



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: PropEPD:PWgl1262632

14 February 2017

Ms Helen Ting
Principal Policy Officer
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Ting,

Consultation on proposed reforms to strengthen building fire safety

The Law Society of NSW appreciates the opportunity to comment on the proposed reforms to strengthen building fire safety and the draft Environmental Planning and Assessment Amendment (Fire Safety and Building Certification) Regulation 2017 ("Draft Regulation"). The Law Society's Property Law and Environmental Planning and Development Committees have contributed to this submission.

1. General

The Law Society welcomes the fire safety reforms as a first step towards strengthening the NSW building regulation and certification system. The Law Society has a longstanding interest in measures designed to improve rigour in the certification process. We look forward to reviewing the measures designed to strengthen the regulation of certifiers set out in the "Commentary on Proposed Fire Safety Changes to the *Environmental Planning And Assessment Regulation 2000*", issued by the Department ("Commentary"), including the exposure draft Bill to rewrite the *Building Professionals Act 2005* and the establishment of a Building Regulators Committee.

We note that the Draft Regulation is one of several proposed reforms to strengthen building fire safety. The Law Society is also interested in the other reforms outlined in the Commentary, including the development of an accreditation framework for competent fire safety practitioners.

2. Draft Regulation

In our view it is essential that the requirements operate clearly, to enable certifiers to carry out their obligations with precision and certainty, so as to strengthen building fire safety. We support, in particular, the proposal to standardise the form of fire safety certificates.

We propose two clarifying amendments to the Draft Regulation as outlined below.

Clauses 136AA(2)(b)(i) and 146B(2)(b)(i)

We suggest the words “or any alternative solution under the *Building Code of Australia*,” could be added after the words “*Building Code of Australia*,” in clause 136AA(2)(b)(i). We consider that this is the intent, and suggest that this amendment will provide clarity.

If the suggested amendment is made, clause 146B(2)(b)(i) should be similarly amended for consistency.

Clauses 130(2A)(b) and 144A(1)(b)

We understand that the reference in clause 130(2A)(b) to the alternative solution report having been “appropriately prepared”, is a reference to the report complying with the requirements outlined in clause 130 (2A)(a).


For clarity we suggest the words “has been appropriately prepared” in this clause, be replaced with the words “complies with subclause (2A)(a)”.

Similarly we suggest that the words “has been appropriately prepared” in clause 144A(1)(b), be replaced with the words “complies with subclause (1)(a)”.

Thank you once again, for the opportunity to comment on the proposed reforms.

If you have any questions in relation to this submission, please contact Gabrielle Lea, Policy Lawyer, by email at Gabrielle.Lea@lawsociety.com.au or on (02) 9926 0375.

Yours sincerely,



Pauline Wright
President