



## POSITION STATEMENT SUMMARY

# Fire engineering for existing buildings

### Position

Effective 12 September 2024, the following is a position of Fire and Rescue NSW (FRNSW):

Any proposal to implement a fire engineering strategy to address any building defect or other non-compliant element of an existing building must be done through an appropriate pathway under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*. Proponents should establish the appropriate pathway with the relevant regulatory authority (e.g. Council) in the first instance.

An assessment on the provision for fire safety can be undertaken by a recognised person and a fire engineering strategy developed that includes a holistic fire engineering assessment of the applicable matters.

**Note:** A 'recognised person' means a person who is both an accredited practitioner (fire safety) and a fire safety engineer under the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (EP&A(DCFS) Reg.)*.

FRNSW may offer comment on any proposed fire engineering strategy for an existing occupied building only when the request is made by the relevant regulatory authority (e.g. Council) responsible for determining the matter. Any such request made to FRNSW must include the fire engineering assessment by the recognised person (i.e. the Fire Engineering Report).

**Note:** The regulatory authority can request comment from FRNSW on a proposed fire engineering strategy using the *Comment on an occupied building* form available at [www.fire.nsw.gov.au/firesafety](http://www.fire.nsw.gov.au/firesafety).

However, FRNSW will not determine or consult with any other stakeholder (e.g. fire engineer, building code consultant, certifier, architect, fire services consultant, etc.) on any fire engineering strategy proposed to address any fire safety order issued under *Division 9.3* of the *EP&A Act*. In such cases, the relevant regulatory authority (e.g. Council) is responsible for determining or advising on the matter.

Reference must be made to the FRNSW website to ensure this position is current at the time of use, and this position has not been superseded or revoked.

### Summary

This position statement only applies when the relevant regulatory authority (i.e. Council) is required to determine or advise on a matter relating to an existing building. It should not be misused by any other proponent for any reason not intended through proper application.

This position statement clarifies that proponents are required to establish an appropriate pathway with the relevant regulatory authority to address any building defect or other non-compliant element of an existing building. Once the pathway is established, a fire engineering strategy can be proposed to address any fire safety issues in the building.

The position identifies that any fire engineering strategy must include a holistic fire engineering assessment of the provision of fire safety by a 'recognised person'.

Informative commentary notes that the 'recognised person' should be both an accredited practitioner (fire safety) and a fire safety engineer (i.e. registered as a 'certifier – fire safety' under the *Building and Development Certifiers Regulation 2020*).

#### Fire and Rescue NSW

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The position identifies that the responsibility for determining or consulting on any fire engineering proposed to address a fire safety order rests with the relevant regulatory authority, and FRNSW will not consult with other stakeholders on such matters.

The position clarifies that FRNSW can provide comment to the regulatory authority on any fire engineering strategy that is proposed to address a fire safety order. The request must be made by the responsible authority (e.g. council) and include the Fire Engineering Report by the recognised person.

Informative commentary directs the regulatory authority to make any request for FRNSW comment using the [Comment on an occupied building](#) form.

This position statement has been authorised for release by Chief Superintendent Fire Safety, FRNSW.

## **Contact us**

For further information contact the Fire Safety Branch on (02) 9742 7434 or email [firesafety@fire.nsw.gov.au](mailto:firesafety@fire.nsw.gov.au).