

Submission on proposed Fire Safety Changes to the Environmental Planning and Assessment Regulation 2000

**Roman Wereszczynski, Manager Health, Building & Regulatory Services,
Randwick City Council, 27 January 2017**

The proposed fire safety reforms aim to improve the regulation and certification of buildings containing complex fire safety measures and the provisions are supported by Randwick City Council (RCC).

The proposed provisions are however only an initial package of reforms and further regulatory reforms are necessary to fully address the key issues and deficiencies in the current legislation and to provide an improved and rigorous suite of provisions.

The following comments are provided in relation to the specific proposed reforms and provisions: -

1. Involvement of 'competent fire safety practitioners'

The proposed provisions are supported.

Pending introduction of the accreditation of 'competent fire safety practitioners' by the BPB, it would assist if guidelines can be provided to support Councils and Building Certifiers in the application of these provisions and determination of whom may be considered to be a 'competent fire safety practitioner'.

2. Submission of Fire Safety Systems plans and specifications

The proposed provisions are supported in principle.

However, the current draft provisions may be excessive and unnecessary in relation to Construction Certificates (CC) and Complying Development Certificates (CDC) which encompass only minor building works i.e. minor alterations to one or more residential units or areas in a low-level class 2 or 3 building which requires only a minor extension or modification to the fire detection and alarm system or a minor alteration to an existing hose reel system in a commercial or industrial building.

The provisions should also clarify that the documentation does not need to be provided to the PCA if it has already been provided up front with the CC or CDC (unless the relevant Fire Safety System plans and specifications have changed since the issuing of the CC or CDC).

The provisions should also provide a mechanism (other than via the issue of a new or modified CC or CDC) for the PCA to authorise and issue an amended Fire Safety Schedule, prior to the issue of the Occupation Certificate, to clarify relevant fire safety measures or to accommodate minor changes which may have occurred between the issue of the CC or CDC and Occupation Certificate (OC).

3. Limited exemptions from compliance with certain BCA provisions.

These provisions are also supported.

It may however be appropriate to limit the application and use of these provisions as they could be abused by a less scrupulous Building Certifier and / or Fire Safety Practitioner. Consideration could be given to limiting the percentage of additional floor area for the use of these provisions i.e. additions not exceeding 30% of existing floor area / otherwise an 'alternative situation' should be required.

A copy of the determination and use of these provisions should be forwarded to Fire and Rescue New South Wales (FRNSW) by the Building Certifier.

4. New Critical Stage Inspections

These proposed provisions are supported in principle.

These provisions will however require the Principal Certifying Authority (PCA) to carry out many more inspections of these buildings during construction, which may not be feasible. In addition, there may not be enough Accredited Certifiers (ie. Accredited Building Surveyors) available to fulfil these requirements. As such, the provisions could be modified to allow for these inspections to be carried out by a 'competent fire safety practitioner' and the PCA should be able to rely upon certification from 'competent fire safety practitioner' (accredited by the BPB upon introduction of the Scheme).

It is also considered that a consistent inspection requirement of not less than 20% of the total number of service penetrations and boundary construction is appropriate and reasonable.

The BPB could also issue guidelines or practice notes to assist in the interpretation and application of the provisions.

5. Inspections by Fire and Rescue NSW

These provisions are supported in principle. However consideration should be given to limiting the application of these provisions to Class 2 buildings having more than 3 residential storeys and Class 3 buildings having more than 2 residential storeys.

The application of these provisions to small-scale Class 2 and 3 buildings (including duplex – style buildings and minor alterations to one or more sole occupancy units in a Class 2 or 3 building is considered to be too onerous. The current provisions would also create unnecessary regulatory red-tape and may result in delays in obtaining an OC.

These provisions will also create a substantial additional workload for FRNSW, which may be unsustainable without significant additional resources. Otherwise, this would exacerbate existing delays and timeframes in obtaining comments or referrals from FRNSW.

Any required notifications to Fire and Rescue NSW should also be on a standard form or preferably 'on-line'.

6. Fire Safety Certificates and Assessments by competent fire safety practitioners.

These provisions are supported. It is however considered that the Fire Safety Certificate should include the name and details of the relevant 'Competent Fire Safety Practitioner' to increase the level of integrity, rigour and reliability in the process.

It is also considered necessary and ancillary to these provisions to develop a standard prescribed form for a 'Fire Safety Schedule', as the Fire Safety Schedules currently being issued by Certifiers (and Councils) are inconsistent and in some cases unreliable and difficult to interpret.

7. Documenting, checking and endorsing Fire Safety Alternative Solutions.

These provisions are supported.

Consideration should also be given at this point to address and provide a regulatory mechanism to approve (where it is appropriate to do so) works involving alternative solutions, which have developed during the course of construction, but were not included in the initial CC or CDC.

Whilst it is acknowledged that the issue of a new or amended CC or CDC and a corresponding Fire Safety Schedule 'before' any such works are carried out, is the preferred method of dealing with these changes, in a number of cases this may be unforeseen, impractical or due to an error or oversight.

A Building Certifier cannot currently (lawfully) issue a new or modified CC or CDC if those works have commenced and the Certifier may not be able to issue an OC if the work was inconsistent with a relevant CC or CDC and even if the alternative solution was accepted by the PCA, it would result in inconsistencies between the Fire Safety Schedule and Final Fire Safety Certificate. Therefore, the current provisions do not provide a practical and appropriate mechanism to deal with these situations and the referral of the matter to the Council (ie for a Building Certificate) creates difficulties for Council to resolve these complex matters and it does not resolve the issue of the OC or the inconsistencies between the Fire Safety Schedule and Final Fire Safety Certificate.

8. Fire Safety Statements and involvement of competent fire safety practitioners.

These provisions are also supported. The Fire Safety Statement form should however, include the name / details of the relevant 'competent fire safety practitioner' to improve the integrity of this certification process.

9. Additional comments

- i) The format and content of a 'Fire Safety Schedule' should be a prescribed form for consistency throughout the State.
- ii) Key stakeholders and Councils should be given the opportunity to comment on the proposed prescribed forms prior to introduction.
- iii) The provisions should provide a mechanism for the Building Certifier to issue an amended 'Fire Safety Schedule' prior to the issue of an OC if there are often changes or differences between the fire safety measures identified in the Fire Safety Schedule which was issued with the CC or CDC and the final Fire Safety Certificate/s. Otherwise, this creates significant problems for Councils when trying to reconcile the actual fire safety measures in the building, for the purposes of obtaining an Annual Fire Safety Statement.
- iv) The Fire Safety Schedule should better identify and describe the scope, extent and location of the fire safety measures i.e. in relation to fire safety measures located within only parts of the building and / or alternative solutions affecting only specified parts of a building.
- v) The provisions should clarify and provide an effective manner to deal with buildings which are connected, but are divided into a number of separate strata's or stratum's, to clarify who is responsible for the provision of the Fire Safety Statement to Council and FRNSW. Currently in such cases, the parts of the buildings are technically under separate ownership and responsibility for maintenance, repairs and certification and in the event of any deficiencies or defects no party wishes to take responsibility to remedy the situation or to provide a complete, single Annual Fire Safety Statement (AFSS) to Council.
- vi) The provisions and / or guidelines should clarify that the submission of a Fire Safety Statement to the Council (and FRNSW) which is incomplete or inconsistent with the Fire Safety Schedule does not meet the requirements of Part 9, Division 5 of the Regulation.
- vii) The provisions should allow Council's to charge a fee for service for the registration of each Fire Safety Certificate and Fire Safety Statement with Council based on full cost recovery.

The administration and regulation of these activities at Randwick City Council currently requires the allocation of 1.6 professional / administrative officers, which equates to \$120,000 in salary costs.

- viii) The Fire Safety Schedule and Fire Safety Certificate should be required to contain a specific summary of any fire safety alternative solutions, including; relevant fire safety measures affected or omitted; relevant BCA DTS and performance provisions, occupancy and management in use limitations etc. However it should not include numerous pages of information which creates unnecessary complications and difficulties to collate the data and to compare and check the document against the Fire Safety Certificate or Statement.
- ix) The provisions and or guidelines should clarify and specify that only a 'single' Fire Safety Certificate and (Annual) Fire Safety Statement must be submitted to Council and FRNSW. Currently there are often numerous Fire Safety Certificates and Annual Fire Safety Statements provided to Council covering different (or in some cases the same) fire safety measures. This makes it difficult to properly identify the full and final list of fire safety measures in the building to form an accurate Fire Safety Schedule and to follow up the submission of the Annual Fire Safety Statements, where required. It also makes it impractical to display a copy of multiple Fire Safety Certificates and Fire Safety Statements in the building.
- x) The provisions should state that, wherever it is a requirement to 'endorse' a plan or specification, a copy must be provided to Council within a specified period.

Should you require any further information or wish to discuss the above comments, please contact Mr Roman Wereszczynski, Manager Health, Building and Regulatory Services on 9093 6947 or email roman.wereszczynski@randwick.nsw.gov.au

(D02851956)