



Australia Branch

September 17 - 2015

IFE Australia position paper on conflict of interest

Introduction

The fire engineering process requires various stakeholders to agree and approve various aspects of the design and fire engineering analysis. Although it will vary for states and territories, in most instances the key stakeholders who form part of the fire engineering process will be:

- **Fire safety engineer / fire engineer** – Responsible for the design and development of alternative solutions which address the relevant fire related performance requirements of the National Construction Code – Volumes one and two – Building Code of Australia (BCA).
- **Project certifier/building surveyor** – Responsible for certifying that the design complies with the relevant performance requirements of the BCA.
- **Approval authority** – Responsible for approving that the design meets the requirements of the relevant building legislation.
- **Referral authority** – Stakeholders who represent specific interests of an organisation, such as fire services.

In most states and territories approval for the fire engineering on the project is at the discretion of the project certifier. It is considered essential that the building certifier remains independent of the fire engineering process. This is to ensure that community interests and infrastructure are safeguarded.

If a fire safety engineer or a practitioner in the same company provides both the fire safety engineering and building certification services for a project, there is the potential that the building certifier may put the interests of the fire engineer above those of the community. This could therefore create a potential conflict of interest.

It is therefore not considered appropriate for fire safety engineers / fire engineers or practitioners in the same company, to undertake both the design of the alternative solutions and certify that the design complies with the requirements of the BCA.

This potential conflict of interest is already recognised and addressed by various State and Territory legislation and guidelines, including the following examples:

- Clause 66 of the Building Professionals ACT 2005 of New South Wales requires an accredited certifier must not issue a Part 4A certificate or complying development certificate in relation to any aspect of development if the accredited certifier has been involved in the design of that of the development.
- Section 17 (b) of the New South Wales Building professional regulation 2007 notes that an accredited certifier is taken to be involved in the design if the certifier proposes design options, including alternative solutions.
- Section 92 of the South Australian Development ACT 1993 requires a private certifier must not exercise any functions of a private certifier in relation to a development if he or she has been involved in any aspect of the planning or design of the development.
- Section 26.6 of the Manual for Fire Protection for the Department of Defence notes that a project certifier must not be directly involved in the design or the construction of the building.
- The development of performance based design solutions guideline by the ABCB notes that in order to avoid perceived or potential conflicts of interest an appropriate approval authority may limit its involvement in the overall design process to the development of the performance based design brief (PBDB).

This is also considered to be consistent with the intent of the International Fire Engineering Guidelines (IFEG) which notes that the '*Authority Having Jurisdiction (AHJ) should be independent of the design process to ensure that the AHJ acts in the public interest first and foremost*'.

Summary

It is the position of the Institution of Fire Engineers (IFE) – Australian Branch that practicing fire engineers must not be a practitioner in the same company or organisation as the project certifier or building surveyor.

Where a State or Territory has legislation which does not specifically prohibit the project fire safety engineer / fire engineer and the project certifier or building surveyor from operating in the same company on a specific project, it is expected that IFE members will follow the above position regardless to be consistent with IFE Australia's Code of Conduct.

Yours faithfully,

A handwritten signature in black ink that reads "Frank Mendham". The signature is written in a cursive style with a large, stylized 'F' and 'M'.

Frank Mendham

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National President

IFE Australia