

16 February 2018

Director, Environment and Building Policy
GPO Box 39
Sydney, NSW 2001



**ENGINEERS
AUSTRALIA
SOCIETY OF
FIRE SAFETY
NSW CHAPTER**

Dear Sir / Madam

Reforms for buildings with combustible cladding – Response to EP&A Amendments

On behalf of the members of the Society of Fire Safety (NSW Chapter), we welcome the opportunity to provide feedback on the draft *Environmental Planning and Assessment Amendment (Identification of Buildings with Combustible Cladding) Regulation 2017*. As fire safety professionals, we acknowledge the gravity of the issues and are fully committed to provide our assistance where reasonably practicable.

We have reviewed the proposed amendments and in summary, we are concerned the terms in the legislation lack precise definition, and there is a lack of clearly defined outcome the amendment seeks to achieve. Our comments are below. Please note our comments are based on collated comments from our members, and do not necessarily reflect the position of Engineers Australia.

Comment no.	Section	Sub-section	Comment
1	Explanatory note	n/a	In Item B, reference is made to a 'properly qualified person'. It should be made clear what 'properly qualified' means within the definitions and reference to experience / qualifications provided. For example, references could be made to the NER, CPEng or NSW BPB Accredited Certifiers.
2	Explanatory note	n/a	<p>The stated objective of the regulation is narrow and limited to collection of information, which does not tie into the risk assessment requirements stated later in the amendment.</p> <p>The objective should be clearer, particularly on how this information is to be used and for what purposes. It is unlikely that a risk assessment can be adequately undertaken without a clear objective as it determines the methodology and scope of assessment.</p>

Comment no.	Section	Sub-section	Comment
3	Explanatory note	n/a	<p>In item B, it is stated that the properly qualified person shall outline '<i>details of actions necessary to address any such risk</i>'. It should be clarified whether the risk needs to be eliminated or what level of risk it must be reduced to / is acceptable.</p> <p>The amendment is equally applicable across a number of building types, e.g. warehouses, assembly building and residential buildings. From a fire & risk perspective, these buildings contain significantly different risk profiles.</p>
4	167 Application of Part	167(1)(c)	<p>Is there a basis on how the list of exclusions are established, specifically for the exclusion of class 5, 6, 7, or 8 buildings at 2 storeys or less?</p> <p>A Class 5 (office) and Class 6 (shops) or Class 8 (production facility) has different risk profile. As reflected in our comments elsewhere, there needs to be a clear explanation on the rationale of how the requirements are established in the legislation to ensure the intended objectives of the legislation can be achieved.</p>
5	186S Definitions	n/a	<p>We suggest the word cladding is defined in this section and reference is made to an established industry definition. This is because a cladding is made up of a whole assembly, including the outer most material, frame, insulation material, inner insulating material to the internal wall of the building.</p> <p>A cladding assembly may also be a glazed façade (non-combustible in practice), with the supporting material, e.g. rubber weather seal that can be combustible.</p>

Comment no.	Section	Sub-section	Comment
6	186S Definitions	n/a	<p>When defining combustible cladding the clause refers to <i>'materials that are capable of readily burning'</i>. The term 'capable of readily burning' is considered to be too subjective and could lead to confusion.</p> <p>We suggest considering precise definition, e.g. 'materials that have not been deemed non-combustible in accordance with AS 1530.1'.</p> <p>In addition, we strongly suggest considering an exception – this is because whilst the majority of the façade can be made up of non-combustible material, e.g. brick, the supporting system, sealant, rubber seal etc. would all be deemed as combustible. However, this is unlikely the intent of the amendment.</p>
7	186S Definitions	n/a	<p>When defining combustible cladding the clause refers to <i>any</i> cladding material. We strongly suggest clarifying within this amendment the exclusions, for example for seals and gaskets, or whether these are also required to be non-combustible.</p> <p>From a practical application perspective, it is likely impractical to implement a façade assembly that is 100% made up of non-combustible material, as some of these materials are unlikely tested in the market.</p>
8	186T Owners of building with combustible cladding must provide details of building and its cladding	(2)	<p>We consider it would be useful to confirm whether the building is sprinkler protected, and whether there are any performance (alternative) solutions in connection to the sprinkler protection.</p>
9	186U Owners of buildings may be directed to provide details of building and its cladding	(3)	<p>When supplying details of any cladding applied to a building, it would be useful to include a description of the approvals method under which the cladding was installed. For example, was it deemed compliant with the Deemed-to-Satisfy Provisions, a CodeMark product, a Performance Solution was developed, etc.</p>

Comment no.	Section	Sub-section	Comment
10	186V Owners of building with combustible cladding must follow up with cladding statement	(1)	<p>It is recommended that an approval pathway is established for reasons stated in the summary of this note.</p> <p>Without an approvals pathway or a defined benchmark for a building to be deemed 'safe' under the legislation, any actions specified in the cladding statement are likely to produce varying outcome.</p>
11	186V Owners of building with combustible cladding must follow up with cladding statement	(2)	<p>It is stated that a cladding statement must include <i>'a determination as to whether or not, in the opinion of that person, the cladding presents a risk to the safety of persons or to the spread of fire, in the event of a fire'</i>.</p> <p>All cladding (combustible or not) poses a risk to safety. Guidance on what level of risk is acceptable is required, and the risk benchmark should reflect the use of the building. For example, an office building is known historically to be comparatively less risk than a building with sleeping occupants.</p>
12	186V Owners of building with combustible cladding must follow up with cladding statement	(2)	<p>It is stated the cladding must have been inspected. Inspection of the cladding on its own is insufficient to understand and determine the risks. Any assessment needs to be a full holistic review of the building's fire safety arrangement and measures.</p> <p>It should be clarified what type of investigation is required, e.g. desktop, non-intrusive surveys, destructive laboratory testing, etc.</p> <p>There should be a clear definition on the risk to the spread of fire. In a fire event, depending on the type of fire, there may be situations where a fire could spread in the same building. We believe the risk on the spread of fire should be to the adjacent building.</p>

Comment no.	Section	Sub-section	Comment
13	186V Owners of building with combustible cladding must follow up with cladding statement	(3)	Under clause (d) it is stated that a description of the combustible cladding applied to the building is required. It should be clarified what level of certainty is required on the materials. For example, would (as-built) drawings suffice or would samples be required and material composition testing undertaken?
14	186V Owners of building with combustible cladding must follow up with cladding statement	(3)	Under clause (f) reference is made to a properly qualified person. We understand that the intent would be for building owners to be responsible for identifying properly qualified persons. We recommend this is tied back to an accreditation scheme - C10, NER, CPEng, etc.
15	186V Owners of building with combustible cladding must follow up with cladding statement	(3)	Under clause (g) reference is made to determining the risk <i>'to the safety of persons...'</i> . This is very broad and we understand will need to consider people occupying the building, people outside of the building and in adjacent buildings and fire brigade personnel, unless stated otherwise.
16	186V Owners of building with combustible cladding must follow up with cladding statement	(3)	Under clause (h) where it is specified that <i>'an explanation of the reasons for choosing the specified actions necessary to address the risk'</i> is required. This seems open to further approvals or discussions with no clear pathway to closing out and could provide uncertainty and no obligation to finalise or approve.

Once again, we appreciate the opportunity to provide feedback on the proposed amendments, and to re-iterate, we strongly believe there should be greater and additional consultations with the key stakeholders on the proposed amendments. This is to ensure the proposed amendments can achieve the intended objectives and outcomes, without resulting in unintended negative consequences.

We will be delighted to have our representatives attend any meetings or consultations regarding this amendment. Should you have any questions on these issues, please do not hesitate to contact our NSW Chair, Edmund Ang on edmund.ang@aeom.com, or 02 8934 0309.

We thank the Department for their ongoing consultative approach on this matter.

Society of Fire Safety (NSW)
3/8 Thomas St, Chatswood NSW 2067, Australia

Yours sincerely

A handwritten signature in black ink, reading "Edmund Ang". The signature is written in a cursive style with a large, stylized 'A'.

Edmund Ang
Society of Fire Safety – NSW Chapter Chair