that the subclause be worded to: '(g) if any of the building works involve an alternative solution in accordance with clause 144A (1) (a) and (b), the details of the alternative solution report'. Refer to item 10.
36.	[8] Clause 147 (g) (i)	It is recommended that 'or unique reference number' be inserted before 'of the report' – refer to item 11.
37.	[8] Clause 147 (h)	It is recommended that the subclause be worded to: '(h) if any of the building work is exempt from compliance with the Building Code of Australia under clause 164B, the details of the exemption'. Refer to item 12.
38.	[9] Clause 147 (2)	It is recommended that this subclause include any building works that involve an alternative solution in accordance with clause 144A (1) (a) and (b), and for the details of the alternative solution report to also be included in the fire safety schedule – refer to item 13.
39.	[11] Clause 152A (1) Also applies to subclauses (3), (4), (5) and (6)	Subclause 152A (1) requires that 'a certifying authority must request Fire and Rescue NSW to furnish it with a fire safety system report'. To be consistent with the existing clauses 144, 148, 152 and 155, it is suggested that clause 152A refer to 'the Fire commissioner' instead of 'Fire and Rescue NSW'. Alternatively, it is recommended that the existing clauses be updated to 'Fire and Rescue NSW'.
40.	[11] Clause 152A (1)	Subclause 152A (1) applies to 'a class 2 or 3 building for building work that involves installing, extending or modifying a relevant fire safety measure in the building.' Modify 'relevant fire safety measure' to 'relevant fire safety system'.

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41.	[11] Clause 152A (6)	<p>Subclause 152A (6) states that 'A fire safety system report must be in writing and must specify whether or not Fire and Rescue NSW is satisfied'.</p> <p>Fire safety system report is currently not a defined term within the regulation. It is recommended that subclause 152A (6) be written in a similar manner as an initial fire safety report and final fire safety report as per clauses 144 and 152, respectively.</p> <p>Proposed wording: (6) In this clause: fire safety system report for a building means a written report specifying whether or not the Fire Commissioner is satisfied: (a) that the relevant fire safety system is capable of performing to at least the standard in the current fire safety schedule for the building, and (b) that all of the fire hydrants in the fire hydrant system will be accessible for use by Fire and Rescue NSW, and (c) that all of the couplings in the fire hydrant system will be compatible with those of the fire appliances and equipment used by Fire and Rescue NSW.</p> <p>The highlighted changes above includes modifications to subclauses (b) and (c), which appear to have slightly different wording to the existing subclause 152 (6). If this was intentional, it is recommended that the existing subclauses 152 (6) (b) and (c) be updated to reflect the proposed revised wording.</p> <p>It is also noted that the existing subclauses 144 (9) (b) and (c) are also different. It is recommended that this also reflect the same wording.</p>
42.	[11] Clause 152A (6) (a)	<p>Subclause 152A (6) (a) requires Fire and Rescue NSW to be satisfied that 'the relevant fire safety system is capable of performing to at least the standard in the current fire safety schedule for the building'.</p> <p>There are a number of concerns associated with requiring Fire and Rescue NSW to make a determination/assessment of the performance of a relevant fire safety system. These include the following:</p> <ul style="list-style-type: none"> • The proposal under clause 152A does not specify how or on what basis Fire and Rescue NSW are expected to make a determination/assessment. • The clause does not require the certifying authority to forward any particular information, plans or specifications to Fire and Rescue NSW with their request for a fire safety system report. • The clause does not require Fire and Rescue NSW to undertake a physical site inspection of the building works, and in particular the relevant fire safety system to which they are required furnish a fire safety system report on, within the 10-day time period. • The clause does not specify how Fire and Rescue NSW are to undertake witness testing of the relevant fire safety system to determine/assess that the system is capable of performing to a certain standard. • The clause does not require Fire and Rescue NSW to justify or make recommendations for the development if they find that the relevant fire safety system is not capable of performing to the required standard. • To make a determination/assessment of the performance of a relevant fire safety system, Fire and Rescue NSW should also be deemed 'competent fire safety practitioners' and demonstrate a minimum qualification level. <p>Furthermore, the wording 'performing to at least the standard in the current fire safety schedule for the building' suggests that there is an existing standard of performance for the relevant fire safety system. However, if the building work involves installing a relevant fire safety system in the building because prior to the works the fire safety system did not exist, the current fire safety schedule for the building technically is not applicable until the occupation certificate has been issued for the building works.</p>

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43.	[11] Clause 152A (6) (b)	<p>Subclause 152A (6) (b) requires Fire and Rescue NSW to be satisfied that 'any fire hydrant in the fire hydrant system will be accessible for use by Fire and Rescue NSW'.</p> <p>This subclause requires Fire and Rescue NSW to be satisfied that the fire hydrants in the building will be accessible for their use. This particular subclause should not form part of the fire safety system report. The fire safety system report should be limited to the installation, extension or modification of the relevant fire safety system in the building to which clause 152A applies.</p> <p>For example, if the installation, extension or modification of the relevant fire safety system applies to the hydraulic fire safety system as defined in clause 165, Fire and Rescue NSW should determine/assess that the fire hydrants in the building will be accessible for their use.</p> <p>If the installation, extension or modification of the relevant fire safety system applies only to the fire detection and alarm system, Fire and Rescue NSW should not determine/assess that the fire hydrants in the building will be accessible for their use.</p> <p>It is recommended that subclause 152A (6) (b) be removed.</p>
44.	[11] Clause 152A (6) (c)	<p>Subclause 152A (6) (c) requires Fire and Rescue NSW to be satisfied that 'any coupling in the fire hydrant system will be compatible with those of the fire appliances and equipment used by Fire and Rescue NSW'.</p> <p>Similar to above – refer to item 43.</p> <p>It is recommended that subclause 152A (6) (c) be removed.</p>
45.	[11] Clause 152A	<p>As mentioned in item 42, clause 152A does not require Fire and Rescue NSW to undertake a physical site inspection of the building works, and in particular the relevant fire safety system to which they are required furnish a fire safety system report on, within the 10-day time period.</p> <p>Understandably, this proposed clause is worded in a similar manner to the existing wording under clause 152. However, it is recommended that clause 152A include a separate subclause to require Fire and Rescue NSW to undertake an inspection should they choose to furnish a fire safety system report.</p> <p>Proposed wording to be inserted between subclauses (4) and (5):</p> <p>Fire and Rescue NSW must not issue a fire safety system report for the building unless it has carried out an inspection of the site of the development.</p> <p>A record of each inspection carried out by Fire and Rescue NSW for the purposes of clause 152A should be provided in the fire safety system report.</p> <p>It is also recommended that the details of the inspection record would be similar items listed under clauses 129C and 143C for the record of site inspections, which include the following:</p> <ul style="list-style-type: none"> (i) the date the certifying authority made the request for a fire safety system report, (ii) the address of the property at which the inspection was carried out, (iii) the type of inspection, (iv) the date on which the inspection was carried out, (v) the identity and signature of the individual who carried out the inspection on behalf of Fire and Rescue NSW, and (vi) details of the building work that involve installing, extending or modifying a relevant fire safety system in the building that were inspected.
46.	[11] Clause 152A (4)	<p>Subclause 152A (4) allows Fire and Rescue NSW to furnish the certifying authority with a fire safety system report for the building if 'no notice of the refusal of the application has been received by the certifying authority'.</p> <p>Modify 'by the certifying authority' to 'from the certifying authority'.</p>

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47.	[11] Clause 152A (6) (c)	It is recommended that the subclause be worded to: (c) active smoke hazard management systems. Refer to item 20.
48.	[11] Clause 152B	Clause 152B states that 'A certifying authority must not issue an occupation certificate for a building for which building work that involves an alternative solution under the Building Code of Australia in respect of a fire safety requirement was carried out unless:'. It is recommended that this clause be reworded. Proposed wording: A certifying authority must not issue an occupation certificate for a building for which building work was carried out that involves an alternative solution under the Building Code of Australia in respect of a fire safety requirement unless: Alternatively, commas or dashes should be provided to separate out phrases within the clause. Proposed wording: A certifying authority must not issue an occupation certificate for a building for which building work – that involves an alternative solution under the Building Code of Australia in respect of a fire safety requirement – was carried out unless:
49.	[11] Clause 152B (a)	It is recommended that 'alternative solution report' is amended to 'fire safety engineering report' or 'fire engineering report' and that the selected term be defined within clause 3 or as a separate subclause of the relevant clauses – refer to item 3.
50.	[11] Clause 152B (a)	It is recommended that clause 152B specifically include 'principal certifying authority' to differentiate the roles for the occupation certificate. It is also recommended that subclauses 152B (a) (i)-(iv) be removed as reference to clauses 130 (2a) (a) and 144A (1) (a) are already within the main part of subclause 152B (a), which is associated with the alternative solution report that was issued under the complying development certificate / construction certificate.
51.	[12] Clause 153 (2A)	Subclause 153 (2A) states that 'A certifying authority must not issue an occupation certificate for a building for building work that involves installing, extending or modifying a fire safety measure in the building...'. It is recommended that 'for building work' be modified to 'for which building work' which is consistent with the proposed wording in clause 152B.
52.	[13] Clause 155 (1) (f)	Subclause 155 (1) (f) requires that an occupation certificate must contain 'the following details of any alternative solution report about the building work that complies with clause 130 (2A) (a) and (b) or 144A (1) (a) and (b)'. Apply wording consistent with any changes to items 10 and 35. It is recommended that the subclause be worded to: '(f) the details of any alternative solution report for building works that involve an alternative solution that complies with clause 130 (2A) (a) and (b) or 144A (1) (a) and (b).'
53.	[16] Clause 164B (5) (a)	Subclause 164B (5) (a) allows a certifying authority to exempt building work related 'only to the operational performance of the relevant fire safety system'. The 'operational performance of the relevant fire safety system' is currently not a defined term within the regulation. It is recommended that specific examples, guidance or limitations be provided within this clause.
54.	[16] Clause 164B (6) (c)	It is recommended that the subclause be worded to: (c) active smoke hazard management systems. Refer to item 20.

Item	Relevant clauses	Specific comments or suggestions
55.	[17] Clause 167A (4) (a)	<p>Subclause 167A (4) (a) requires the certifying authority to form an opinion on who is considered to be a competent fire safety practitioner.</p> <p>This subjectivity will result in variance amongst industry both from the certifying authorities and the competent fire safety practitioners. As previously mentioned, subjective requirements are a major factor contributing to the disparity within the industry, which is the one of the drivers for the fire safety reforms. The proposed amendments to the regulation should aim to remove this subjectivity.</p> <p>It is understood that the term ‘competent fire safety practitioner’ is intended to encompass numerous roles within the industry, including other types of fire-related engineers (fire services, fire protection, electrical, mechanical, and hydraulic).</p> <p>However, until the competent fire safety practitioner accreditation framework has been established, there will be a considerable amount of concern leaving it to the discretion of the certifying authority where existing clauses (clauses 130, 144A and 153A) already require certain reports to be issued by a fire safety engineer, which is currently defined within clause 3 as a C10 accredited certifier.</p> <p>It is recommended that subclause 167A (4) be restructured and a subclause inserted to specifically identify and recognise the existing competence of fire safety engineers.</p> <p>Proposed wording:</p> <p>(4) Until an order is first published under subclause (1):</p> <p>(a) for the purposes of clauses 130, 134 (1) (f1), 144A, 147 (1) (g), 152B and 155 (1) (f), a fire safety engineer is taken to be a competent fire safety practitioner, and</p> <p>(b) for the purposes of clauses 134 (1) (f2), 136AA, 146B, 147 (1) (h), 153 and 164B, any person who, in the relevant written opinion of the certifying authority or principal certifying authority, as the case may be, is competent to perform the fire safety assessment functions under those clauses is taken to be a competent fire safety practitioner, and</p> <p>(c) for the purposes of Divisions 4 and 5 of Part 9, any person who, in the written opinion of the relevant building owner, is competent to perform the fire safety assessment functions under those Divisions is taken to be a competent fire safety practitioner.</p>
56.	[22] Clause 174 (1)	<p>It is recommended that an additional subclause be inserted to require that the ‘building classification’ be included on the fire safety certificate.</p> <p>It is also recommended that details of competency for the person who issued the certificate be included.</p>
57.	[26] Clause 181 (1)	<p>It is recommended that an additional subclause be inserted to require that the ‘building classification’ be included on the fire safety statement.</p> <p>It is also recommended that details of competency for the person who issued the certificate be included.</p>
58.	[27] Clause 190B (1) (b)	<p>Subclause 190B (1) (b) requires that the principal contractor ensure that the most recently endorsed copy of the plans and specifications for any relevant fire safety system for the building are kept on site of the building work and ‘are made available for inspection on request by the certifying authority, consent authority, council and Fire and Rescue NSW at the times during which the building work is carried out.’</p> <p>It is recommended that the most recently endorsed copy of the plans and specifications for any relevant fire safety system for the building remain on site upon completion of the building works.</p>
59.	[27] Clause 190B (2) (c)	<p>It is recommended that the subclause be worded to:</p> <p>(c) active smoke hazard management systems.</p> <p>Refer to item 20.</p>

Item	Relevant clauses	Specific comments or suggestions
Recommendations relating to other clauses that should be amended with the Fire Safety and Building Certification Amendment 2017		
60.	Clause 144	Change the title from 'New South Wales Fire Brigade' to 'Fire and Rescue NSW'.
61.	Clause 152 (4)	<p>Subclause 152 (4) states that 'If a request has been made to the Fire Commissioner under this clause and no notice of the refusal of the application has been received by him or her, the Fire Commissioner may furnish the certifying authority with a final fire safety report for the building.'</p> <p>Modify 'by him or her' to 'from the certifying authority' to be consistent with the proposed clause 152A – refer to item 46.</p>
62.	Clause 155 (3)	<p>It is recommended that a copy of the occupation certificate – with the statement to the effect that a report from the Fire Commissioner has been considered by the certifying authority as required by subclause 155 (1) (e) (vi) – is forwarded to Fire and Rescue NSW.</p> <p>This will close out any outstanding issues regarding any recommendations made by Fire and Rescue NSW within the initial fire safety report, final fire safety report and/or fire safety system report.</p> <p>Fire and Rescue NSW can then also use this information when undertaking compliance checks of occupied premises.</p>