21 September 2015

Department of Planning and Environment
Attn: Michael Lambert
GPO Box 39
Sydney NSW 2001

Building Professionals Board
Attn: Dr Gabrielle Wallace
GPO Box 39
Sydney NSW 2001

Dear Michael / Gabrielle,


This submission from the Society of Fire Safety NSW Chapter (SFS) provides input in relation to the review of the Building Professional Act 2005 which is currently being undertaken by the Department of Planning and Environment as detailed in the Independent Review of the Building Professionals Act 2005, Draft Report, August 2015.

The Draft Report recommends a Peer Review Panel for the assessment of Alternative Solutions. Further to our previous submission on the Discussion Paper dated 12 June 2015 (attached in Appendix A), the SFS does not support a Peer Review Panel as the only option as discussed below.

A system wholly reliant on a Peer Review Panel has proven to be ineffective in other jurisdictions in Australia and Asia (e.g. Malaysia and Hong Kong). Bias and a lack of independence has been evident, the credentials of the individuals on the panel is often questioned, standards were reduced, responsibilities avoided, and overall quality and consistency of the reviews have been reduced instead of enhanced.

A Peer Review Panel system in isolation does not guarantee a robust process for assessing Alternative Solutions. Such a system is mostly applied at the infant stage of performance based design to assist the approving authority in assessing Alternative Solutions. The extent of applying such scrutiny reduces as all parties involved become more experienced with, and competent in, evaluating Alternative Solutions. Fire safety engineering in NSW is a mature discipline and should not rely on a single system such as a Peer Review Panel.
The system previously recommended by the SFS provides a certifier with an option of referring Alternative Solutions for an independent assessment by one of the following:

1. Fire & Rescue NSW (FRNSW) - (current system).
2. Independent Peer Review by an accredited Fire Safety Engineer or a company in fire safety engineering.
3. Independent Peer Review Panel (a new group of accredited certifiers including a private certifier, a fire engineer, and an accredited individual with fire-fighting experience).

The SFS has previously recommended that this system described above should only be applied to certain complex matters which should be further developed and agreed upon by all relevant stakeholders.

The above system with three options is considered superior and would be preferred by certifiers as it provides a choice depending on the complexity of the Alternative Solutions, the individual fire engineering issues at hand, and which individual system operates more efficiently.

A system with only a Peer Review Panel could result in an overall reduction in the volume of fire safety engineering undertaken and be expensive for smaller building projects. It will conflict with the government’s and ABCB’s objective to increase the use of performance based Alternative Solutions to enhance productivity within the construction sector in Australia.

To elaborate on Option 3 above, as the SFS is the only national and independent fire safety engineering entity in Australia, the establishment, responsibilities and operation of the Peer Review Panel should be undertaken wholly under the leadership, direction and supervision of the SFS.

In addition to the above, the reference to the SFS suggestions in Section 9.1 B.10 of the Draft Report on page 136 should be revised, as the SFS has not provided comments in relation to fire safety systems, and we recommended an independent review system comprising the three options as outlined above. We do not agree with independent peer review as quoted.

Incorporating the International Fire Engineering Guidelines (IFEG) as a mandatory reference document for fire safety related Alternative Solutions is concurred with. However, the IFEG should only be adopted for the fire engineering process, not for technical details. This is to ensure that the IFEG is not misused by certifiers looking for literal compliance, which will prove difficult given that the IFEG is an evolving guideline, and does not contain the entire body of fire safety engineering knowledge.

The system with three options briefly described above should be further developed with SFS input to ensure that it provides greater efficiency than the current system or the system recommended in the Draft Report, and results in a higher quality and consistency of fire safety engineering, thereby providing a benefit to the community.
Should you require any further information or clarification of the above, please do not hesitate to contact the undersigned.

Yours faithfully,

Peter Gardner
NSW SFS Committee Member
For and on behalf of the Society of Fire Safety NSW Chapter

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APPENDIX A –
SFS Submission dated 12 June 2015
12 June 2015

Department of Planning and Environment
Attn: Michael Lambert
GPO Box 39
Sydney NSW 2001

Dear Michael,

**Re: Society of Fire Safety Submission - Building Professionals Act 2005**

This submission from the Society of Fire Safety NSW Chapter (SFS) provides input in relation to the review of the Building Professional Act 2005 which is currently being undertaken by the Department of Planning and Environment as detailed in the Independent Review of the Building Professionals Act 2005, Discussion Paper, May 2015 and also the Department of Planning Seminar held in Martin Place on 21 May 2015.

It is acknowledged that the intention of the review is to identify ways in which the certification scheme and building regulation can be improved.

The SFS values the opportunity to provide feedback and is thankful to the Department of Planning and Environment for our meeting on 5 June 2015 to discuss our initial concerns.

Firstly, a brief background to fire safety engineering and the SFS is provided.

Fire safety engineering can simply be described as formulating Alternative Solutions in compliance with the Building Code of Australia (BCA) in relation to fire safety. An Alternative Solution complies with the BCA Performance Requirements as opposed to adopting the Deemed-to-Satisfy Provisions. The fire safety engineering process typically has three stages, comprising a Fire Engineering Brief (FEB), a Fire Engineering Report (FER), and a Fire Engineering Inspection Report (FEIR).

The SFS is a national technical society operating under Engineers Australia and was inaugurated in 1994. It currently has approximately 500 members throughout Australia. It was established to foster excellence in fire safety in Australia. It is a learned society drawing together individuals who are actively engaged in fire safety to provide a national focus and leadership for the development, understanding, practice and application of fire safety engineering to achieve reductions of risk for life, property and environmental damage, and the implementation of cost-effective fire safety codes and regulations.

In NSW, we have prepared practice notes to foster this excellence in fire safety in relation to Existing Buildings during Construction, Inspection Reports, Design Fires, and Tenability.
Criteria in Building Fires. Our bi-monthly seminars provide not only technical education but also a forum for discussing the impact of regulations / policies and the role of relevant government agencies. Over the last five years, the SFS has a sub-committee that maintains regular contact with Fire & Rescue NSW (FRNSW) to provide input on fire safety engineering legislation and policy matters, and to monitor fire safety referrals (i.e. EP&A Regulation Clause 144, Clause 188, etc). The SFS has also provided regular input to the Building Professionals Board (BPB) and the Department of Planning and Environment.

The SFS generally supports the Discussion Paper with particular reference to the following aspects:-

- Alternative Solutions should be fully evaluated, documented and maintained.
- The certifier should confirm that the fire engineering report contains all required information associated with the proposed Alternative Solutions and that it adequately demonstrates compliance with the BCA Performance Requirements. This should also include the certifier clearly identifying and documenting deviations from the BCA Deemed-to-Satisfy Provisions requiring Alternative Solutions.
- Accreditation of suitably qualified and experienced persons for the design, installation, commissioning and maintenance of all components of buildings including fire safety systems.
- Clarification of the role of the certifier which will require further resolution.
- Remove the mandatory requirement for FRNSW to provide comments on FEBs and FERs. This should also include a review of the fee structure for Clause 144 and Clause 188 referrals to FRNSW.

In relation to this last item, it is the SFS view that the role of FRNSW should be refocussed on matters relating to fire-fighting, search and rescue, and other matters that directly affect fire brigade intervention. This is due to the lack of specialist capabilities and qualified fire engineering resources within FRNSW to undertake their legislated role in the approval process under Clause 144 of the EP&A Regulation to review FERs.

An alternative system is proposed for certain complex matters only. The system should provide the certifier with an option of referring an FEB and FER to one of the following:

1. FRNSW (current system).
2. Independent Peer Review (accredited individual or company in fire safety engineering).
3. Independent Peer Review Panel (new group of accredited certifiers including a private certifier, a fire engineer, and an accredited individual with fire-fighting experience).
The alternative system should only be applied to certain complex matters which should be further developed and agreed upon by all relevant stakeholders. Such matters may include fire safety engineering relating to the following:

- Large infrastructure projects.
- Buildings over 25 m in effective height.
- Assembly buildings containing more than 1000 occupants.
- Buildings containing an atrium which connects more than three storeys.
- Buildings where the main structure is of exposed steel or timber in lieu of a designated fire resistance level.

The system briefly described above should be further developed to ensure that it provides greater efficiency than the current system and results in a higher quality and consistency of fire safety engineering, therefore providing a benefit to the community.

We also draw your attention to the independent certification proposal covered in the presentation in Martin Place on 21 May 2015. The SFS supports an independent peer review system in lieu of independent certification. The independent certification system (i.e. Part 4A compliance certificates under the EP&A Regulation) previously introduced by the BPB for fire safety engineering was unworkable and not supported by Industry resulting in a legislative amendment.

Further to discussions during our recent meeting, the SFS understands that we will be further consulted in the development of the revised Building Professionals Act 2005 so that workable solutions can be developed.

We look forward to working with the Department of Planning and Environment and assisting with the independent review of the Building Professionals Act 2005. Should you require any further information or clarification of the above, please do not hesitate to contact the undersigned.

Yours faithfully,

Peter Gardner

NSW SFS Committee Member
For and on behalf of the Society of Fire Safety NSW Chapter