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ARUP

For the attention of the Department of Planning and
Environment, NSW

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Dear Sir/Madam

Response to proposed fire safety changes to the Environmental Planning and Assessment Regulation 2000 (public consultation)

Thank you for the opportunity to provide comment on the proposed changes to the Environmental Planning and Assessment Regulation (draft regulation s2016-477.d08). This letter represents the collective view of Arup's most senior fire safety engineers who operate in NSW.

We provide comments on the following aspects of the proposed changes, in no particular order.

General

In general, the proposed amendments appear to be aimed at improving the benchmark for fire safety and the certification of fire safety related aspects of buildings. This can only be a good thing for fire safety and should offer a benefit to the community. When integrated with future reforms, as explained in the commentary document, we feel that the NSW Government is heading in the right direction with the approach to fire safety in the EP&A Regulation.

Competency

Firstly, we absolutely agree that there should be a measure of competency for fire safety practitioners, therefore we support this proposal in-principle. Competency of all practitioners from fire safety engineers to contractors undertaking inspections and testing/maintenance of sprinkler systems is absolutely key.

On competency, it is critical that there is a very rigorous audit and enforcement regime for fire safety practitioners, including fire safety engineers. Because of the amount of engineering judgement in fire safety engineering in particular, more scrutiny is needed, not less, as espoused by the great researchers into performance based regimes such as May and Meacham.

We understand that the Government is undergoing a separate project to develop an accreditation framework aimed at providing clear guidance on what it means to be a 'competent fire safety practitioner'. In relation to fire safety engineers preparing

Alternative Solution reports or Fire Engineering Reports, we strongly recommend that the competency criterion shall be that the engineer is registered by Engineers Australia's National Engineering Register (NER) in the category of Fire Safety Engineering. We consider that NER Fire Safety Engineering is the one and only accreditation required by fire safety engineers to demonstrate competence in NSW. We have deliberately not referenced C10 accredited certifier in this category, as we believe the focus should be on 'engineering' rather than 'certification' – we consider that NER fire safety engineering achieves this. We see risks to the industry (and therefore the community) if a lower level of competency were to be accepted for fire safety engineering.

For other aspects of fire safety, such as the endorsement of fire services drawings/specifications, a suitable form of accreditation will need to be found for practitioners to demonstrate competence in their field.

Arup would like to be notified of the draft accreditation framework when it is available so that we may pass further comment.

We express concern with the interim solution of determining competence – that is, the certifying authority alone determines competence. Firstly, this could lead to vast inconsistencies between certifying authorities in what constitutes a competent practitioner. More importantly though, it creates a conflict of interest, which is inappropriate when it comes to providing an adequate level of fire safety in a building. We recommend that the determination of competency should be taken out of the hands of certifying authorities as soon as possible to avoid conflicts of interest.

In relation to Alternative Solutions and Fire Engineering Reports, we strongly suggest that the C10 accreditation framework remains in place until such time as a replacement framework is put in place and has had sufficient time to become workable (e.g. a 2 year transition period with both accreditation frameworks considered acceptable).

Exemption from compliance with the BCA standards

The definition of what aspects of a modification or extension may be exempted is fairly broad and is open to interpretation by the certifying authority. This may result in inconsistency between certifying authorities about the extent that a particular fire safety system may qualify for exemption. We recognise that a proposed exemption also needs to be endorsed by a competent fire safety practitioner, but this carries the same potential conflict of interest as highlighted above.

Critical stage inspections

We support the proposal, as it should improve the quality of fire compartmentation, particularly in Class 2 and 3 buildings, which carry the most significant fire risk.

Additional inspections by FRNSW of Class 2 and 3 buildings

This proposal is to be commended, for the same reason as described above.

We do question, however, whether or not FRNSW has the available resources to a) review all the applications, b) decide which Class 2/3 developments to inspect and c) carry out such inspections, all within the allotted 10 day period.

Assessment by competent fire safety practitioners before issue of fire safety certificate and standardised certificates

We consider that standardising fire safety certificates is sensible. There remains the issue of how to define the level of competence required to carry out these assessments.

Documenting, checking and endorsing of fire safety Alternative Solutions

We support the setting of minimum criteria that an Alternative Solution must meet. This should not be an issue for 'competent' fire safety engineers, who should already be documenting in such a manner.

It is noted that the certifying authority must endorse an Alternative Solution report via a statement. The proposed legislation does not outline who this statement shall be given/addressed to.

We strongly recommend that the legislation prohibits a principal certifying authority from endorsing/approving any documentation prepared by a competent fire safety practitioner working at the same firm, as this would be a clear conflict of interest.

Should you wish to discuss any of the above comments in further detail, please do not hesitate to contact the fire safety engineering team at Arup.

Yours faithfully

Arup
Fire Safety Engineers