



POSITION STATEMENT SUMMARY

Consultation on the performance-based design brief (PBDB)

Position

Effective 30 August 2024, the following is a position of Fire and Rescue NSW (FRNSW):

When a development proposes to incorporate performance-based design for any fire safety requirement, whether a building design having a performance solution in accordance with the *National Construction Code* (NCC) Volume 1 (Class 2 to 9 buildings) or other infrastructure where building codes are not applicable, FRNSW must be engaged in the PBDB process as a stakeholder.

Note 1: Under [s26\(1\)](#) of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, the owner of a building must ensure that the person who develops a PBDB for a performance solution for a fire safety requirement in the building requests the Fire Commissioner's comments on the brief if—

- (a) the building is a class 2, 3, 4, 5, 6, 7, 8 or 9 building, and
- (b) a construction certificate is required for the building work comprising the performance solution.

Note 2: Under [s26\(2\)](#) of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, the request for consultation must be made—

- (a) during the development of the performance-based design brief, and
- (b) in the way required by the Fire Commissioner.

Note 3: With regards to A2G2(4)(a) in NCC Volume One, which requires consultation with relevant stakeholders during the PBDB, FRNSW consider that for Class 2 to 9 developments within NSW the relevant fire service/brigade is a relevant stakeholder in all Performance Solutions relating to fire safety.

Note 4: Guidance on the development of a PBDB is presented in the *Australian Fire Engineering Guidelines* (AFEG), as identified by the NCC.

FRNSW requires the request for PBDB consultation be made via written application using the [Performance-based design brief \(PBDB\) consultation](#) form available at www.fire.nsw.gov.au/firesafety. All building proponents are reminded that a Performance Solution cannot be developed and applied retrospectively to existing buildings or completed building works, therefore consultation will not be provided on any proposal where no building work is proposed.

Note: Reference should be made to the FRNSW position [Fire engineering for existing buildings](#).

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

Summary

This position statement supersedes the previous position last updated on 29 April 2024. The position has been revised to include consultation where FRNSW should be considered as a relevant stakeholder in the PBDB.

The position directs any building proponent involved in the development of a PBDB for a class 2 to 9 building for which a construction certificate is required to the relevant legislative provision. This

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provision directs the building proponent to request the Fire Commissioner's comments, in the manner stipulated by the Fire Commissioner, during the development of a PBDB.

The position also recommends any building proponent developing a PBDB under a planning pathway not requiring a construction certificate should still be referred to FRNSW for consultation as a stakeholder in the PBDB. An informative note iterates the BCA governing requirement for the PBDB to be prepared in consultation with relevant stakeholders.

The position provides confirmation of submission procedure, via a written application form located on the FRNSW website titled [Performance-based design brief consultation](#).

The position clarifies that FRNSW will not provide consultation where the proposal does not relate to a building that is subject to an appropriate planning pathway (e.g. there is no related works or certificate being determined by a certifier). This includes any performance solution intended to be retrospectively applied to existing buildings or completed building works. An informative note references the related FRNSW position [Fire engineering for existing buildings](#).

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.