

Planning Legislation updates 2017  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir/Madam

**SUBMISSION – ENVIRONMENTAL PLANNING & ASSESSMENT AMENDMENT (FIRE SAFETY AND BUILDING CERTIFICATION) REGULATION 2017**

Ref: ab/PT/SF18

Tamworth Regional Council (TRC) appreciates the opportunity to provide feedback regarding the draft Environmental Planning & Assessment Amendment (Fire Safety And Building Certification) Regulation 2017. The following comments are provided;

*Involvement of 'competent fire safety practitioners'*

It is appreciated that the industry requires the tightening of provisions in regard to fire safety. TRC does not disagree with the proposal to develop a co-regulatory accreditation framework for a competent fire safety practitioner. However, it is likely that the uptake of such professionals will be difficult to achieve.

The liability that would result for these professionals to certify or authenticate new fire safety systems or that of systems previously installed for the purpose of alterations and/or additions to existing buildings will be substantial and may result in an aversion to applying for an accreditation in this field.

*Submission of Fire safety system plans and specifications and their retention on site*

The requirement for plans and specifications to be endorsed by a fire safety practitioner is a welcome requirement for regional and rural areas. The level of consistency and competency of plans and specifications are often inadequate for a complying development certificate or a construction certificate to be issued.

However, the reason for this is most commonly due to the lack of professionals locally. It is often difficult to dispute the need for more detailed plans and specifications to applicants if this means a costly consultant will be required. It is recommended that a training scheme with approved training providers be implemented to supplement the co-regulatory framework for the accreditation of fire safety practitioners. A transitional arrangement may also encourage applications for accreditation.

The proposal also sets out that the submission of plans and specifications for these systems may be provided after the issue of a complying development certificate or construction certificate. This may be appropriate for metropolitan councils with proper resource in staffing. However, it is not appropriate for regional areas.

The development industry in regional and rural areas, such as Tamworth, apply the ideal that it is better to ask for forgiveness rather than permission. The concession to permit the submission of critical documents after the commencement of works and prior to the installation of fire safety systems will result in applicants not meeting their obligations and work defaults occurring. Regional

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councils are unable to take proactive management to prevent such non-compliances. A reactive approach is frequently the only option due to staffing resources.

Limited Exemptions from compliance with some Building Code of Australia (BCA) standards

The proposal for minor modifications or extensions of existing fire safety systems to not strictly comply with certain requirements of the BCA is reasonable. It is proposed that the exemption be subject to the certifying authority being satisfied that the non-compliance will not reduce the *operational* performance of the existing fire safety system.

This may present difficulties when certifying older buildings. It is recommended that further investigation of the likely scenarios that may present with older buildings be conducted. In addition, which documentation an accredited certifier may depend on to support the *operational* performance of a fire safety system.

Additional Checks by Fire & Rescue NSW

The concern regarding Fire & Rescue NSW conducting inspections stems from whether there will be willingness or sufficient resourcing by this agency to carry out inspections within regional areas.

Additionally, it is proposed that Fire & Rescue NSW have discretion as to whether an inspection is carried out. It is recommended that should a genuine request for inspection by a certifier be requested such as for a concern being raised regarding a particular building, an inspection **must** be carried out.


Recording fire safety alternative solutions

The requirement to document alternative solutions and exemptions within a list accompanying an approval certificate or occupation certificate is building on the current arrangement with the Fire Safety Schedule and will be of use into the future. TRC has two (2) concerns regarding this proposal;

1. The requirement to list existing measures within a large or complex existing building including the particulars of installation dates together with the appropriate maintenance standard can be difficult.
2. The need for certifiers to submit this document to the Consent Authority/Council is not a new development. However, once these varying documents are submitted, at some point the management of the accuracy of this document over time (with potentially a number of extensions to a single building) may be questioned. TRC does not have a robust fire safety program and it is limited in its resourcing. Any additional management of these documents will be challenging.

It is clear that change is needed to assist in the governance of the building industry and its certifiers. Thank you again for the opportunity to provide feedback on these key matters. If you require any further input, please continue to consider Tamworth Regional Council as a relevant stakeholder.

Yours sincerely



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