Fire safety in aged care facilities: have your say

WHAT IS THE GOVERNMENT PROPOSING?

The NSW Government proposes to improve fire safety in new and existing residential aged care facilities by setting requirements for fire sprinkler systems.

Sprinkler systems can dramatically reduce the risk of death and injuries by restricting the growth and spread of a fire, particularly in buildings with residents who may have difficulty evacuating in an emergency.

The proposed requirements follow the tragic fire at a Quakers Hill nursing home in November 2011.

WHAT ACTIONS WILL BE REQUIRED?

The government is seeking feedback about proposed changes to several statutory requirements, with implications for existing and new facilities.

Changes are proposed in the:

- Environmental Planning and Assessment (Fire Sprinkler Systems) Regulation 2012
- State Environmental Planning Policy (SEPP) Amendment (Fire Sprinkler Systems) 2012
- Fire Sprinkler Standard.

Existing facilities may be affected by the proposed amendments including:

- installation responsibilities
- installation standards
- retrofit timeframes
- requirements for compliance, inspection and enforcement.
- a fast-track approval system for retrofits as 10-day code-based approvals.

All affected facilities (including new or existing) will be required to be provided with a fire sprinkler system that complies with the Fire Sprinkler Standard.

For more details about these changes, see Appendix A: Proposed changes to statutory requirements.

WHICH FACILITIES WILL THE REQUIREMENT APPLY TO?

The following types of new or existing facilities will be required to have sprinkler systems:

- existing ‘residential care facilities’ subject to the Commonwealth Aged Care Act 1997
- new ‘residential care facilities for seniors’ under State Environmental Planning Policy (Seniors and People with a Disability) 2004.

For more details about facilities to be affected by this change, see Appendix B: Subject facilities.

WHAT ARE THE PROPOSED IMPLEMENTATION TIMEFRAMES AND PROCESSES FOR EXISTING BUILDINGS?

Approved providers will have a choice of retrofitting sprinkler systems within 18 months or three years.

Providers who choose to retrofit within three years will be subject to strict reporting requirements.

Any person who starts operating an existing facility after the commencement of the regulation (through purchasing a facility) must retrofit before the nominated completion date that applies to the facility or within six months, whichever is the sooner (clause 186J(2)).

For more details, see the diagram at Appendix C: timeframes and processes.

WHO WILL MONITOR THE RETROFIT PROGRAM?

A fire sprinkler implementation committee will be established under the proposed regulation to monitor compliance with the retrofit program and determine applications for time extensions in exceptional situations.
circumstances. The committee will report to government annually.

The Fire Sprinkler Implementation Committee will include representatives from the fire protection industry, the aged care industry, Fire and Rescue NSW and the Department of Planning and Infrastructure.

WHAT OTHER REQUIREMENTS ARE PROPOSED?

Reporting requirements

Approved providers in the 18 month and three-year categories must advise the committee of the facility’s expected completion date for the fire sprinkler retrofit.

Approved providers in the three-year category must provide the committee with:

- a fire sprinkler implementation plan
- a progress report biannually.

Public disclosure

Implementation plans and progress reports will be submitted online and published on the Department of Planning and Infrastructure’s website.

Facilities without fire sprinkler systems will be required to display notices at the main entrance to the facility and on their website.

Compliance

Local councils already have authority to enter and inspect buildings and, if necessary, undertake enforcement action to ensure acceptable levels of fire safety. This may include inspecting the property to check the compliance status and, if necessary, requiring a fire sprinkler system be installed.

Fire and Rescue NSW also has the authority to enter and inspect buildings to check for fire safety adequacy.

Penalties

The proposed regulation creates new offences and penalties for approved providers who do not comply with the regulation requirements.

Local councils will have power to impose penalties for late applications, failure to submit plans, reports and occupation certificates and where the required notices are not displayed.

WILL APPROVAL BE REQUIRED TO RETROFIT A SPRINKLER SYSTEM?

Under the proposed SEPP, fire sprinkler system retrofits will require approval before being undertaken.

Applications that comply with development standards will be assessed by a private certifier or council and approved within 10 days.

Applications that do not comply with development standards will be subject to determination by the local council and need a development consent issued by the local council, and a construction certificate issued by the local council or a private certifier.

After the works are completed, the principal certifying authority will issue a final occupation certificate. A copy of the certificate is to be submitted to the Fire Sprinkler Implementation Committee prior to the nomination date for installation.

A diagram of the proposed approval process is at Appendix D.

WHY IS A NSW FIRE SPRINKLER STANDARD NEEDED?

Currently, only some buildings and works need a fire sprinkler system under the Building Code of Australia (BCA).

The BCA does not generally apply to fire sprinkler system retrofits in existing residential aged care facilities and does not insist on a fire sprinkler system in a new facility (unless it is in a building exceeding 25m in effective height or is a Class 9c building).

The draft Fire Sprinkler Standard will supplement the proposed regulation and SEPP by applying minimum standards for fire sprinkler system in new and existing residential aged care facilities not currently covered by the BCA.

IS THERE SOME FLEXIBILITY IN MEETING THE STANDARDS?

Yes. While fire sprinkler systems will be mandatory in residential aged care facilities, the draft Fire Sprinkler Standard (like the BCA) is performance-based. It includes a technical performance requirement and a suite of technical provisions that are ‘deemed to satisfy’ the performance requirement.

An applicant can propose an alternative to deemed-to-satisfy provisions of the standard. Alternatives will
undergo additional checks to ensure they are compliant.

WHICH AREAS OF A RESIDENTIAL AGED CARE FACILITY WILL NEED TO BE PROTECTED BY A FIRE SPRINKLER SYSTEM?

The deemed-to-satisfy provisions of the draft standard require the entire residential aged care facility to be protected by sprinklers.

Non-habitable buildings detached from the principal buildings (e.g. a building for a hydrotherapy pool) would be excepted from the provisions and not required to have a sprinkler system.

If a residential aged care facility occupies part of a building, the technical standard will require a sprinkler system protecting the residential aged care facility section of the building or the entire building.

If the sprinkler system protects only the residential aged care facility section of the building, it will need to be 'fire-separated' from the remainder of the building.

HOW WILL FIRE SAFETY SCHEDULES APPLY TO RETROFITTED SPRINKLER SYSTEMS?

A retrofitted sprinkler system will be identified as an ‘essential fire safety measure’ in the fire safety schedule that must be issued by the certifying authority. The fire safety schedule will also specify the standard of performance for the sprinkler system.

‘Essential fire safety measures’ must be kept in working order. That is, they must always be capable of performing to the standard described in the schedule. This must be verified to the relevant council and Fire & Rescue NSW at least annually in a fire safety statement.

The proposed regulation amendments simplify the fire safety schedule process for retrofits. A residential aged care facility with an existing fire safety schedule will be issued with a schedule for the new fire sprinkler system only that will be attached to and taken to form part of the existing schedule. Facilities without a fire safety schedule will be issued with a schedule that only needs to address the new fire sprinkler system.

HOW DOES THIS RELATE TO OTHER FIRE SAFETY REQUIREMENTS FOR RESIDENTIAL AGED CARE FACILITIES?

Several other fire safety requirements apply to residential aged care facilities such as smoke alarms (which are mandatory in NSW) and fire safety declarations required by the federal government through its own certification process.

The proposed requirement for sprinkler systems under NSW legislation would supplement these other requirements for fire safety.

The proposed NSW requirements would set minimum standards for sprinkler systems. Aged care providers are encouraged to take this opportunity to review their fire protection systems as part of the installation of sprinklers, including occupant warning systems, staff training and evacuation procedures.

FURTHER INFORMATION

Department of Planning & Infrastructure website: www.planning.nsw.gov.au

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APPENDIX A: PROPOSED CHANGES TO STATUTORY REQUIREMENTS

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<thead>
<tr>
<th>Document</th>
<th>Environmental Planning and Assessment (Fire Sprinkler Systems) Regulation 2012</th>
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<tbody>
<tr>
<td>Proposals</td>
<td>For existing facilities</td>
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<tr>
<td></td>
<td>• Identifies the existing facilities covered by the requirements.</td>
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<td>• Identifies who has the legal obligation to install fire sprinkler systems.</td>
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<td>• Requires compliance with the Fire Sprinkler Standard (published on the Department of Planning &amp; Infrastructure’s website).</td>
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<td>• Imposes timeframes for sprinkler retrofits and allows extensions of time in exceptional circumstances.</td>
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<td>• Creates an implementation process for retrofits including an Implementation Committee, implementation plans, progress reports and public notice requirements.</td>
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<td>• Provides a simplified process for the preparation and issue of fire safety schedules and certificates for retrofits.</td>
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<td>• Creates offences and penalties for non-compliance.</td>
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<td>• Empowers councils to enforce requirements where aged care providers do not meet them (by giving orders and issuing penalty notices).</td>
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<td>• Empowers Fire &amp; Rescue NSW to inspect buildings for compliance with the regulation requirements.</td>
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<td>• Specifies the information that must accompany applications for approval of sprinkler system retrofits.</td>
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For new and existing facilities* |

• Requires Crown building work for residential aged care facilities to comply with the Fire Sprinkler Standard.

• Requires compliance with the Fire Sprinkler Standard before a complying development certificate or construction certificate can be issued.

* Does not apply to new buildings already required to have sprinklers under the Building Code of Australia.

<table>
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<tr>
<th>Document</th>
<th>State Environmental Planning Policy Amendment (Fire Sprinkler Systems) 2012</th>
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<tr>
<td>Proposals</td>
<td>For existing facilities</td>
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<td>• Creates a fast track approval process for sprinkler system retrofits by making retrofits complying development (with 10-day approval) where the specified development standards are met.</td>
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If these standards are not met, a full planning approval will be needed.
Document: State Environmental Planning Policy Amendment (Fire Sprinkler Systems) 2012
Amends State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Proposals:
For all facilities
- Requires development consent for the installation of a fire sprinkler system in a “residential care facility” for “seniors” (through a complying development certificate or development consent).

For new facilities
- Any new facility must have a sprinkler system that complies with the Fire Sprinkler Standard (does not apply to new buildings already required to have sprinklers under the Building Code of Australia).

(These provisions apply whether or not approval for the facility itself is granted under the SEPP)

Document: Fire Sprinkler Standard

Proposals:
For all facilities
- Sets the technical standards for sprinkler systems installed under the regulation or State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- Sets out the requirements for certification of alternatives to the deemed-to-satisfy provisions of the standard.
APPENDIX B: SUBJECT FACILITIES

Existing facilities

Defined as a facility where “residential care” was provided on the commencement of the regulation. “Residential care” has the same meaning as under the Commonwealth Aged Care Act 1997. The requirements will place obligations on an “approved provider” of “residential care”, which means that the provider must also be approved under the Commonwealth Aged Care Act 1997.

Some exceptions to the requirement to install a sprinkler system are outlined in the proposed regulation and Fire Sprinkler Standard (for example, in the Fire Sprinkler Standard, certain buildings may have partial sprinkler coverage and detached non-habitable buildings do not need to be sprinkler protected).

New facilities

The requirements will apply to a “residential care facility” for “seniors”, as defined under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

A “residential care facility” is defined to mean “residential accommodation for seniors or people with a disability that includes:

(a) meals and cleaning services, and
(b) personal care or nursing care, or both, and
(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hostels, hospitals or psychiatric facilities”.

“Seniors” are defined to mean “any of the following:

(a) people aged 55 or more years,
(b) people who are resident at a facility at which residential care (within the meaning of the Commonwealth Aged Care Act 1997) is provided,
(c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider”.

A facility that meets the above definitions may be a residential care facility, regardless of how the facility may describe itself.
APPENDIX C: TIMEFRAMES AND PROCESSES

1 JAN 2013
REGULATION AND SEPP
COMMENCE

18 MONTH CATEGORY

15 FEB 2013
Deadline for providers to notify Committee of nominated completion date *

31 JAN 2014
Deadline for extension of time application

1 AUG 2014
Last date for sprinkler installation completion and submission of occupation certificates to Committee

Maximum six month extension in exceptional circumstances

3 YEAR CATEGORY

15 FEB 2013
Deadline for providers to notify Committee of nominated completion date *

1 AUG 2013
Deadline to submit Implementation Plan to Committee

1 AUG 2014
Progress report due to Committee

1 AUG 2015
Progress report due to Committee

31 JAN 2015
Deadline for extension of time application

1 FEB 2016
Last date for sprinkler installations completion and submission of occupation certificate to Committee

Maximum 12 month extension in exceptional circumstances

‘BEGIN OPERATING’ CATEGORY (Clause 186J(2))

Deadline for sprinkler installation and occupation certificate submitted to Committee

Maximum 12 month extension in exceptional circumstances

15 FEB 2013
Deadline for providers to notify Committee of nominated completion date *

1 AUG 2013
Deadline to submit Implementation Plan to Committee

1 AUG 2014
Progress report due to Committee

1 AUG 2015
Progress report due to Committee

31 JAN 2015
Deadline for extension of time application

1 FEB 2016
Last date for sprinkler installations completion and submission of occupation certificate to Committee

Maximum 12 month extension in exceptional circumstances
APPENDIX D: DIAGRAM OF THE PROPOSED APPROVAL PROCESS

COMPLYING DEVELOPMENT STANDARDS

GENERAL STANDARDS: include level of fire safety, compliance with previous approvals and excavation parameters.

SPECIFIC STANDARDS: detailed requirements for fire water storage tanks, mains and pipes, pump houses, booster connections and pumpsets.

The complying development provisions also provide standard conditions of approval.

COMPLY WITH DEVELOPMENT STANDARDS?

YES

THE APPLICATION IS ASSESSED BY A PRIVATE CERTIFIER OR COUNCIL and a complying development certificate is issued within 10 days. Following completion of the works the principal certifying authority will issue a final occupation certificate.

NO

FULL PLANNING APPROVAL IS NEEDED (a development consent from the local council and a construction certificate from the council or an accredited private certifier). Following completion of the works, the principal certifying authority will issue a final occupation certificate.

FIRE SPRINKLER IMPLEMENTATION COMMITTEE

A copy of the final occupation certificate is submitted to the Implementation Committee.