

**Fire & Rescue NSW Submission to
Consultation on Proposed Reforms to Strengthen Building Fire Safety**

1. Fire & Rescue NSW (FRNSW) supports the introduction of a *competent fire safety practitioner* and also the accreditation of these people. This will make designers, maintenance and installation practitioners accountable for their actions.

The term “competent fire safety practitioner”, however, has been applied to a number of different roles throughout the legislation. For example, it refers to the functions that a fire safety engineer would undertake in preparing a fire engineering report, as well as to someone who would sign off annual fire safety statements. The skill sets required for these roles differ, and it is therefore considered confusing to use the one term to describe all roles.

Also, in the interim, until the Secretary makes further determination on what is a “competent fire safety practitioner”, the person responsible for issuing a Fire Engineering Report under Clause 144A will be changed from the current requirement of being a fire safety engineer, to someone considered adequate by the principal certifying authority. This has the potential to reduce the level of competence currently required.

2. FRNSW queries why a “relevant fire safety system” throughout the draft Regulation, for example Clauses 136AA (3), 146B (3), 152A (7) and 190B (2), has been limited to those listed. There are many other fire safety systems that may be installed within a building. FRNSW recommends inclusion of a list of examples or systems, rather than limiting to the three currently nominated.
3. FRNSW supports the requirement for plans and specs to be submitted and recorded for certain fire safety systems. Additionally, these plans and specs will be required to be endorsed by a *competent fire safety practitioner* so they will now be accountable for their designs.
4. In relation to the limited exemptions from compliance with some BCA standards in relation to work to extend or modify certain fire safety systems, FRNSW is concerned there are no limitations other than the exemption can only relate to the operational performance of the system and that the operational performance of the system cannot be reduced. Certifiers are being given discretion in this area, which has caused compliance issues in the past. FRNSW recommends consideration be given to limiting the application of this clause to where the system is being extended or modified by not more than 20% (or some other appropriate figure).

Additionally, FRNSW recommends that this function should be limited to Certifiers that have the required knowledge and experience to make this determination i.e. A1 Accredited Certifiers permitted to assess Alternative Solutions for fire safety matters.

While this clause is intended to address minor works generally associated with older fire safety system standards, and the potential difficulties with upgrade measures, FRNSW is also concerned this clause could be used to modify a building design straight after it has been occupied in order to overcome recommendations or conditions that may have been imposed during the approvals process. These changes can now be made without the same level of rigour as the building approvals process (such as referral to FRNSW). This may diminish the value of the original approvals process that is intended to be strengthened by these reforms.

The term 'minor works' has not been adequately defined, and a clearer limitation and scope of application is needed. The term 'operational performance' of the relevant fire safety system also needs to be better defined.

5. Clause 130 (2A) (a), Clause 144A (1) and 152B (a) – FRNSW recommends including a definition for the term 'alternative solution report in Clause 3, such as:

“**alternative solution report** means a written report that:

- (a) is authorised by a competent fire safety practitioner (Note: recommend that 'competent fire safety practitioner' is replaced by "fire safety engineer" until the framework has been established to ensure that an accredited C10 fire safety engineer is the minimum required), and
- (b) includes the title and 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 deemed-to-satisfy provisions of the Building Code of Australia being varied and the corresponding performance requirements, 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 brief for the fire engineering analysis.”

It is noted that Clause 152B will need to be reworded accordingly.

6. FRNSW supports the provisions relating to its new function of providing fire safety system reports for Class 2 and 3 buildings. FRNSW is able to exercise its powers under Section 119T (1) (b) of the *Environmental Planning and Assessment Act* and Clause 189 of the *Environmental Planning and Assessment Regulation*, which allows FRNSW to look at all the fire safety measures in the building if needed, although entry to the premises may be problematic at this time.
7. FRNSW supports the proposed Critical Stage Inspections. These relate to penetration protection and fire stopping, which are a significant number of the issues FRNSW identifies when inspecting new buildings.

8. FRNSW supports the requirement for fire safety certificates to be assessed by a *competent fire safety practitioner*.
9. FRNSW supports the requirements for Certifiers to document, check and endorse fire safety Alternative Solutions. This should improve the quality of fire engineering reports, as the Certifier will now be required to consider and endorse the fire engineering report prior to the issue of a Complying Development Certificate and a Construction Certificate. As well, Certifiers will be required to consider and ensure requirements of fire engineering reports are implemented prior to the issue of the Occupancy Certificate. This should improve the level of implementation of the requirements of the fire engineering report.
10. FRNSW supports the requirements for a *competent fire safety practitioner* to conduct assessments in relation to supplementary and annual fire safety statements.
11. Clause 130 (2A) (a) (ii), Clause 144A (1) (a) (ii) – FRNSW recommends ‘performance requirement’ be plural i.e. ‘performance requirements’.

Also, FRNSW recommends the wording should be more specific or similar to Clause 144. For example, ‘includes a statement that the alternative solution will meet such of the performance requirements as it is intended to meet’.

12. Schedule 1 – [2] – Clause 130 (2A) (a) (iv), Schedule 1 – [5] – Clause 136AA (2) (a) (ii), Schedule 1 – [6] – Clause 144A (1) (a) (iv), Schedule 1 – [7] – Clause 146B (2) (a) (ii), Schedule 1 – [11] – Clause 152B (a) (ii) – FRNSW recommends ‘alternative solution’ be singular.
13. Clause 130 (2A) (a) (v), Clause 144A (1), (a) (v) – FRNSW recommends removal of the subjective requirement for the certifying authority to determine if ‘the brief’ is to be included.

If the definition above for an alternative solution report is adopted, it will mean the report must include ‘the brief’.

Also, ‘the brief’ is not adequately defined or described and could be in a few sentences.

FRNSW recommends the intent be clear and if needed, a definition is provided within these clauses to specify the contents of ‘the brief’, which is not adequately defined or described, but could be in a few sentence. For example, ‘describes/documents stakeholder agreement for the acceptance criteria and parameters on which the fire engineering analysis is based’.

14. Clause 130 (2A) (b), Clause 144A (1) (b) – Clarify as to 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. This would then need to be included in Clauses 134 and 147.

15. Clause 134 (1) (f1), Clause 155 (f) – FRNSW recommends replacing the word ‘about’ with ‘affecting’, ‘relating to’ or ‘pertaining to’.
16. Clause 134 (1) (f1) (i), Clause 147 (1) (f) (i), Clause 155 (f) (i) – FRNSW queries how the title of the report will help. Some companies title their report generically as ‘Alternative solution report’ or ‘Fire engineering report’. FRNSW recommends changing or adding ‘or unique report reference number’. If the definition above for an alternative solution report is adopted, it will require ‘the title and unique reference number of the report’.
17. Clause 136AA (2) (a) – Clarify what is required for the competent fire safety practitioner to ‘endorse’ documents e.g. review and sign plans?
18. Clause 146B (2) (a) – FRNSW queries why this clause is different to the proposed wording in Clause 136AA, in that it does not have ‘endorsed by a competent fire safety practitioner’.
19. Clause 152A (1) – FRNSW recommends a definition be provided for the term ‘fire safety system report’, defining the purpose and contents of this report.

It is also recommend that FRNSW be asked to undertake a physical site inspection within the 10 day time period.

20. Clause 152A (1), Clause 153 (2A) – FRNSW queries the change in terminology from ‘relevant fire safety system’ to ‘fire safety measure’?
21. Clause 152A (4) – FRNSW recommends replacing “by” with “from” i.e.

“(4) If a request has been made to Fire and Rescue NSW under this clause and no notice of the refusal of the application has been received **from** the certifying authority, Fire and Rescue NSW may furnish the certifying authority with a fire safety system report for the building.”
22. Clause 152A (5) – FRNSW queries what the certifying authority needs to do to demonstrate it has taken the report into consideration. The current clause requires no action from the certifying authority. It is recommended that some form of formal written advice should be submitted to a nominated party.
23. Clause 152A (6) – FRNSW recommends changing ‘must be in writing and must specify’ to ‘is a written report specifying’, which is consistent with Clause 152.
24. Clause 152A (6) (a) - FRNSW queries on what basis its assessment will be made.
25. Clause 152A (6) (c) - This clause specifically talks about couplings in the fire hydrant system. FRNSW recommends that it should be the same as Clause 152.
26. Clause 152B – FRNSW recommends moving ‘was carried out’ to after ‘...for which building work’.

27. Clause 152B – FRNSW recommends including ‘principal’ certifying authority to differentiate the roles. FRNSW also queries why the information about the alternative solution report needs to be duplicated in this Clause when reference is already made to Clauses 130 and 144A. The clause should just be linking the alternative solution report that was issued under the Complying Development Certificate/Construction Certificate.

FRNSW queries the inconsistency between Subclause (a) item (iii) and the wording in Clause 144A detailed as Subclause (1) Section (c) on page 5. Further clarification is also required as to the relationship between these plans and specifications and the alternative solution report in Clause 152 B, as it appears this Clause is currently requiring the plans to be included within the report.

28. Clause 174 (1), Clause 181 (1) – FRNSW recommends the building classification be included. It is also recommends inclusion of the details of competency for the person who issued the certificate.
29. Clause 190B (1) (b) – FRNSW recommends the plans and specifications for the fire safety systems are to be kept on site on completion and during the life of the building, as well as during construction.

