



Changes to consultation process with Fire & Rescue NSW

May 2023



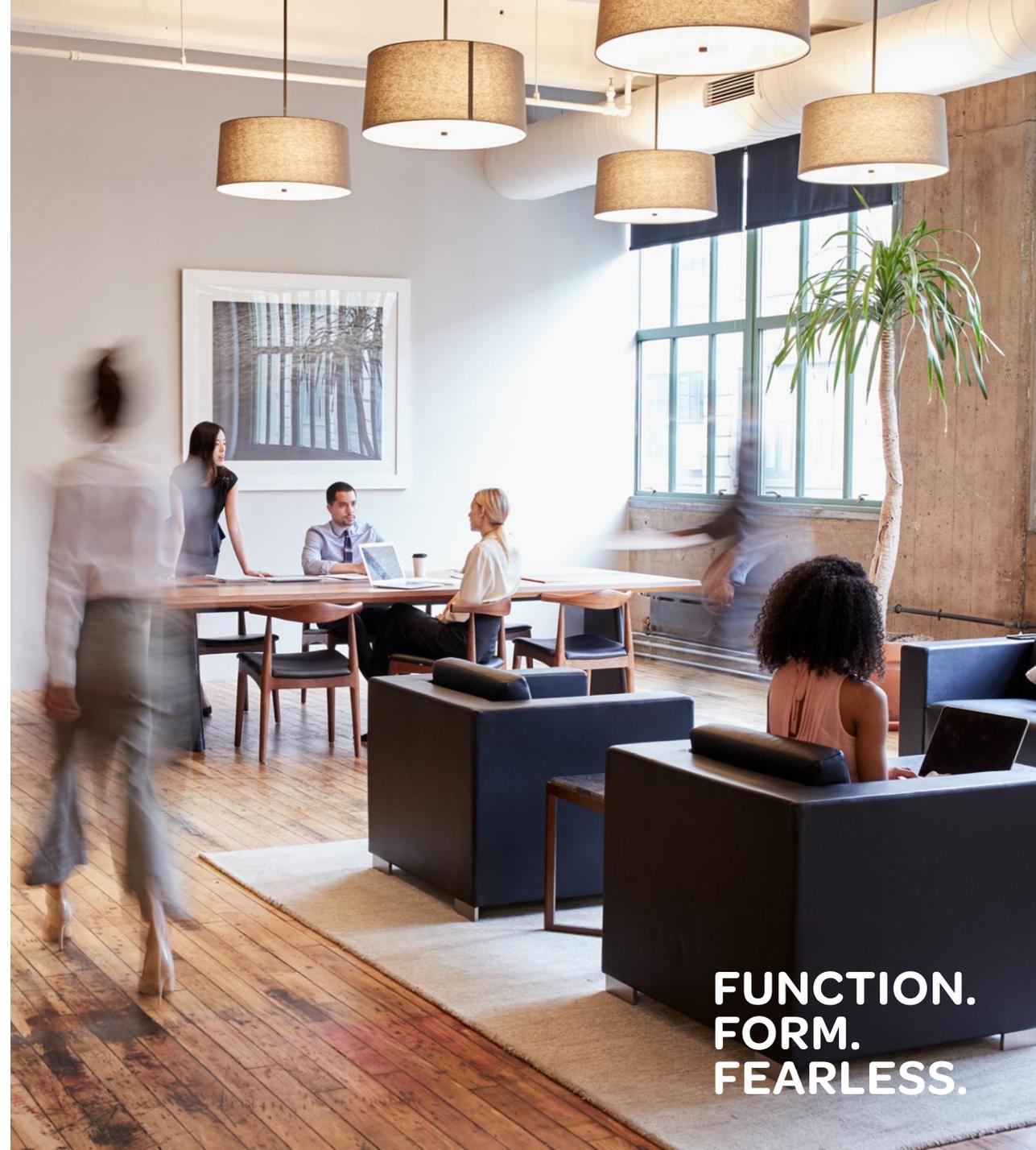
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Introduction

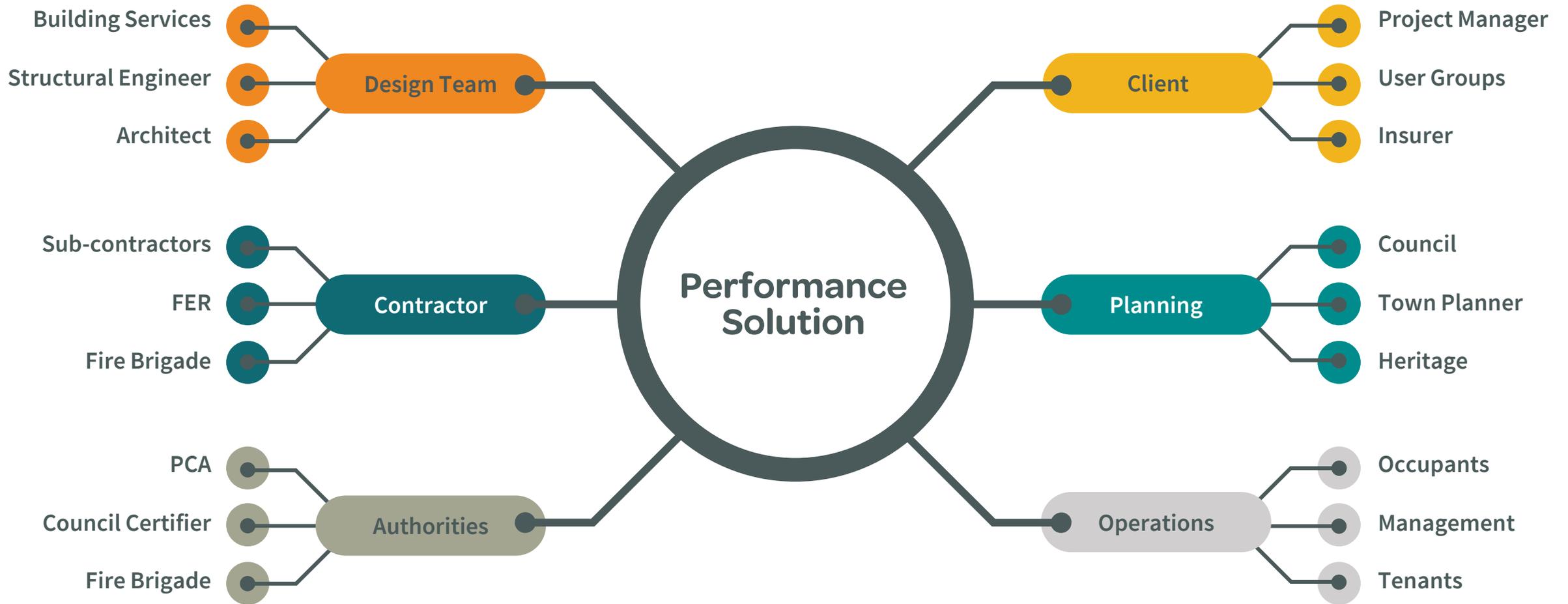
- Why involve the Fire Brigade?
- Current consultation process & timings
- New changes
- What does this mean for me as a Developer or Project Manager?

Why consult with the Fire Brigade?

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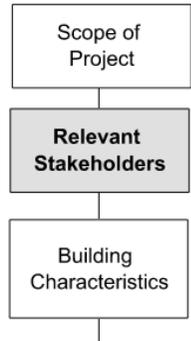
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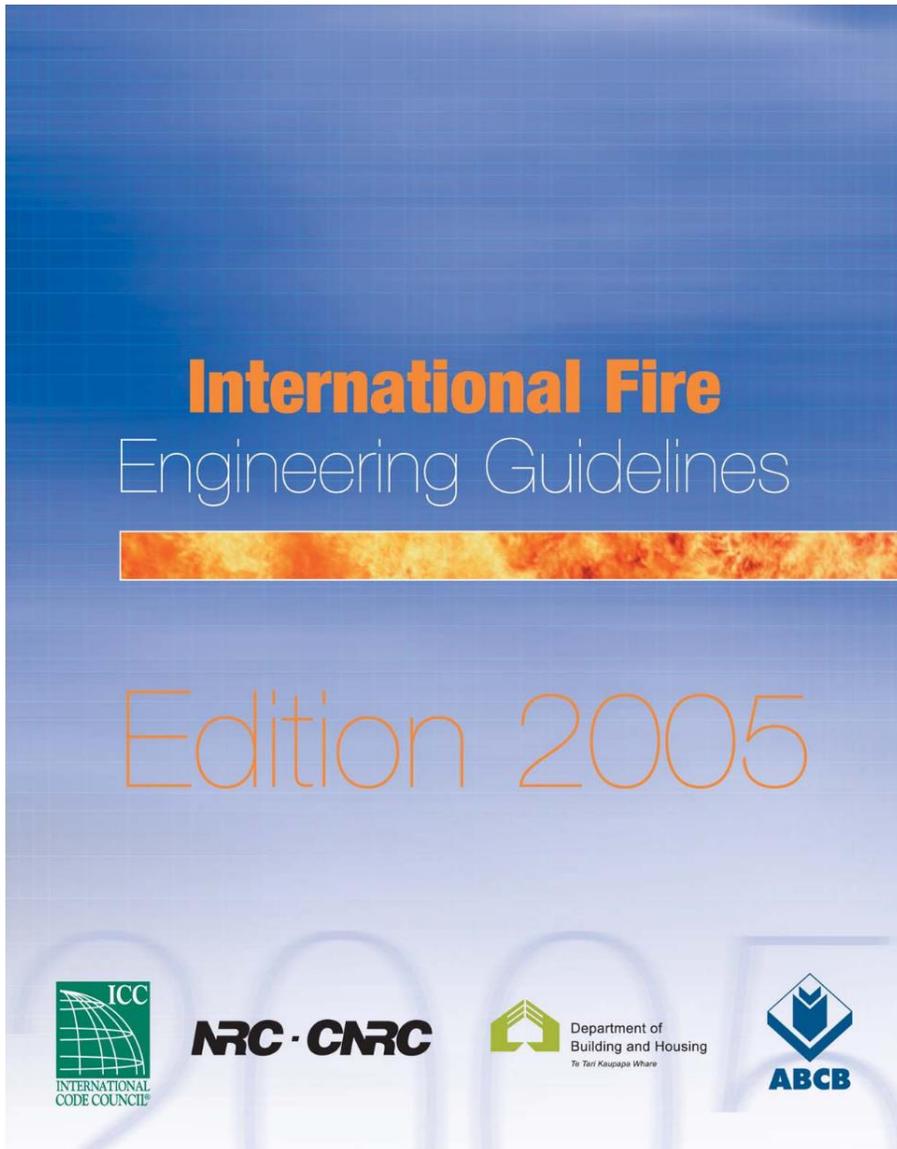
1.2.2 Relevant stakeholders

Ideally, the FEB should be developed collaboratively by the relevant stakeholders in the particular project. For example, the following parties may be involved:

- client or client's representative (such as a project manager)
- fire engineer
- architect or designer
- regulations consultant
- various specialist consultants
- fire service (both public and private)
- authority having jurisdiction (AHJ)
- representative of owner's insurance company
- tenants
- building operations management.



- Consultation with relevant stakeholder is not a new concept – IFEG 2005
- Environmental Planning and Assessment Regulation 2000 – Clause 144 – Fire Brigade referral for certain building types and sizes



Current referral process (NSW)

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Current Fire Brigade referral process

- **Pathway 1**

BCA Clause A2G2 – Relevant Stakeholder

- **Pathway 2**

Environmental Planning & Assessment

(Development Certification & Fire Safety) Regulation 2021 –

Division 3 – Section 26

Pathway 1 – Relevant Stakeholder

1 July 2021

A2G2 Performance Solution

(4) Where a *Performance Requirement* is proposed to be satisfied by a *Performance Solution*, the following steps must be undertaken:

(a) Prepare a *performance-based design brief* in consultation with relevant stakeholders.

(b) Carry out analysis, as proposed by the *performance-based design brief*.

(c) Evaluate results from (4)(b) against the acceptance criteria in the *performance-based design brief*.

(d) Prepare a final report that includes—

(i) all *Performance Requirements* and/or *Deemed-to-Satisfy Provisions* identified through A2G2(3) or A2G4(3) as applicable; and

(ii) identification of all *Assessment Methods* used; and

(iii) details of steps (4)(a) to (4)(c); and

(iv) confirmation that the *Performance Requirement* has been met; and

(v) details of conditions or limitations, if any exist, regarding the *Performance Solution*.

Pathway 1 – Relevant Stakeholder

Relevant stakeholders in the performance-based design brief (PBDB)

Clause A2.2(4) of the *National Construction Code (NCC)* applies from 1 July 2021. With regards to A2.2(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.

Refer to the [Performance-based design brief / fire engineering brief consultation](#) page on our website for how to undertake consultation with FRNSW.

[Last updated: 30 July 2021]

Pathway 1 - FEBQ – Response & Timings



Pathway 1 – Relevant Stakeholder - Timings

- Timing is guidance only
- Subject to resource availability
- Fire Brigade may choose not to review the FEBQ

Pathway 2 – EP & A (DC & Fire Safety) Regulation 2021

- Performance Solution addresses a Category 2 - Fire Safety Measure and the building features certain characteristics
- Process applicable at Construction Certificate only

Pathway 2 – EP & A(DC & Fire Safety) Regulation 2021

EP&A(CF) Reg 2021 – Section 26	
Class 9a - Healthcare	<ul style="list-style-type: none"> Floor area greater than 2,000m²
All other building classifications (2-9)	<ul style="list-style-type: none"> Fire compartment greater than 2,000m² Floor area greater than 6,000m²
Class 2, 3 or 9	<ul style="list-style-type: none"> Type A or B construction with combustible cladding (2 or more storeys)
Class 5, 6, 7 and 8	<ul style="list-style-type: none"> Type A or B construction with combustible cladding (3 or more storeys)
Class 2 or 3	<ul style="list-style-type: none"> Where a performance solutions relates to the sprinkler system
Class 9b - Childcare	<ul style="list-style-type: none"> Where various DtS Provisions are not complied with

Category 2 – Fire Safety Measure	
C1P9	Emergency vehicle access
E1P3	Fire hydrants
E1P4	Sprinklers
E1P6	Fire control centres
E2P2	Safe evacuation routes
E3P2	Emergency lifts

+



Original referral triggers



Added following global cladding issues



Added after sprinklers in residential



Added after BCA childcare inclusion

Pathway 2 – EP & A(DC & Fire Safety) Regulation 2021

Example 1

- Class 9a – Healthcare building with floor area of 1,800m² and Performance Solution for location of fire hydrant and sprinkler booster – **No Fire Brigade Referral**

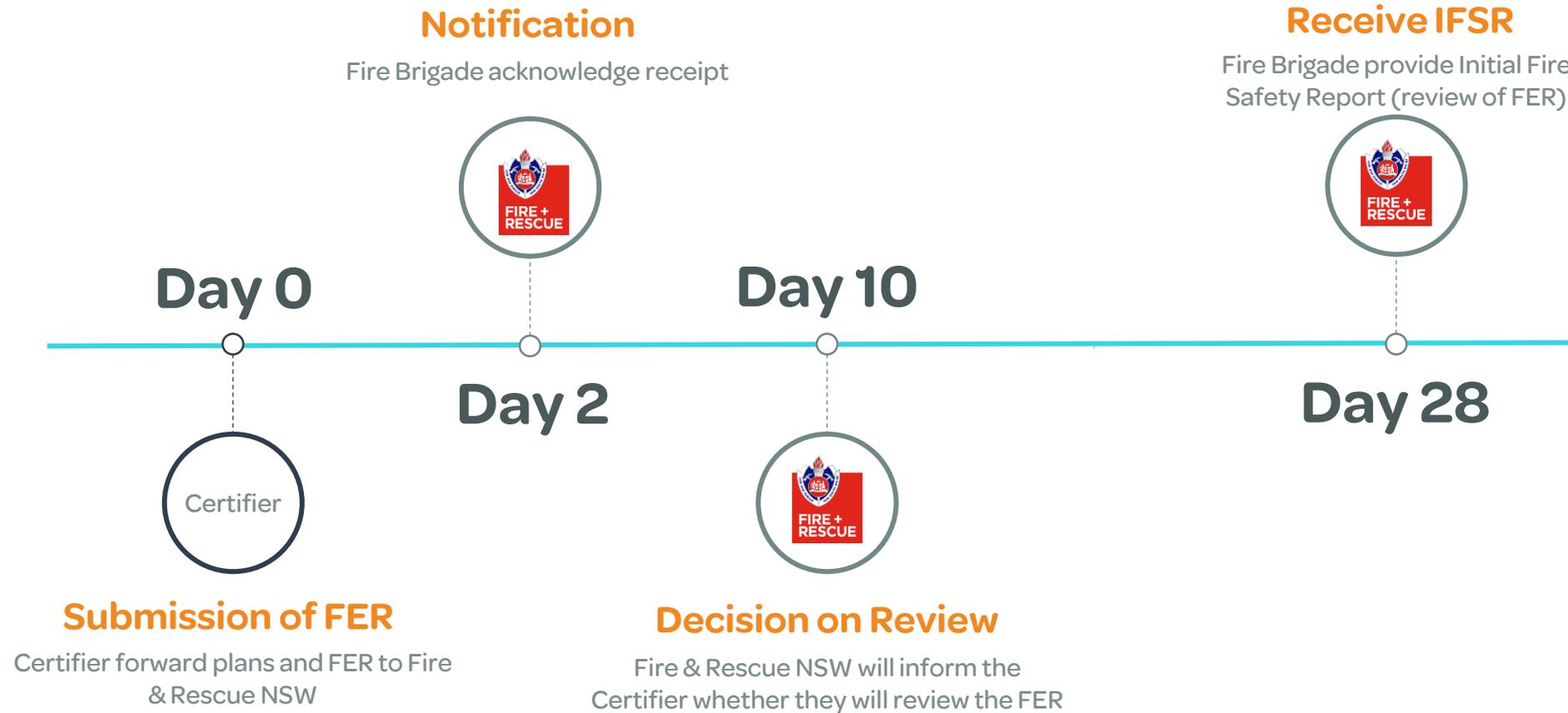
Example 2

- Class 8 – Industrial facility with a floor area of 20,000m² and a Performance Solution for location of fire hydrant and sprinkler booster – **Fire Brigade Referral**

Example 3

- Class 3 – Hotel with floor area of 1,500m² and a Performance Solution for location of fire hydrant and sprinkler booster – **Fire Brigade Referral**

Pathway 2 - CC – Response & Timings



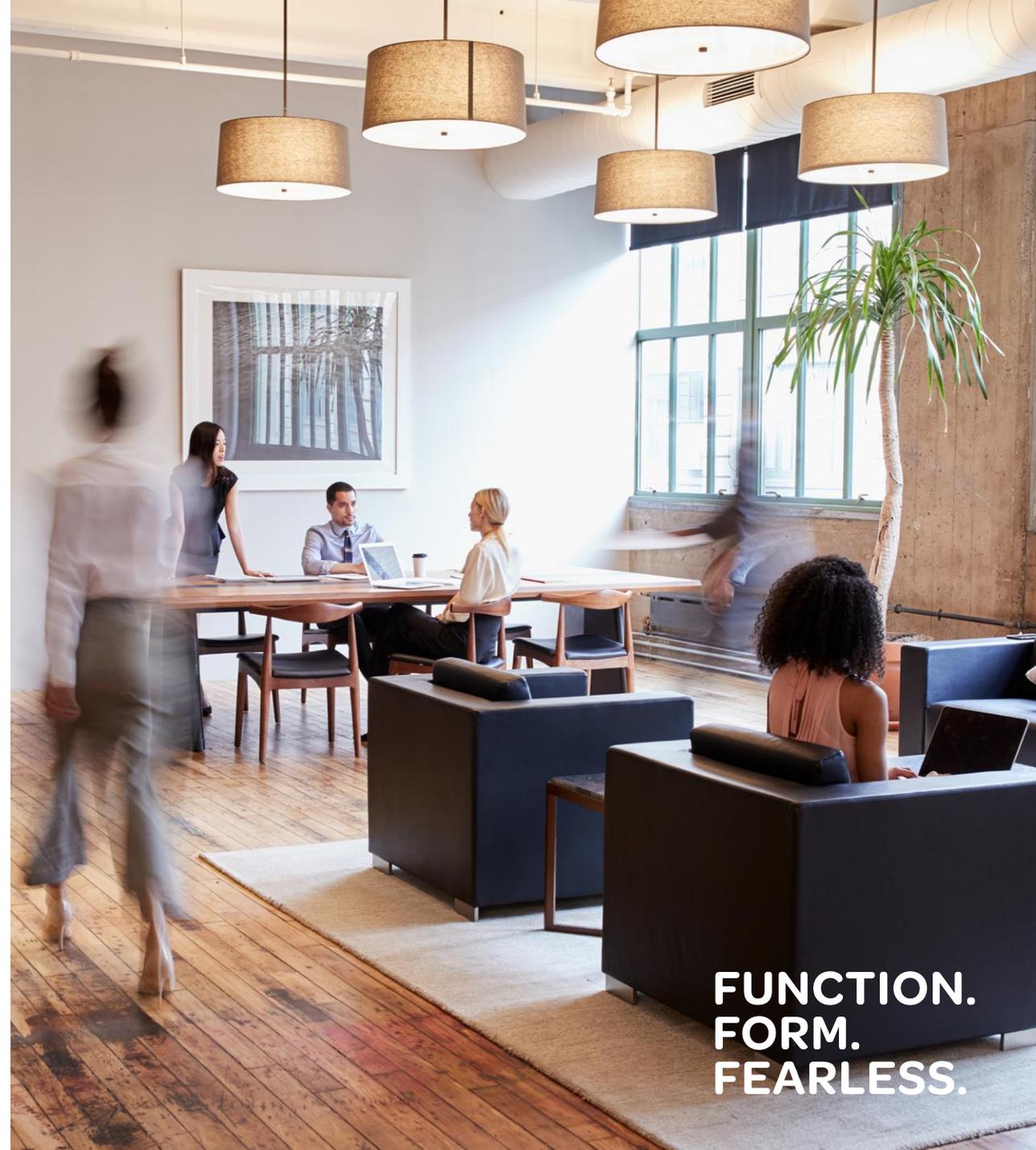
Summary

Current challenges

- Two separate referral processes for Construction Certificates – BCA Clause A2G2 + Environmental Planning Regs
- Processes do not align – Regulations only capture certain building types and sizes – difficult to determine if second review required early in design
- FEBQ stage review timings are not mandated
- Fire & Rescue NSW may not be provided with opportunity on some higher risk projects

New changes to Fire Brigade consultation process (NSW)

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New Changes – Commencing 1 August 2023

Changes

- Mandates consultation with Fire & Rescue NSW for all Performance Solutions relating to a fire safety requirements in a Class 2-9 building or temporary structure
 - **Fire safety requirement** – requirement under the Building Code of Australia relating to a fire safety system within the mean of the BCA, or the safety of persons if there is a fire, or the prevention, detection or suppression of fire.
- Before lodging a **Construction Certificate (CC)** application - the **building owner** must ensure that the person developing the Performance Solution consults with Fire & Rescue NSW.
- Before determining a CC – the certifier must refer all Performance Solutions involving a fire safety requirement for Class 2-9 buildings at both the **Construction Certificate** and **Occupation Certificate Stage**

New Changes – Commencing 1 August 2023

Changes

- The certifier can proceed with issuing a CC or the building owner can proceed with implementing a Performance Solution after the design brief stage, after
 - Fire & Rescue NSW notifies it will not provide comment or an IFSR; or
 - Fire & Rescue NSW fails to notify that it will provide comments or an IFSR
 - At the design brief stage – within 10 days of the request being made
 - At the CC stage – within 10 days after receiving referral from the certifier
 - Fire & Rescue NSW fail to provide comments or report within the required time limits
- The certifier can proceed with issuing an OC without considering a report from Fire & Rescue NSW if Fire & Rescue NSW has not provided a report within 10 working days

New Changes – Commencing 1 August 2023

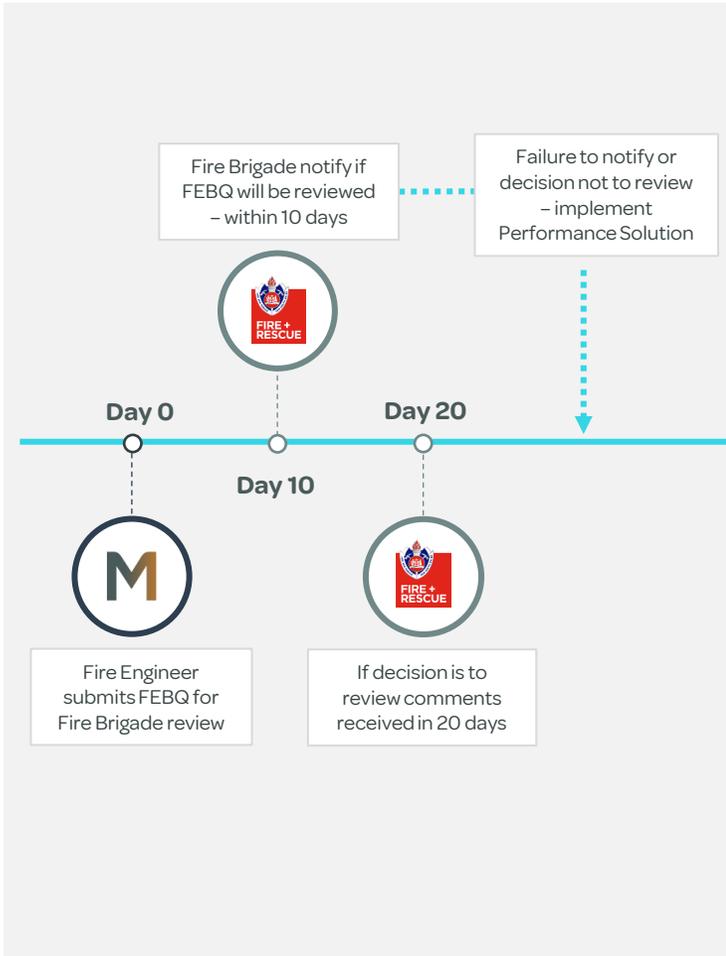
Time limits

- To provide comments Fire & Rescue NSW will have:
 - At the **FEBQ stage** – 20 working days after the request for comments
 - At the **Construction Certificate** stage – 25 working days after the referral was received
 - At the **Occupation Stage** – 10 working days after receiving the request

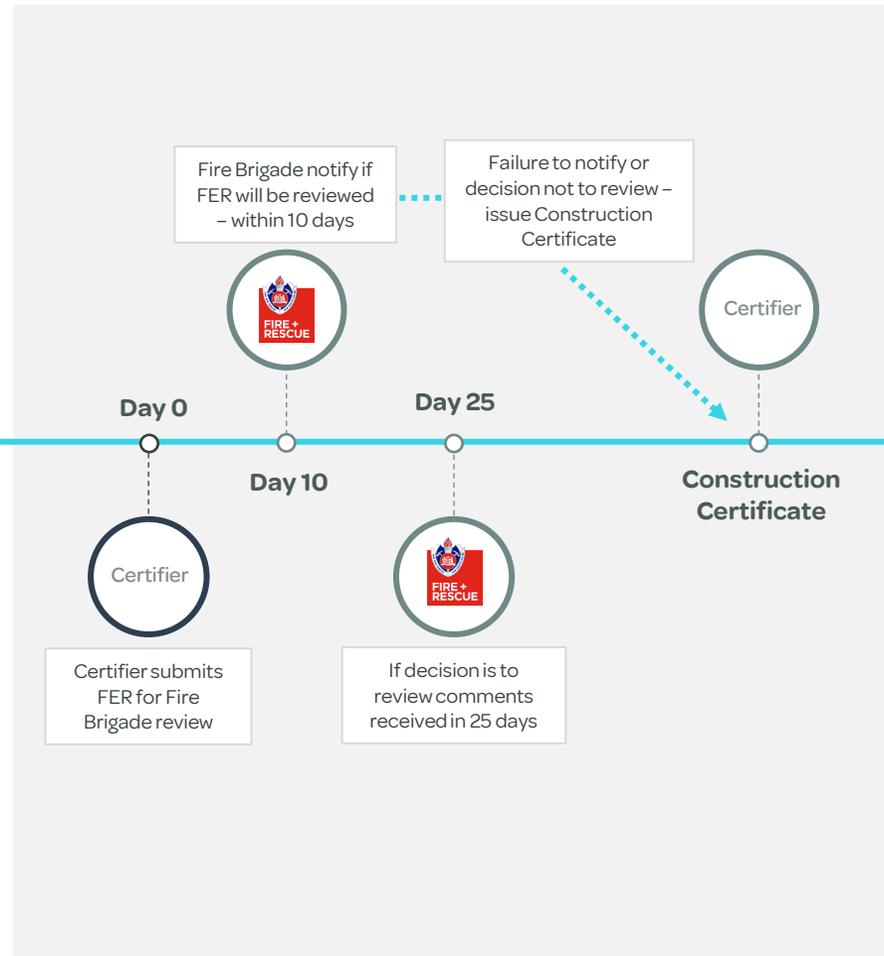
New Changes – Timings

- Working days
- Construction Certificates only

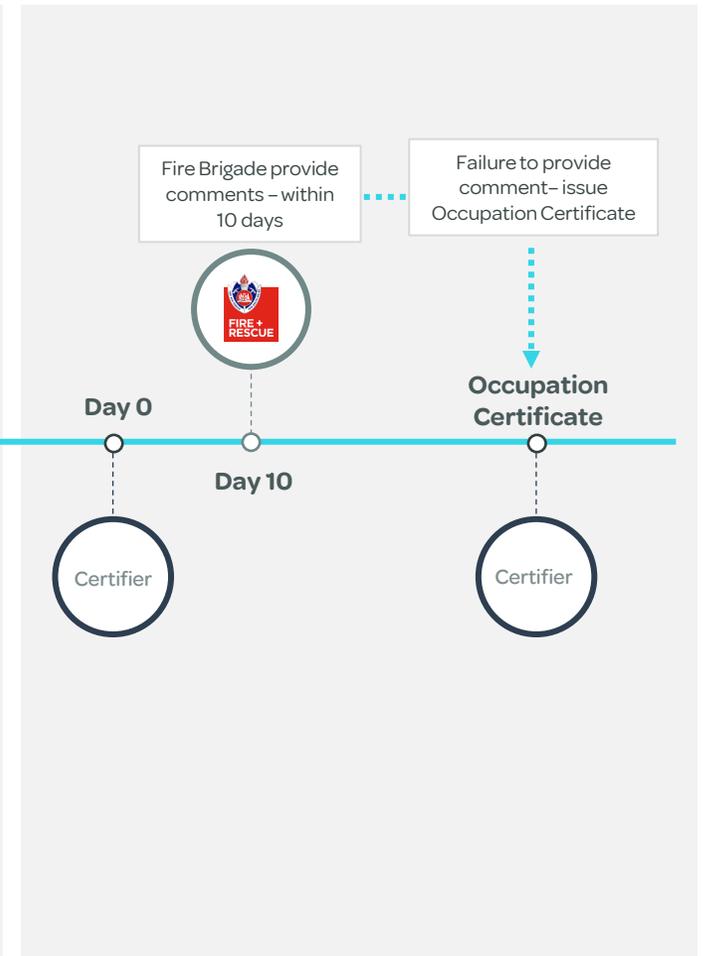
Performance-based Design Brief (FEBQ)



Construction Certificate - Fire Engineering Report



Occupation Certificate

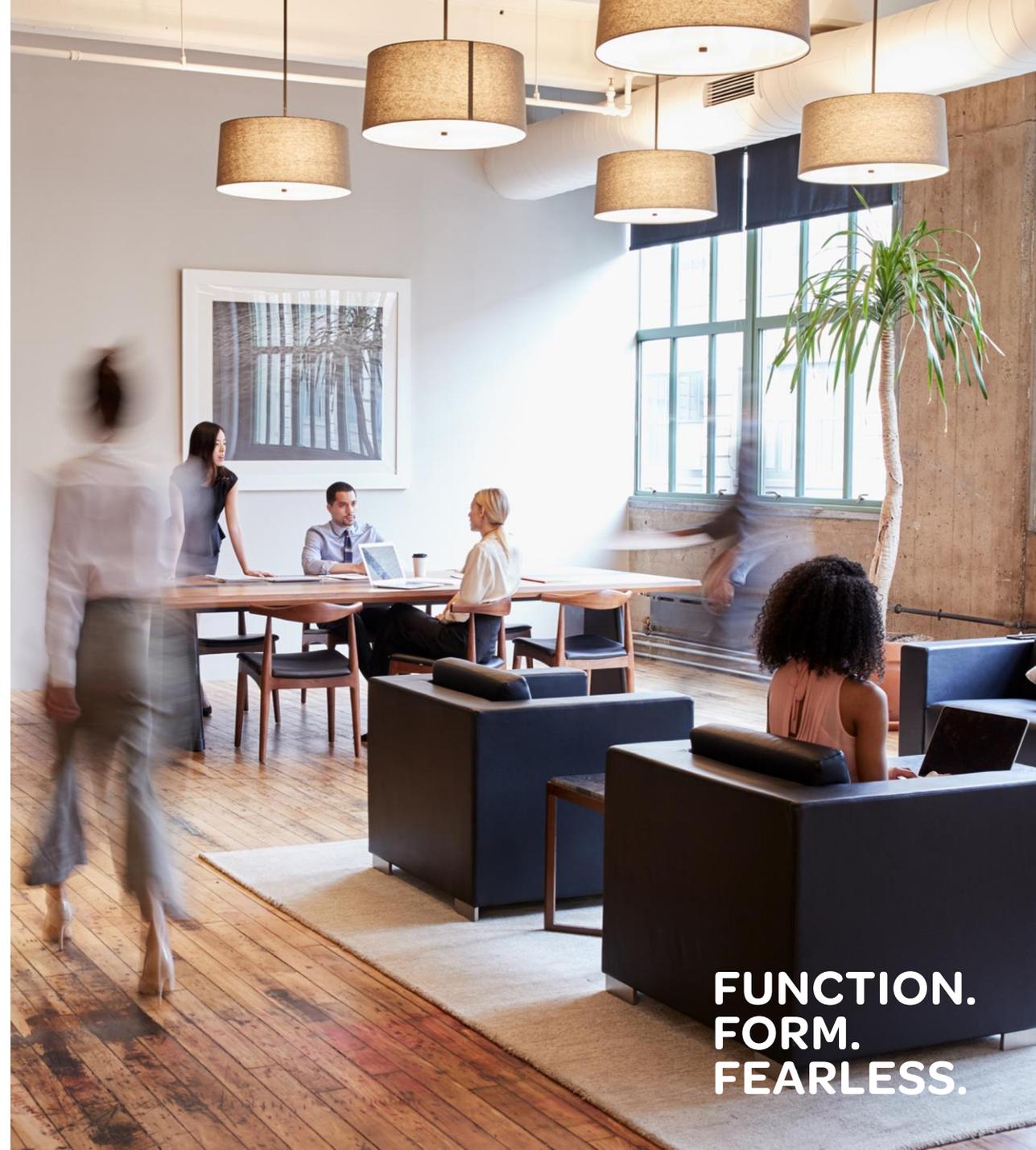


New Changes – Summary

- All time limits now are working days – not calendar days
- All fire safety related Performance Solutions in Class 2-9 building fall under the legislation where there is a Construction Certificate
- Fire Brigade are relevant stakeholder - now mandated for all fire safety related Performance Solutions where there is a Construction Certificate
- **Where a CC is in play the Performance Solutions are referred for third time at OC**

**What does this mean
for you?**

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What does this mean for you?

For Construction Certificates

- FEBQ reviewing timings are now much clearer i.e. 10 working days and 20 working days
 - Allow 4-5 weeks for review period in program
- Fire Engineering report review timings are now longer – previously 28 calendar days now 25 working days
 - Timing of submission
 - Allow 4-5 weeks for review period in program
- Additional Review at OC stage – 10 day period to provide responses

For Complying Development Certificates (CDCs) and Crown Certificates

- FEBQ reviewing timings are not mandated
 - Allow up to 8-12 weeks for review period in program
- No FER referral at

What does this mean for you?

- Understand approvals mechanism at commencement of project:
 - **Complying Development Certificate (CDC)** – FEBQ submission if Fire Brigade are a relevant stakeholder in the Performance Solution (likely for fire safety) – not mandated timings
 - **Construction Certificate** – Three submissions (FEBQ, FER and FER at OC) – mandated timings
- What will happen if Fire & Rescue NSW decide not to review an FEBQ, FER at CC or FER at OC?
 - Input from further stakeholders required? Peer review?
 - Provisions for special hazards?
- What if Fire & Rescue do not review at FEBQ or CC **but does review Performance Solutions at OC – how are comments addressed at this stage?**
- **Design questions at Occupation Stage? Is this appropriate?**

Recommendations

- **Outline potential Fire Brigade review scenarios at the commencement of the project**
 - Have a strategy for addressing each outcome
- What are the review periods for the Fire Brigade and how do we factor this into the program?
- Are we allowing sufficient time for updates of documentation?
- If the Fire Brigade chose not to comment at either FEBQ, CC or OC – how does the design team intend to proceed?
- If the project involves a staged occupation – timings and review period become more critical
- If FEBQ or FER is not reviewed – then a review at OC may be likely – manage commercial risk.

Further information



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