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Life, Property, Environment.

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NSW Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

### **FPA Australia Submission - Proposed Environmental Planning and Assessment Amendment (Fire Safety and Building Certification) Regulation 2017**

Fire Protection Association Australia (FPA Australia) is the national peak body for fire safety that provides information, services and education to the fire protection industry and the community. FPA Australia is supported by leading companies and organisations around Australian and reaches up to 30,000 individuals operating across every aspect of the fire protection industry.

FPA Australia is a not-for-profit organisation and central to our vision is a focus on advocacy in order to influence change and deliver improved fire and life safety outcomes for the community. It is with great enthusiasm therefore, that we welcome the reforms proposed for NSW as documented in the public consultation draft Environmental Planning and Assessment Amendment (Fire Safety and Building Certification) Regulation 2017.

FPA Australia recognises and understands that these proposed regulations respond to the reforms recommended by the independent review of the Building Professionals Act (and associated legislation) by Michael Lambert who prioritised the need to treat chronic fire safety issues. FPA Australia has hosted multiple forums with our membership and also liaised with other peak bodies regarding the proposed changes. There is overwhelming support from the fire protection industry at large for the NSW government to introduce meaningful change. Regulatory change that partners with industry to acknowledge and expect appropriate levels of individual competency and professionalism and improves the mechanisms for documenting and delivering compliant buildings protecting consumers and the community has attracted core support.

#### **Response to each area of proposed regulatory change**

This submission represents a consolidation of the feedback received by FPA Australia from our members and other industry stakeholders, including from stakeholder sessions held in January 2017 regarding the proposed regulations. This submission responds to each of the 8 areas covered by the draft regulation. In principle FPA Australia is supportive of the target of the reforms but considers that further clarification and treatment of some aspects is required. FPA Australia's constructive response to each area of proposed regulatory change is outlined below including comments, recommendations and suggested changes to draft regulatory wording:

## 1. Requirement to use Competent Fire Safety Practitioners

### Comments

- 1.1 Recognition using the co-regulation model mechanism proposed in the draft regulation is supported by FPA Australia and we consider the Fire Protection Accreditation Scheme (FPAS) developed and administered by FPA Australia to contain the appropriate rigour for recognition under the proposed accreditation framework.
- 1.2 The proposed accreditation framework (yet to be developed as identified in the commentary document supporting the proposed regulations) must ensure that any scheme or membership platform to be considered for recognition by the Secretary of the Department of Finance, Services and Innovation in the Gazette, includes an assessment of competency and is administered by a competent organisation as outlined in the commentary document to these draft regulation changes. Merely holding membership of a group or the holding of a qualification purporting to represent competency should not be acceptable. The regulations should not promote any inferred suggestion that membership equals an acceptable assessment of competency if it does not.
- 1.3 Notwithstanding proposed regulation 167A (4), transition and commencement periods require clarification. Industry members are supportive of the need to increase professionalism but need a reasonable time period to transition whilst still providing services in a field where individual competency requirements have not been demanded by regulation in the past.
- 1.4 Only hydraulic fire safety systems, detection and alarm systems and mechanical ducted smoke control systems associated with fire appear to be targeted by this regulatory change. Future expectations must include the use of 'Competent Fire Safety Practitioners' for other essential fire safety elements required to be installed in buildings such as passive fire protection elements (for which 2 new critical stage inspections are proposed to be introduced as part of these reforms), special hazard systems, portable fire extinguishers, emergency lights and exit signs etc.
- 1.5 Government should also use this opportunity to align terminology so that individuals operating in the bushfire sector currently required to be accredited to a level of competence acceptable to the NSW Rural Fire Service, are required to be 'Competent Fire Safety Practitioners' and appropriate accreditation schemes included in the Gazette also. Refer to Section 79BA of the Environmental Planning and Assessment Act 1979. This should apply for all sites regardless of zoning or bushfire attack level.

FPA Australia considers this to be an area that requires additional consideration as part of the overall EP&A Act review. As the developers of the Bushfire Planning and Design (BPAD) accreditation scheme currently recognised by the NSW Rural Fire Service, FPA Australia requests to be engaged in this regard.

### Recommendations

- |    |   |
|----|---|
| 1. | Support proposed regulation 167A with minor wording change as documented below. |
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|    |   |
|----|---|
| 2. | Implement co-regulation model based on assessment of competency being recognised or accredited by a professional body or organisation, not membership alone, unless membership is based on assessment of competency.  |
| 3. | Develop accreditation framework to focus on competency of individual and competency of organisation administering an accreditation scheme as suggested in the commentary document regarding these proposed regulatory changes.  |
| 4. | Consider transition and commencement periods in consultation with industry and support with a public education / implementation campaign.   |
| 5. | Ultimately recognise other categories of 'Competent Fire Safety Practitioner' for bushfire practitioners and also systems and equipment required to be installed the National Construction Code beyond hydraulic fire safety systems, detection and alarm systems and mechanical ducted smoke control systems.          |
| 6. | Consider amendments to section 79BA of the EP&A Act or the regulations to align with these proposed regulations and refer to a 'Competent Fire Safety Practitioner' for individuals providing services in the bushfire sector. Engage with NSW Rural Fire Service and FPA Australia regarding how best to achieve this. |

### Suggested changes to draft regulation wording

#### 167A Competent fire safety practitioners

- (1) The Secretary may, by order published in the Gazette, recognise a class of persons as *competent fire safety practitioners* for the purposes of this Regulation.
- (2) Without limiting the classes of persons who may be recognised, they may include:
  - (a) a class of persons holding a specified category of certificate of accreditation under the *Building Professionals Act 2005*, or
  - (b) a class of persons holding a specified category of certificate of accreditation under the *Building Professionals Act 2005* and having some other characteristic or qualification, or
  - (c) a class of persons being ~~a member of a specified~~ **person whose competency has been assessed and has been recognised or accredited by a** professional organisation or body or industry organisation or body.
- (3) In determining whether or not to make an order under this clause, the Secretary must have regard to any guidelines published by the Secretary about the steps that professional or industry organisations are to follow in order ~~for their members to be~~ **to demonstrate the required competency of individuals to be** for considered for inclusion in such an order, including requirements about auditing and complaints handling.

## 2. Submissions of plans and specifications

### Comments

- 2.1 FPA Australia supports increased expectations to document designs and approvals as proposed in the draft regulation. A lack of appropriate documentation clearly detailing expectations for compliance during construction and for the life-cycle of the building has

been consistently identified by industry as the root cause of many issues.

- 2.2 Concerns were raised at FPA Australia’s stakeholder engagement sessions about the impact of needing to document and approve even minor changes to designs prior to work being undertaken. Perhaps minor changes that are under a certain threshold (as defined in further guidance to be created by government working with industry) that doesn’t impair system operation could be acceptable during construction subject to an expectation for ‘as built’ documentation to be submitted and approved prior to an Occupancy Certificate being issued.
- 2.3 Retaining copies of the current approved documentation on site at all times was considered by attendees of our engagement session to be at odds with current practice and would require cultural change. This could be achieved through education but will impact on efficiency in the short term.

| Recommendations |   |
|-----------------|---|
| 1.              | Support proposed regulation 136AA and regulation 146B with minor wording changes for consistency and alignment with current terminology as documented below.  |
| 2.              | Consider possible regulatory requirements for the provision of ‘as built’ drawings in order to reconcile and document minor changes that don’t impair system operation to be endorsed by a ‘Competent Fire Safety Practitioner’ and approved by a Certifying Authority prior to an Occupancy Certificate being issued.  |
| 3.              | Raise the profile of the need to keep current approved documentation on site via public / industry education campaigns.   |
| 4.              | <p>Consider expanding regulations reference to ‘relevant fire safety system’ to include passive fire protection in order to address issues outlined by introduction of new critical stage inspections in area 4 as outlined below.</p> <p>It is difficult to reconcile the introduction of new critical inspections for passive fire protection measures to address systemic failures in this area without also introducing new expectations for documentation to be submitted and approved prior to work commencing, just like other relevant fire safety systems treated by the proposed regulation.</p> <p>In relation to the proposed schedule and documentation regarding passive fire protection measures, further detail of what is required needs to be developed by government working with industry to clarify expectations and identify what is reasonably achievable.</p> |

### Suggested changes to draft regulation wording

#### 136AA Condition relating to fire safety systems in class 2–9 buildings

- (1) A complying development certificate for building work involving the installation, extension or modification of any relevant fire safety system in a class 2, 3, 4, 5, 6, 7, 8 or 9 building must be issued subject to the condition required by this clause.
- (2) The condition required by this clause is that the building work involving the installation, modification or extension of the relevant fire safety system cannot commence unless:
  - (a) the following documents, endorsed by a competent fire safety practitioner, have been submitted to the principal certifying authority:

- (i) plans that show the layout, extent and location of key components of the relevant fire safety system,
  - (ii) specifications that describe the basis for design, installation and construction of the relevant fire safety system, including any **performance (alternative)** solutions proposed for the system,
  - (iii) a schedule identifying the location and type of passive fire protection penetrations (including doors) and protection methods for these penetrations; and
- (b) those documents have been endorsed by a competent fire safety practitioner as:
- (i) complying with the relevant provisions of the *Building Code of Australia*, or
  - (ii) in the case of building work involving the minor modification or minor extension of an existing fire safety system only—subject to an exemption under clause 164B.
- (3) In this clause: **relevant fire safety system** means any of the following:
- (a) a hydraulic fire safety system within the meaning of clause 165,
  - (b) a fire detection and alarm system,
  - (c) a mechanical ducted smoke control system,
  - (d) passive fire protection systems including barriers (building elements required to achieve a FRL, resistance to incipient spread of fire or resistance to smoke) and penetrations of these barriers.

**146B Condition relating to fire safety systems in class 2–9 buildings**

- (1) A construction certificate for building work involving the installation, extension or modification of any relevant fire safety system in a class 2, 3, 4, 5, 6, 7, 8 or 9 building must be issued subject to the conditions required by this clause.
- (2) The condition required by this clause is that the building work involving the installation, modification or extension of the relevant fire safety system cannot commence unless:
  - (a) the following documents, **endorsed by a competent fire safety practitioner**, have been submitted to the principal certifying authority:
    - (i) plans that show the layout, extent and location of key components of the relevant fire safety system,
    - (ii) specifications that describe the basis for design, installation and construction of the relevant fire safety system, including any **performance (alternative)** solutions proposed for the system, and
    - (iii) a schedule identifying the location and type of passive fire protection penetrations (including doors) and protection methods for these penetrations and
  - (b) those documents have been endorsed by a competent fire safety practitioner as:

- (i) complying with the relevant provisions of the *Building Code of Australia*, or
  - (ii) in the case of building work involving the minor modification or minor extension of an existing fire safety system only—subject to an exemption under clause 164B.
- (3) In this clause: *relevant fire safety system* means any of the following:
- (a) a hydraulic fire safety system within the meaning of clause 165,
  - (b) a fire detection and alarm system,
  - (c) a mechanical ducted smoke control system,
  - (d) passive fire protection systems including barriers (building elements required to achieve a FRL, resistance to incipient spread of fire or resistance to smoke) and penetrations of these barriers.

### 3. Limited exemptions for compliance

#### Comments

- 3.1 FPA Australia supports in principle the new mechanism in proposed Regulation 164B to address and provide clarity regarding the expectations for compliance when alterations to existing systems only relate to a part of the system. This is a constant source of confusion in industry.
- 3.2 The proposed regulation would introduce a process for modification of the current regulatory requirements for installation, however this would be subject to a threshold test judged on reasonableness or necessity. FPA Australia considers these parameters to be highly subjective and cautions that this could be exploited unless appropriate quantitative or descriptive thresholds accompany the regulation to guide the applicant and the certifying authority regarding what solutions are acceptable to altering existing systems.
- 3.3 The limited exemptions for compliance mechanism is proposed to apply when alterations to an existing system do not comply with a provision of the Building Code of Australia.

In order to comply with the Building Code of Australia, only the relevant Performance Requirements must be met. By definition in the NCC 2016 Building Code of Australia a 'Performance Solution' means, "a method of complying with the Performance Requirements other than by a Deemed-to-Satisfy Solution". However this proposed regulation would allow modifications to the provisions of the Building Code of Australia, without a Performance Solution. This seems contradictory. Also, perhaps ironically, the Building Code of Australia Performance Requirements currently provide the descriptive parameters that could be used to judge that a solution is acceptable.

Accordingly, although the target of the proposed regulation to increase clarity of expectations for compliance is supported, the mechanism proposed is at odds with the performance based framework of the Building Code of Australia which forms part of the existing regulations.

Also, perhaps unwittingly, the introduction of proposed Regulation 164B as currently drafted

would allow a certifying authority to modify regulatory policy. For example, instead of determining that compliance with the prescriptive deemed-to-satisfy provisions of the BCA is acceptable based on the fact that the solution has been demonstrated to meet the relevant Performance Requirements, proposed Regulation 164B would allow a certifying authority to determine that even the Performance Requirements are not applicable. This should be government’s exclusive prerogative as opposed to allowing certifying authorities to approve performance (alternative) solutions.

| Recommendations |  |
|-----------------|--|
| 1.              | Support a new mechanism to address and provide clarity regarding the expectations for compliance when alterations to existing systems only relate to a part of the system.   |
| 2.              | Do not support proposed regulation 164B as currently drafted without a more appropriate link to the Performance Requirements of the Building Code of Australia supported by a guide to whether or not the proposed design is appropriate and how to document this. |

#### 4. New critical stage inspections

##### Comments

- 4.1 FPA Australia supports the introduction of additional critical stage inspections targeting passive fire protection installations.
- 4.2 The assessment of bounding construction in class 2, 3 and 4 buildings at the minimum rate of 30% of sole-occupancy units per floor is supported.
- 4.3 The assessment of service penetrations at the rate of 20% of floor area is not supported as this does not appropriately or reasonably reflect the service penetrations possible or support improved documentation. That is, as currently drafted, you could choose a floor area with no or minimal service penetrations and this would not be reflective of the intent of the regulation. Instead, it is recommended that the requirements to document passive fire protection designs is specifically increased (in alignment with the reforms for submission of plans and specifications prior to construction, see section 2 above) such that passive fire protection penetrations are scheduled in specifications and 20% of these scheduled penetrations are chosen and assessed for compliance by the certifying authority or their designated competent fire safety practitioner.
- 4.4 Also whilst these new critical stage inspections are supported it is unlikely that certifying authorities will have the competency to determine compliance and will seek to rely on a ‘Competent Fire Safety Practitioner’ to provide certification of installation and assessment. The co-regulatory model and associated accreditation framework could address this by recognising accreditation of individuals with appropriate passive fire protection system competency.

| Recommendations |  |
|-----------------|--|
| 1.              | Support the intent for additional critical stage inspections proposed by regulation 162A and regulation 162A(6)(a).  |
| 2.              | Do not support selection of service penetrations at the rate of 20% of the floor area. Instead support inspection of 20% of service penetrations scheduled and documented in the approved design as per proposed wording for regulations 136AA and 146B as described in this submission.                                     |
| 3.              | Consequently expand the role of 'Competent Fire Safety Practitioner' to support certifying authorities in undertaking these new critical stage inspections by allowing the certifying authority to accept a Fire Safety Certificate from a 'Competent Fire Safety Practitioner' who did not undertake the installation work. |

### Suggested changes to draft regulation wording

#### [14] Clause 162A Critical stage inspections required by section 109E (3) (d)

Insert before clause 162A (5) (b):

- (a) ~~prior to covering of fire protection at service penetrations to fire resistant walls, floors and ceilings, for~~ **prior to any coverage of protection methods for service penetrations in barriers (building elements required to achieve a FRL, resistance to incipient spread of fire or resistance to smoke), a minimum of 20% of the total floor area of protection methods as documented in the approved design in accordance with regulation 136AA or 146B, as applicable, of each storey of the building, and**
- (a1) prior to covering the junction of any fire-resisting construction between or bounding a sole-occupancy unit and any other building element, for a minimum of 30% of sole-occupancy units on each storey of the building containing sole-occupancy units **as documented in the approved design in accordance with regulation 136AA or 146B, as applicable, and**

#### [15] Clause 162A (6) (a) Insert before clause 162A (6) (b):

- (a) ~~prior to covering of fire protection at service penetrations to fire resistant walls, floors and ceilings, for~~ **prior to any coverage of protection methods for service penetrations in barriers (building elements required to achieve a FRL, resistance to incipient spread of fire or resistance to smoke), a minimum of 20% of the total floor area of protection methods as documented in the approved design in accordance with regulation 136AA or 146B, as applicable, of each storey of the building, and**

## 5. New FRNSW inspections

### Comments

- 5.1 FPA Australia has no objection to proposed new FRNSW inspections and considers that they may play an important pseudo auditing role of individuals accredited under schemes recognised by the co-regulation model, i.e any concerns identified by FRNSW could be reported back to accrediting bodies for further investigation and possible action.
- 5.2 Although the proposed regulation would provide FRNSW discretion regarding when they decide to inspect, concerns were raised by stakeholders at our engagement sessions that



FRNSW does not currently have sufficient resources to have meaningful impact.

| Recommendations |   |
|-----------------|---|
| 1.              | No objection to proposed regulation 152A with the exception that regulation 152A(7) could be expanded to include passive fire protection systems. |

## 6. Documenting Performance Solutions

### Comments

- 6.1 FPA Australia supports the development of Performance Solutions relating to fire safety matters being conducted in accordance with the methodology outlined in the International Fire Engineering Guidelines (IFEG). The regulations should adopt IFEG terminology wherever possible but also be extended to establish expectations for Performance Solutions to document any expectations for routine servicing and maintenance.
- 6.2 Only a 'Competent Fire Safety Practitioner' in the category of Fire Safety Engineer (holistic assessment of fire safety) should prepare a Performance Solution regarding fire safety matters. If the Performance Solution includes variations to a fire protection system, the Fire Safety Engineer must rely on a report from a 'Competent Fire Safety Practitioner' as relevant for the system (system specific skillset).
- 6.3 FPA Australia supports increased expectations for documenting and recording Performance Solutions as per the proposed regulations for the purposes of approval and life-cycle access to baseline data. FPA Australia also supports the proposal to require certification that completed installations / construction comply with the approved Performance Solution.

| Recommendations |  |
|-----------------|--|
| 1.              | No objection to proposed regulation 130 or 144A subject to changes to wording below to align with the IFEG and Building Code of Australia terminology.   |
| 2.              | No objection to proposed regulation 147 and 152B subject to changes to wording below to align with the IFEG and Building Code of Australia terminology.  |
| 3.              | Ensure only a 'Competent Fire Safety Practitioner' with competency in Fire Safety Engineering can prepare a Performance Solution and if the Performance Solution includes variations to a fire protection system, the Fire Safety Engineer must rely on a report from a 'Competent Fire Safety Practitioner' as relevant for the system. |
| 4.              | Include a regulatory requirement that the methodology and/or provisions for routine servicing and maintenance are included in the Fire Engineering Report.   |

### Suggested changes to draft regulation wording

**Clause 130 Procedure for determining application for complying development certificate and notification requirements** Omit clause 130 (2A), (2B) and (2D). Insert instead:

(2A) A certifying authority must not issue a complying development certificate for building

work that involves an **performance (alternative)** solution under the *Building Code of Australia* in respect of a fire safety requirement unless the certifying authority:

- (a) has obtained or been provided with an ~~alternative solution report~~ **fire engineering report (FER)** that:
  - (i) was prepared by a competent fire safety practitioner **in the category of fire safety engineer**, and
  - (ii) includes a statement that the **performance (alternative)** solution complies with the relevant performance requirement of the *Building Code of Australia*, and
  - (iii) identifies the deemed-to-satisfy provisions of the *Building Code of Australia* being varied and the corresponding performance requirements, and
  - (iv) describes and justifies the **performance (alternative)** solution, including the acceptance criteria and parameters on which the justification is based and any restrictions or conditions of the **performance (alternative)** solution(s) **including in relation to the expected methodology or provisions for routine servicing and maintenance**, and
  - (v) ~~if the certifying authority requires its inclusion~~—includes a copy of the **fire engineering brief (FEB)** for the fire engineering analysis, and
- (b) has endorsed the ~~alternative solution~~ **fire engineering report (FER)** with a statement that the certifying authority is satisfied that it has been appropriately prepared, and
- (c) is satisfied that the plans show, and the specifications describe, the physical elements of the **performance (alternative)** solution ~~(where they are capable of being shown and described)~~.

(2B) Subclause (2A) clause does not apply to building work relating to a class 1a or 10 building.

#### **144A Alternative solution report required for certain fire safety aspects of building work**

- (1) A certifying authority must not issue a construction certificate for building work that involves an **performance (alternative)** solution under the *Building Code of Australia* in respect of a fire safety requirement unless the certifying authority:
  - (a) has obtained or been provided with an ~~alternative solution~~ **fire engineering report (FER)** that:
    - (i) was prepared by a competent fire safety practitioner **in the category of fire safety engineer**, and
    - (ii) includes a statement that the **performance (alternative)** solution complies with the relevant performance requirement of the *Building Code of Australia*, and
    - (iii) identifies the deemed-to-satisfy provisions of the *Building Code of Australia* being varied and the corresponding performance requirements, and
    - (iv) describes and justifies the **performance (alternative)** solution, including the acceptance criteria and parameters on which the justification is based and any restrictions or conditions on the **performance (alternative)** solution(s) **including in relation to the**

expected methodology or provisions for routine servicing and maintenance, and

- (v) ~~if the certifying authority requires its inclusion~~—includes a copy of the fire engineering brief (FEB) for the fire engineering analysis, and
- (b) has endorsed the ~~alternative solution~~ fire engineering report (FER) with a statement that the certifying authority is satisfied that it has been appropriately prepared, and
- (c) is satisfied that the plans show, and the specifications describe, the physical elements of the performance (alternative) solution ~~(where they are capable of being shown and described)~~.

(2) This clause does not apply to building work relating to a class 1a or 10 building.

#### Clause 147 Form of construction certificate

Insert after clause 147 (1) (f):

- (g) the following details of any ~~alternative solution~~ fire engineering report (FER) about the building work that complies with clause 144A (1) (a) and (b):
  - (i) the title of the report,
  - (ii) the date on which the report was made, and the version number of the report,
  - (iii) the name of the competent fire safety practitioner in the category of fire safety engineer who prepared the report,
- (h) 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.

#### 152B Alternative solution report must be considered before issuing occupation certificate

A certifying authority must not issue an occupation certificate for a building for which building work that involves an performance (alternative) solution under the *Building Code of Australia* in respect of a fire safety requirement was carried out unless:

- (a) the certifying authority has obtained or been provided with the ~~alternative solution~~ fire engineering report (FER), prepared by a competent fire safety practitioner in the category of fire safety engineer for the purposes of clause 130 (2A) (a) or 144A (1) (a) and endorsed by the certifying authority, that:
  - (i) identifies the deemed-to-satisfy provisions of the *Building Code of Australia* being varied and the corresponding performance requirements, and
  - (ii) describes and justifies the performance (alternative) solution, including the acceptance criteria and parameters on which the justification is based and any restrictions or conditions on the performance (alternative) solution(s), and
  - (iii) depicts the physical elements of the performance (alternative) solution on the plans for the building ~~(where they are capable of being shown)~~, and
  - (iv) ~~if the certifying authority requires its inclusion~~, includes a copy of the fire engineering brief (FEB) for the fire engineering analysis, and
- (b) the certifying authority is satisfied that the relevant building work was constructed or installed in accordance with the fire engineering report (FER).

## 7. Form and assessment of Fire Safety Certificates

### Comments

- 7.1 FPA Australia supports the proposed regulations in relation to improved expectations for the completion of Fire Safety Certificates.

| Recommendations |   |
|-----------------|---|
| 1.              | Implement changes to ensure only 'Competent Fire Safety Practitioners' can complete a Fire Safety Certificate for new work. |

## 8. Form and assessment of Fire Safety Statements

### Comments

- 8.1 The Annual Fire Safety Statement process requires further review and overhaul. This is the aspect of the proposed regulations that currently has the least amount of detail beyond requiring certification from a 'Competent Fire Safety Practitioner'.
- 8.2 Any Annual Certification is currently based on the system performance nominated on the Fire Safety Schedule for the building. It is clear from industry feedback that not all Fire Safety Schedules accurately reflect the systems installed in a building and often the systems are: not installed; not appropriate; or, the performance nominated in the Fire Safety Schedule is incorrect. The proposed regulations do not offer any specific or efficient mechanism to efficiently allow for a change to the Fire Safety Schedule when anomalies like these are identified. FPA Australia would support introduction of an efficient regulatory mechanism to change Fire Safety Schedules that involves an application for a new Occupancy Certificate and associated Fire Safety Schedule to be approved by a PCA after considering the submission of a 'Competent Fire Safety Practitioner'.
- 8.3 Fire Safety Schedules do not currently nominate the methodology for routine service: they only nominate the performance a system is expected to achieve. FPA Australia considers that NSW should align with other Australian States and Territories who have nominated the required methodology for routine service of different essential safety systems in buildings. This could be achieved by adding an additional column to Fire Safety Schedules where the PCA nominates the routine service methodology from a list of Standards prescribed by the regulations and any particulars associated with Performance Solutions.

Alternatively, and preferably, the regulations could simply prescribe the expected routine service methodology for essential safety systems in all buildings, with the exception of matters associated with Performance Solutions which are project specific and could be nominated by the PCA.

Regulatory amendments are required to introduce expected methodology for routine servicing so that all routine service contractors operate consistently to identify system performance issues for consideration by building owners who are required to maintain system performance in accordance with Fire Safety Schedules. AS 1851-2012 the Australian Standard for Routine Service of fire protection systems and equipment is regulated

methodology in other Australian jurisdictions, for this purpose. Compliance with AS 1851-2012 which is now applicable to buildings of any age also requires the preparation of an annual condition report summarising the routine servicing conducted in a 12 month period and can be used along with servicing records to, in part, support Annual Certification. Other standards for elements not covered by AS 1851 such as emergency lighting and exit signs (AS/NZS 2293) can also be referenced as providing appropriate routine servicing methodologies.

- 8.4 Division of 5 of the current regulations refers to Annual Fire Safety Statements, but does not refer to Annual Certification, only assessment and inspection to verify performance of each fire safety measure on a Fire Safety Schedule.

FPA Australia considers that Annual Certification is different to a Fire Safety Certificate issued in accordance with Division 4 of the current regulations as these Fire Safety Certificates under Division 4 relate to certifying installed systems have been assessed to comply prior to an Occupancy Certificate being issued.

Despite this building owners or agents have come to culturally request Annual Certification in order to issue an Annual Fire Safety Statement and this Annual Certification relates to their obligations to confirm ongoing fire safety measure performance in accordance with Division 5 of the current regulations.

- 8.5 FPA Australia supports regulation requiring a 'Competent Fire Safety Practitioner' to issue an Annual Certification (which may be system specific) that the owner/agent relies on along with additional Annual Certificates addressing each element in the Fire Safety Schedule, in order to issue an Annual Fire Safety Statement.
- 8.6 The competence of the individual issuing the Annual Certification must be appropriate to the system assessed and include knowledge to identify and assess that the expectations for system performance prescribed on the Fire Safety Schedule (which may or may not be current installation Standards or could be subject to a performance solution) have been met.

It was identified at FPA Australia's stakeholder engagement sessions in NSW that the competence of the individual issuing an Annual Certification could be triaged into two levels. These levels would reflect the complexity of systems certified and avoid a shortfall in workforce or increase in costs to certify more basic systems. FPA Australia proposes that the levels could be as follows:

| Competent Fire Safety Practitioner Category           | Scope of Annual Certification   | Demonstrated competency by   |
|---|---|--|
| <p><b>Annual Certifier Level 1 (Restricted)</b></p>   | <p>Restricted to:</p> <ul style="list-style-type: none"> <li>• portable fire extinguishers</li> <li>• emergency lighting and exit signs</li> <li>• smoke alarms (AS 3786 only)</li> <li>• fire hose reels</li> <li>• paths of travel to exits</li> <li>• fire, smoke and exit doors and associated hardware</li> </ul> <p>No certification of performance (alternative) solutions</p> <p>Certification to standards of performance listed on Fire Safety Schedule.</p> <p>(Note: Will not always be current installation standards hence training workshop)</p> | <ul style="list-style-type: none"> <li>• Must hold accreditation to inspect and test relevant installed systems/equipment</li> <li>• 3 years experience in the design, installation or routine service of these systems/equipment</li> <li>• Training workshop and assessment on regulations, codes, standards and inspection and report writing for annual certification</li> </ul>       |
| <p><b>Annual Certifier Level 2 (Unrestricted)</b></p> | <ul style="list-style-type: none"> <li>• Unrestricted</li> <li>• preparation of AS 1851-2012 annual condition report where applicable</li> </ul> <p>Certification to standards of performance listed on Fire Safety Schedule.</p> <p>(Note: Will not always be current installation standards hence training workshop)</p>  | <ul style="list-style-type: none"> <li>• Must hold accreditation to design and certify the installation of relevant systems/equipment</li> <li>• 5 years experience in the design, installation or routine service of systems/equipment</li> <li>• Training workshop and assessment on regulations, codes, standards and inspection and report writing for annual certification</li> </ul> |

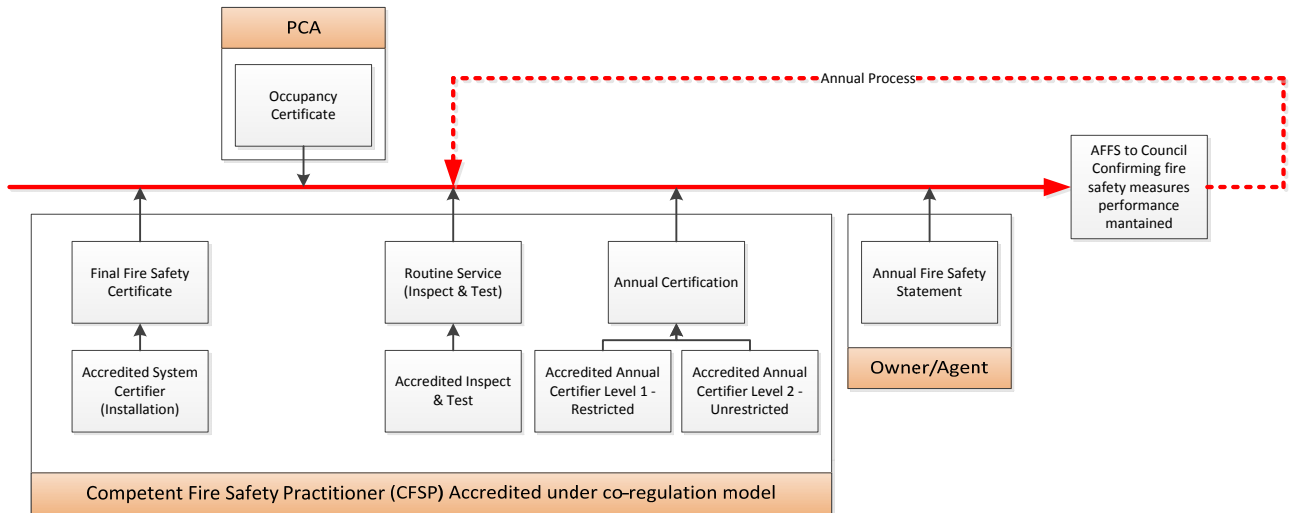
Under this triaged arrangement the level 1 Annual Certifier is expected to be drawn from individuals currently competent to undertake routine servicing (inspect and test) roles on basic equipment. They would be required to upskill with additional competency in relation to regulatory requirements for Annual Certification and identifying and reporting system performance based on the standards of performance required by Fire Safety Schedules.

The Level 2 Annual Certifier is expected to be able to provide Annual Certification for all systems and equipment types and drawn from individuals currently competent to undertake Fire Safety Certificates. This is acknowledged as an appropriately higher level of competency required for more complex systems and equipment. They also would be required to upskill with additional competency in relation to regulatory requirements for Annual Certification and identifying and reporting system performance based on the standards of performance required by Fire Safety Schedules.

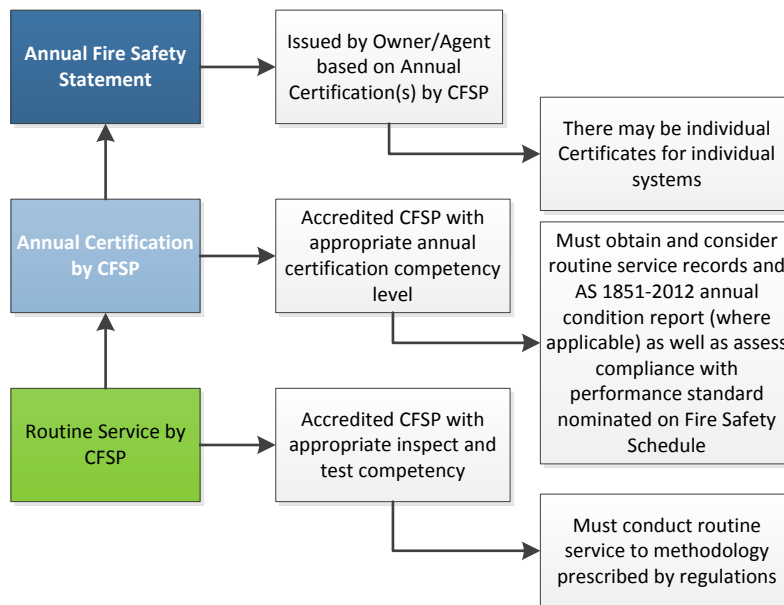
- 8.7 Assessment of system performance for the Annual Certification should, in part but not alone, include receipt and review of routine servicing records an AS 1851-2012 annual condition report (where applicable) completed by a 'Competent Fire Safety Practitioner' in the previous 12 months.

8.8 Routine servicing must be conducted by a 'Competent Fire Safety Practitioner' and used to support Annual Certification.

8.9 The regulations should embrace the following framework to support owners being able to confidently sign Annual Fire Safety Statements following the installation of essential fire safety systems and approval for occupancy.



When these roles are clearly recognised by the regulations, the following process can also be prescribed in relation to routine servicing, Annual Certification and Annual Fire Safety Statements.



| Recommendations |   |
|-----------------|---|
| 1.              | Introduce an efficient mechanism to amend Fire Safety Schedules requiring the report of a 'Competent Fire Safety Practitioner' and approval by a Certifying Authority to treat identified Fire Safety Schedule anomalies.   |
| 2.              | Prescribe the methodology for routine servicing of items of Fire Safety Schedules including reference to AS 1851-2012 and annual condition report (where applicable) and other appropriate standards.   |
| 3.              | Require 'Competent Fire Safety Practitioners' to conduct routine servicing on items in Fire Safety Schedules to prescribed methodology as per recommendation 2 above.   |
| 4.              | Formally recognise the role of Annual Certification and require a 'Competent Fire Safety Practitioner' in the categories of Annual Certifier Level 1 or Annual Certifier Level 2 as appropriate and as described in this submission, to undertake Annual Certification taking into account, in part, routine servicing records, AS 1851-2012 annual condition report (where applicable) and the system performance required by Fire Safety Schedules. |
| 5.              | Require building owners to obtain Annual Certification from an appropriate 'Competent Fire Safety Practitioner' in the category of Annual Certification for all items listed on their buildings Fire Safety Schedule before they can complete the Annual Fire Safety Statement.   |

## 9. Summary

Thank you for providing the opportunity for public consultation and considering FPA Australia's submission. FPA Australia considers that the proposed reforms, including the suggestions contained in this submission will treat long standing industry and community concerns and improve the professionalism of the NSW fire protection industry and community safety.

FPA Australia congratulates the NSW government on progressing these reforms as the leading jurisdiction developing contemporary requirements to improve professionalism and increase fire safety.

If you have any further questions regarding this submission, please contact the FPA Australia National Office on 03 8892 3131 or FPA Australia General Manager Technical Services / Deputy CEO Matthew Wright via email [matthew.wright@fpaa.com.au](mailto:matthew.wright@fpaa.com.au)

Yours sincerely,



Scott Williams  
**Chief Executive Officer**  
**FPA Australia**