

PRACTICE NOTE 37-2018

This updates the previous Practice Note-2013-37 issued January 2013

Purpose

The purpose of this practice note is to provide guidance on the assessment of Performance Solutions which relate to Fire Performance Requirements by an RBS.

Definitions

Act means the *Building Act 1993*

BCA means Building Code of Australia and refers to Volumes 1 and 2 of the National Construction Code.

Fire Performance Requirement is a Performance Requirement related to fire safety listed in regulation 5

Performance Solution means a method of complying with the Performance Requirements other than by satisfying the DTS solution of the BCA.

Performance Requirements are requirements set out in the BCA which state the level of performance which a Performance Solution must meet or which a DTS is deemed to meet.

RBS means a relevant building surveyor as defined in the Act and includes private and municipal building surveyors.

Regulations means the *Building Regulations 2018*

Background

Performance Solutions relating to Fire Performance Requirements must be independently assessed by appropriately qualified and experienced persons or bodies.

As a result, the Act and Regulations restrict who can assess and approve Performance Solutions relating to Fire Performance Requirements.

Process

Regulation 121 provides that an RBS must not determine that a Performance Solution complies with a Fire Performance Requirement unless the RBS—

- holds a Graduate Certificate in Performance-Based Building and Fire Codes from Victoria University (VU); or
- holds a qualification that the Authority considers is equivalent to the VUT Certificate; or
- relies on a report of the Chief Officer issued under regulation 129(2) that states that the chief officer is satisfied that a satisfactory degree of fire safety is achieved by that Performance Solution; or
- relies on a certificate under section 238 of the Act by a fire safety engineer who did not design the building work that states that the Performance Solution complies with the Performance Requirement; or
- relies on a certificate under section 238 of the Act from a registered building surveyor who did not design the building work and who holds the VUT qualification referred to above or an equivalent as determined by the Authority and that certificate states that the Performance Solution complies with the performance requirement; or
- relies on a determination by the Building Appeals Board under section 160A of the Act that the Performance Solution complies with the Performance Requirement; or
- relies on a certificate of accreditation issued by the Building Regulations Advisory Committee which states that the Performance Solution complies with the performance requirement; or
- relies on a Certificate of Conformity issued by a person or body duly authorised by the Australian Building Codes Board, that states that the Performance Solution complies with the performance

requirement.

If the RBS does not (or cannot) assess the Performance Solution themselves, in relying on any of the above, the RBS must satisfy themselves that the certificate, determination or accreditation relates directly to the Performance Solution under assessment. The RBS must also carefully review any conditions or limitations imposed and consider how they relate to or affect the RBS's assessment of the building permit application.

Where the building permit application proposes building work that includes the installation of a prescribed combustible product as part of the external wall (as specified in Minister 's Guideline MG-14), the building permit application must include a determination of the BAB. (*Refer to Ministers Guideline MG 14: Issue of building permit where building work involves the use of certain cladding products*).

Relying on a certificate issued pursuant to section 238

Where an RBS relies on a certificate issued pursuant to section 238, the RBS must satisfy themselves that the person issuing the certificate:

- is a registered fire safety engineer or registered building surveyor; and
- holds adequate experience relevant to the building work and Performance Solution they have assessed.

The RBS should document how they have satisfied themselves of the above matters.

The person issuing the certificate is required by regulation 124 to record information about their assessment of the Performance Solution.

A copy of the certifier's record under regulation 124 should be requested from the certifier by the RBS (see regulation 124(2)) as it must be lodged with the relevant council under section 30 of the Act (see regulation 44(1)(m)).

Report and consent of the Chief Officer still required

Regulation 121 does not affect the requirement to seek the report and consent of the Chief Officer under regulation 129 where prescribed fire safety matters do not meet deemed-to-satisfy provisions of the BCA.

Please refer to PN 63 Alternative Solution – Procedure and Documents

Further information

Want to know more?

If you have a technical enquiry, please email technicalenquiry@vba.vic.gov.au or call 1300 815 127.

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