

PUBLIC CONSULTATION SUBMISSION

Environmental Planning and Assessment Amendment (Fire Safety and Building Certification) Regulation 2017

Item	Clause	Issue	Recommendation
General	Throughout	1. The term “performance solution” is now referenced in the Building Code of Australia (BCA) replacing “alternative solution”. The definition of “alternative solution” in the Environmental Planning & Assessment Regulation 2000 (EP&A Regs) is in accordance with the BCA and both terms are currently still defined in the BCA, however consideration to be given to any potential alterations BCA 2017.	1. Consider replacing the term “alternative solution” with “performance solution” to be consistent with The Building Code of Australia throughout
[1]	-	-	-
[2]	130	No requirement for consideration of the impact of new work on an existing building that is subject to an alternative solution or Fire Safety Upgrade Solution as a result of a fire safety order. 130 (2E) does contain provisions for internal alterations to, or a change of use of, an existing building, however does not cover new work on an existing building only the new work itself as per 130(2A)	<p>(2B) becomes (2C); and Consider inclusion of the following:</p> <p>(2B) A certifying authority must not issue a complying development certificate for new building work on an existing building that is the subject of an alternative solution under the Building code of Australia or a Fire Safety Upgrade Solution as a result of a fire safety order unless the certifying authority:</p> <p>(a) has obtained or been provided with a fire safety report that:</p> <p>(i) Was prepared by a competent fire safety practitioner with at least the equivalent or higher accreditation level as the accredited certifier who assessed the existing solution; and</p> <p>(ii) Makes a clear recommendation that the proposed works will not compromise</p>

			the existing alternative solution or fire safety upgrade solution or if it will, provides a report in accordance with 130(2A) (a)
[3]	134(f1)	<p>1. There is no provision for accreditation details to be provided</p> <p>2. If the recommendation in relation to Clause 130 are adopted, details of the fire safety report will be required similar to 134(f1)</p>	<p>1. Consider inclusion of the following:</p> <p>(iv) the accreditation number of the competent fire safety practitioner</p> <p>2. Consider modifying proposed 134(f1) as below;</p> <p>(f1) Insert after “<i>any alternative solution</i>” or fire safety report. Insert 130(2B) after “130(2A) (a) and (b)”</p>
[4]	-	-	-
[5]	-	-	-
[6]	144A	No requirement for consideration of the impact of new work on an existing building that is subject to an alternative solution or Fire Safety Upgrade Solution as a result of a fire safety order.	<p>(2) becomes (3); and Consider inclusion of the following:</p> <p>(2) A certifying authority must not issue a construction certificate for new building work on an existing building that is the subject of an alternative solution under the Building code of Australia or a Fire Safety Upgrade Solution as a result of a fire safety order unless the certifying authority:</p> <p>(a) has obtained or been provided with a fire safety report that:</p> <p>(i) Was prepared by a competent fire safety practitioner with at least the equivalent or higher accreditation level as the accredited certifier who assessed the existing solution; and</p> <p>(ii) Makes a clear recommendation that the proposed works will not compromise the existing alternative</p>

			solution or fire safety upgrade solution or if it will, provides a report in accordance with 144A(1) (a)
[7]	-	-	-
[8]	147	<p>1. There is no provision for accreditation details to be provided</p> <p>2. If the recommendations in relation to Clause 144A are adopted, details of the fire safety report required similar to 147(1)(g)</p>	<p>1. Consider inclusion of the following:</p> <p>(iv) the accreditation number of the competent fire safety practitioner</p> <p>2. (g) Insert after “<i>any alternative solution report</i>” or fire safety report. Insert Clause 144A(2) after “<i>144A(1) (a) and (b)</i>”</p>
[9]	147(2)	-	-
[10]	152	152(5) Increasing time frame from 7 days to 10 days adds delay to issue of occupation certificate.	Maintain 7 days
No item in draft	152(2)	152(2) requires certifying authority to request Fire Commissioner to furnish it with final fire safety report “ <i>as soon as practicable</i> ” after receiving occupation certificate application. To be consistent with proposed 152A (1) which requires request for FRNSW report within 2 days and to limit confusion suggest 152(2) requires 2 day time frame in lieu of “ <i>as soon as practicable</i> ”.	<p>Consider modifying existing Clause 152(2) as follows:</p> <p>(2) Insert after “<i>final fire safety report for a building</i>” no later than 2 days and delete “<i>as soon as practicable</i>”.</p>
[11]	152A (5)	<p>Potential increased delays in issuing occupation certificate</p> <p>Also, concerns that inspections by FRNSW will add to compliance work for Council.</p>	Amend to 7 days to be consistent with recommendation in relation to clause 152(5)
	152B	If the recommendations in relation to Clause 130 and 144A are adopted, clause 152B (a) to be amended to include reference to proposed clause 130 (2B) and clause 144A (2)	<p>Consider modifying 152B (a) as follows:</p> <p>(a) Insert after “130(2A) (a)” 130(2B) and insert after “<i>144A (1) (a)</i>” and 144A(2)</p>
[12]	153	Proposed clause 153 (2A) restricts the issue of an	Consider modifying proposed 153 (2A) as follows:

		<p>occupation certificate until a fire safety certificate has been “<i>issued</i>” by a competent fire safety practitioner, however contradicts Clause 170 and 173 which state that a final and interim fire safety certificate is a certificate “<i>issued by or on behalf of the owner</i>”.</p>	<p>(2A) Insert after “<i>or modifying a fire safety measure in the building</i>” unless it is satisfied that each essential fire safety measure listed in the fire safety certificate was assessed by a competent fire safety practitioner.</p>
[13]	155	<ol style="list-style-type: none"> 1. There is no provision for accreditation details to be provided 2. If the recommendation in relation to Clause 130 and 144A are adopted, clause 155B (f) to be amended to include reference to proposed clause 130 (2B) and clause 144A (2) 	<ol style="list-style-type: none"> 1. Consider inclusion of the following: <ul style="list-style-type: none"> (iv) the accreditation number of the competent fire safety practitioner 2. Consider modifying proposed 155 (1) (f) as follows: <ul style="list-style-type: none"> (f) Insert after “130(2A) (a)” 130(2B) and insert after “144A (1) (a)” and 144A(2)
[14]	162A	<p>The requirements of this critical stage inspection requires further clarity. As an example, in a single storey 500m² building does this require 100m² of combined and/or any combination of fire resistant walls, floors & ceiling areas (subject to service penetrations) to be inspected? This could result in a 100m² of area being checked where there are minimal penetrations in lieu of another 100m² where there are multiple penetrations.</p> <p>Consider requiring a minimum of 20% of service penetrations of each storey of the building</p> <p>or</p> <p>Require a minimum of 1 sample wall/ceiling that contains penetrations requiring protection to be inspected. If PCA satisfied with methods, certification to be provided by <i>Competent Fire Safety Practitioner</i> that all</p>	<p>Consider modifying clause 162A (a) as follows:</p> <p>162A (a) Insert after “<i>for a minimum of 20% of</i>” fire service penetrations on each storey of the building. Delete “<i>the total floor area of each storey of the building</i>”</p> <p>Or</p> <p>162A (a) Insert after “prior to covering.....walls, floors and ceilings”, a minimum of one (1) sample wall, one (1) sample ceiling and one (1) sample floor that contains penetrations required to be protected. Any additional penetrations to fire resisting walls, floors and ceilings are required to be certified by a <i>competent fire safety practitioner</i> as being installed in accordance with the sample wall floor and/or ceiling.</p>

		penetrations have been protected in accordance with sample wall/ceiling	
[15]	162A (6) (a)	As per item 14 recommendation	As per item 14 recommendation
[16]	164B	Why is there a need for this exemption? Isn't this a performance solution in accordance with the BCA?	Delete proposed clause
[17]	167A (3)	The steps that professional or industry organisations are to follow for their members to be included in such an order referred to in 167A (2) (c) should also consider minimum qualifications, training, continuing professional development requirements and accreditation.	Consider modifying 167A (3) as follows: (3) Insert after “ <i>about auditing and, complaints handling</i> ”, minimum qualifications, continuing professional development and accreditation.
No item in draft	168(3)	<ol style="list-style-type: none"> 1. There is no provision for the specific provisions and standard of performance for any relevant fire safety measure of any alternative solution report or fire safety upgrade solution as a result of a fire safety order report to be stated on the schedule 2. There is no provision for a notation to be required on a fire safety schedule that identifies that the building is subject to an alternative solution or fire safety upgrade solution to assist the certifying authority that there is a requirement to require report in accordance with proposed recommendation in relation to clause 130 	<p>Consider modifying clause 168(3) as follows:</p> <p>(b) (iii) such of the fire safety measures and the standard of performance proposed by an alternative solution report or fire safety upgrade issued in accordance with 130(2A) (a), (b) and 130(2B) or 144A (1) (a) and 144A(2)</p> <p>(f) if the building is subject to an alternative solution report or fire safety upgrade solution as a result of a fire safety order, the fire safety schedule must include a notation that the building is the subject of an alternative solution and/or fire safety upgrade solution and prior to the issue of any future complying development certificate or construction certificate a report is to be issued in accordance with 130(2B) or 144A (2).</p> <p>Note: Clause 130(2B) or 144A(2) are proposed recommendations in this submission</p>
[18]	170	There is no requirement for the <i>installation</i> of any new measure to be assessed as complying with the standard on the current	Consider modifying clause 170 by including:

		fire safety schedule only the performance.	<p>(c) each new fire safety measure was found, when it was assessed to have been installed to at least the standard required by the current fire safety schedule for the building for which the certificate is issued; and</p> <p>(d) each existing fire safety measure (visible components) was found, when it was assessed to have been installed to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.</p>
[19]	171(3)	<ol style="list-style-type: none"> 1. There is no requirement for the installation of any new measure to be assessed as complying with the standard on the current fire safety schedule only the performance. 2. There is no requirement for the installation of any existing measure (visible components) to be assessed as complying with the standard on the current fire safety schedule only the performance. 3. There is no requirement for the operation of existing fire safety measures to be tested 	<p>Consider modifying clause 171 (3) by including:</p> <p>(b) Delete “<i>new</i>” that comes between <i>operation of each</i> and “<i>item of equipment</i>”; and</p> <p>(c) Must inspect and verify that the installation of new fire safety measures complies with at least the standard required by the current fire safety schedule for the building for which the certificate is issued; and</p> <p>(d) Must inspect and verify that the installation of existing fire safety measures (visible components) complies with at least the standard required by the current fire safety schedule for the building for which the certificate is issued; and</p>
[20]	173	As per [19]	
[21]	174	-	-
[22]	174 (1) (h)	If the fire safety certificate is issued on behalf of the owner of the building, the certificate should be accompanied by proof of authority for the “agent” to act on behalf of the owner	<p>Consider modifying 174 (1) (h) as follows:</p> <p>174 (1) (h) Insert after “<i>the name and contact details of the person who issued the certificate</i>” and if the</p>

			fire safety certificate is issued on behalf of the owner of the property, a letter of authority confirming that the signatory is authorised to act as the agent of the building owner is to accompany the fire safety certificate.
[23]	175	There is no requirement for the installation of any existing measure (visible components) to be assessed as complying with the standard on the current fire safety schedule only the performance.	Consider modifying Clause 175 as follows: (a) Insert after “ <i>when it was assessed,</i> ” to be installed (visible components) and capable of performing:
[24]	178	-	-
[25]	181	-	-
[26]	181 (1) (i)	If the fire safety statement is issued on behalf of the owner of the building, the certificate should be accompanied by proof of authority for the “agent” to act on behalf of the owner	Consider modifying 181 (1) (i) as follows: 181 (1) (i) Insert after “ <i>the name and contact details of the person who issued the certificate</i> ” and if the fire safety certificate is issued on behalf of the owner of the property, a letter of authority confirming that the signatory is authorised to act as the agent of the building owner is to accompany the fire safety certificate.
[27]	190B	It would be beneficial for future assessment of fire safety measures to have a copy of the most recently endorsed plans, specifications and any alternative solution report for any relevant fire safety system for the building to be kept on site following building works	Consider modifying clause 190B as follows: Proposed subclause (2) becomes (3); and (2) The owner of the building must continue to ensure that the most recently endorsed copy of the plans, specifications and alternative solution report (if applicable) for any relevant fire safety system for the building: (a) are kept on site (b) same as proposed 190B (1) (b) but delete “ <i>at the times during which the building work is carried out</i> ”