



Information for councils, certifiers and industry on the new fire sprinkler requirements

New laws that came into effect on 1 January 2013 require fire sprinkler systems to be installed in certain residential aged care facilities in NSW.

The laws will improve fire safety for residents of these facilities. The NSW Government's decision to make fire sprinkler systems mandatory follows the tragic loss of life in the November 2011 Quakers Hill nursing home fire.

The new laws allow affected aged care service providers up to three years from 1 March 2013 to install fire sprinkler systems in existing facilities with scope for limited extensions of time.

The NSW Government is establishing a committee (the Implementation Committee) to oversee the sprinkler installation program.

A streamlined approval process applies to facilitate timely approval of fire sprinkler system installations.

The new laws also require fire sprinkler systems to be installed in new residential aged care facilities in NSW.

All existing and new residential aged care facilities to which the requirements apply must be protected by a fire sprinkler system. The requirements do not apply to retirement villages, group homes, or to multi-purpose facilities or transition care under the Commonwealth Aged Care Act 1997.

Councils, certifiers and industry have a key role to play in ensuring a successful retrofit program for existing facilities. They must also be aware of the requirements that now apply to new residential aged care facilities in NSW.

THE REQUIREMENTS

A package of requirements has been developed in consultation with industry and government.

The new laws include the:

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

These laws adopt the department's 'Fire Sprinkler Standard' which sets out technical requirements.

The *Environmental Planning and Assessment Amendment (Fire Sprinkler Systems) Regulation 2012* amends the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) to:

- require fire sprinkler systems to be installed in certain existing residential aged care facilities - in accordance with the Fire Sprinkler Standard.
- set out an implementation schedule outlining the dates by which installation and certain interim steps must be completed.
- provide for the establishment of an implementation committee to oversee the retrofit program.
- require certifying authorities to not issue a complying development certificate (CDC) or a construction certificate (CC) for building work involving the installation of a fire sprinkler system in a (new or existing) residential care facility for seniors unless satisfied that the system will comply with the Fire Sprinkler Standard.



- simplify the processes and procedures relating to the preparation and issue of fire safety schedules and certificates associated with a CDC or CC for a fire sprinkler system retrofit.
- make the Fire Sprinkler Standard part of the technical provisions of the state's building laws for the purposes of Crown building work.
- enable an authorised fire officer of Fire and Rescue NSW to inspect a building to determine whether a required fire sprinkler system has been installed.
- create new penalty notice offences for various contraventions of the new requirements.

State Environmental Planning Policy Amendment (Fire Sprinkler Systems) 2012 amends three state environmental planning policies:

- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, to ensure a consent authority does not approve development for the purposes of a residential care facility for seniors unless the proposed development includes a fire sprinkler system. These provisions apply whether or not approval for the facility itself is granted under the Seniors SEPP.
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP), enabling fire sprinkler system installations in existing buildings to be approved as complying development provided the relevant requirements are met.
- *State Environmental Planning Policy (Infrastructure) 2007*, requiring exempt development comprising a fire sprinkler installation in a residential care facility for seniors by or for a public authority to comply with the Fire Sprinkler Standard.

The Fire Sprinkler Standard is a new NSW technical standard which sets out requirements for the design, installation and certification of the required fire sprinkler systems. The Fire Sprinkler Standard contains requirements for fire sprinkler systems to be installed in existing facilities. It also contains requirements for fire sprinkler systems to be installed in new buildings and new parts of buildings currently not covered by the Building Code of Australia (BCA). The provisions of the Fire Sprinkler Standard supplement and complement the provisions of the BCA.

Copies of the regulatory instruments can be accessed and downloaded from this department's website at www.planning.nsw.gov.au

APPLICATION OF THE REQUIREMENTS

Existing buildings

Approved operators of 'residential care facilities' subject to the Commonwealth *Aged Care Act 1997* are obligated to install a fire sprinkler system if a fully functional fire sprinkler system is not already installed in their facilities as at 1 January 2013, or a fire sprinkler system has not been required to be installed under the Environmental Planning and Assessment Act 1979 (EP&A Act) or any other Act or law (including an order or condition of development consent), where the requirement arose before 1 January 2013.

According to the *Fire Sprinkler Standard*, a fire sprinkler system must be installed in any building that forms part of such a facility, if the building contains a 'resident area' (which is defined in the Fire Sprinkler Standard). This includes Class 3 and 9a buildings. Retrofit action may involve installation of a new fire sprinkler system or the extension of an existing system if the building is only partially sprinkler protected.



New buildings and new parts of buildings

The BCA sets standards for the design and construction of new buildings and building work. Currently, in so far as the BCA applies to residential accommodation for the aged, the BCA 'deemed-to-satisfy provisions' only require fire sprinkler systems in Class 9c buildings and buildings taller than 25m in effective height.

From 1 January 2013 in NSW, a fire sprinkler system must also be provided in any new Class 3 or 9a building, or new part of such a building, that will contain a 'resident area', where that building or part is in a 'residential care facility' for 'seniors'. The terms 'residential care facility' and 'seniors' are defined under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

A fire sprinkler system required by the BCA must comply with the BCA. A fire sprinkler system otherwise required must comply with the Fire Sprinkler Standard.

SCOPE OF THE REQUIREMENTS

The new requirements deal only with the installation of fire sprinkler systems. They do not deal with fire safety generally.

While the requirements apply to existing facilities, it is recognised that these are Commonwealth-funded facilities which are also subject to fire safety checks as part of their accreditation process.

APPROVAL REQUIREMENTS

Planning approval required

Approval is required to install or extend a fire sprinkler system in an existing building. It must be obtained before any works commence.

The planning approval process provides an independent third party check of the proposed works for compliance with the applicable standards and other requirements.

Streamlined approval path available

Fire sprinkler system installation is now included in a streamlined approval path. Such works can be approved as complying development within 10 days. However, if the development does not meet all eligibility criteria for a CDC, a full planning approval is required (that is, a development consent and a CC).

The requirements for the preparation and issue of related fire safety schedules and certificates have been simplified to help streamline the process. These provisions apply to both CDC and CC applications, but are limited to applications that relate solely to the installation of a fire sprinkler system required to be installed under the new laws. If an application is proposing other works (such as the refurbishment of an existing building) in conjunction with the fire sprinkler system installation, then the simplified provisions do not apply.

Application information and submission requirements

The new clause 186R of the EP&A Regulation specifies what information must be provided with an application for a CDC or CC for a fire sprinkler system in applicable facilities.

The required information does not include full hydraulic calculations that demonstrate sprinkler system compliance, since at application stage they may not be available.

However, a certain level of detail in the plans and specifications is required to be submitted to the certifying authority to facilitate a sufficient level of compliance checking. This includes showing the layout



of the proposed system, the location of key system components, and flow and pressure details for the water supply source. It also includes details of any associated building works required – for example, pumphouses or fire pumpset enclosures, new or existing fire separating construction between sprinkler protected and non-sprinkler protected areas if applicable, and the location of existing fire and smoke-resisting building elements that will be penetrated.

Complying development applications for fire sprinkler systems will also need to demonstrate compliance with applicable development standards.

Post approval

As with all other building work that requires prior approval, the current requirements apply. This includes appointment of a principal certifying authority to oversee the works for compliance, and issue of a final occupation certificate upon satisfactory completion.

Affected providers must submit a copy of the final occupation certificate to the Implementation Committee to show that a required fire sprinkler system has been installed.

FIRE SPRINKLER STANDARDS

Fire sprinkler system retrofits

Technical standards

The retrofitting of a fire sprinkler system in an existing building is likely to involve not only the installation of the fire sprinkler system itself, but also other related building work.

The fire sprinkler system will comprise various components such as pipework, valves, boosters, pumpsets, water tanks, local alarms, monitoring and signaling devices.

The related building work may include the construction of fire and smoke barriers to separate sprinkler protected and non-sprinkler protected parts, enclosures for fire pumpsets, supporting structure to water supply tanks, bulkheads to conceal pipework, remedial works to penetrations to existing fire or smoke barriers.

The fire sprinkler system installation must comply with the Fire Sprinkler Standard (which references the BCA in part for various system aspects). Although the standard includes some related building work provisions (eg. for fire and smoke barriers), it does not contain all requirements for related building work.

Related building work will need to comply with the EP&A Regulation and as relevant, the BCA.

The Fire Sprinkler Standard, like the BCA, is performance-based, so 'alternative solutions' to its deemed-to-satisfy provisions can be proposed. However, the types of 'alternative solutions' that can be proposed are limited. The Performance Requirement in the Fire Sprinkler Standard is more prescriptive than those under the BCA. The standard also requires a certificate or a report from an accredited fire engineer for all alternative solutions at application and completion stages.

Development standards (CDCs)

To be eligible for a CDC the works proposed must satisfy the provisions of the Codes SEPP including its general requirements and specific requirements. The specific requirements are expressed in Part 4A, Division 1, Subdivision 2: 'Fire sprinkler systems in residential care facilities for seniors'. Please note that work is underway to relocate these specific provisions under a new Fire Safety Code for the Codes SEPP.

The standards for complying development include that the development must not:

- reduce the level of fire safety or structural integrity provided by an existing building.



- alter or extend an existing fire sprinkler system if the level of fire hazard arising from the current use exceeds the level of fire hazard for which the fire sprinkler system was designed and installed.
- result in a change of BCA classification to the building (for example, from Class 3 to 9c).

There are also specific development standards for water storage tanks, fixed on-site pumpsets, external pump houses and enclosures, fire mains, pipes and booster connections.

If any development standard is not met then a full planning approval (comprising a development consent and a CC) is required.

Complying development certificate conditions must also be met when the development is underway. For example, any connection of a fire sprinkler system to existing fire alarm signaling equipment must not result in any loss of monitoring service continuity, unless fire watch measures are implemented for the full duration of the connection period.

Other requirements

The EP&A Regulation specifies other requirements that must be satisfied if the development is to be approved as complying development.

Clause 130(2E) seeks to assure that what is proposed is consistent with any existing fire safety Alternative Solution.

Clause 132 imposes a 'no reduction test' for fire and structural safety.

Fire sprinkler systems in new buildings

A required fire sprinkler system in a new building must comply with the BCA if it is required by the BCA (eg in a Class 9c building, or a building taller than 25m in effective height). For other proposed residential aged care accommodation for seniors (eg Class 3 and 9a buildings up to 25m in effective height) the required fire sprinkler system must comply with the Fire Sprinkler Standard.

FIRE SAFETY SCHEDULES AND CERTIFICATES

Under the EP&A Regulation a fire safety schedule usually must be issued with every CDC or CC for building work. This schedule must, among other things, list all essential fire safety measures applicable to the entire affected building and their standards of performance.

When the works the subject of the CDC or CC are complete, and before an occupation certificate can be issued, a fire safety certificate must be submitted to the principal certifying authority verifying that the listed measures have been assessed by an appropriately qualified person and found to be capable of performing to the standard expressed in the schedule (subject to specified exceptions).

This process has been simplified for fire sprinkler system retrofits, so the certifying authority need only prepare and issue a 'fire sprinkler system installation schedule' (as specified under the new clause 168B) with the CDC or CC. This schedule is limited to addressing the fire sprinkler system only. A copy of this schedule must be attached to the current fire safety schedule if one applies to the building.

The fire safety certificate that must be submitted to the principal certifying authority upon completion of the retrofit need also only deal with the fire sprinkler system.

Fire sprinkler systems included in a 'fire sprinkler system installation schedule' become an 'essential fire safety measure' pursuant to Part 9 of the EP&A Regulation, and are subject to the requirements of that Part relating to ongoing maintenance and certification of 'essential fire safety measures'.



IMPLEMENTATION TIMEFRAMES AND MONITORING

Affected service providers have a choice of retrofitting fire sprinkler systems within 18 months (completion by 1 September 2014) or three years (completion by 1 March 2016).

Providers who choose to retrofit within three years rather than 18 months, are subject to strict regular reporting requirements on the progress of their retrofits.

Any person who starts operating a facility after 1 January 2013 (eg. through purchasing a facility) must retrofit before the nominated completion date for the facility, or within 12 months, whichever is the sooner.

Extensions of time up to six months may be given in exceptional circumstances for those who elect to complete their installations in 18 months, and up to 12 months for those who elect to complete their installations within three years.

The EP&A Regulation establishes the Fire Sprinkler System Implementation Committee to monitor the overall progress of the retrofit program and report to the government annually. The committee also determines applications for extensions of time. The Implementation Committee will include representatives from the department, Fire and Rescue NSW, the aged care industry, the fire protection industry and a community organisation representative.

An application for an extension of time can only be lodged once with the Implementation Committee, and must be lodged before the deadline specified in the EP&A Regulation.

NOTICES AND SIGNAGE

By 30 April 2013 providers that must take action to install or extend a fire sprinkler system are obliged to display a notice in a prominent position at the principal entrance to the facility until the fire sprinkler system is installed and operating. The notice must also be displayed on the website (if any) of the person, or of any related body corporate of the person (within the meaning of the *Corporations Act 2001* of the Commonwealth), that relates to the facility.

The Director General of the Department of Planning and Infrastructure specifies the form of the notice. The department has issued requirements on the form separately.

ENFORCEMENT

New penalty notice offences have been created under the EP&A Regulation for certain breaches of the fire sprinkler system laws.

Penalty infringement notices (PINs) may now be issued under the regulation for failure of an approved provider of an affected facility to:

- nominate a fire sprinkler system installation completion date category before 1 March 2013 (clause 186K(1)).
- provide an implementation plan to the Implementation Committee by 1 September 2013, and a progress report by 1 March 2014 (clause 186O(1)) if they have opted for the three year installation category.
- provide the Implementation Committee with a final occupation certificate to show that the fire sprinkler system has been installed (clause 186N) before the required completion date.
- display the required signage until the fire sprinkler system is installed (clause 186P).



Alternative enforcement action may be required for other breaches as provided for under existing provisions of the EP&A Act.

NEXT STEPS

Additional advisory information on specific aspects of the new provisions is being prepared and will be issued by the department.

The department is also creating standard forms and other documentation for reporting required by aged care providers to the Implementation Committee.

FURTHER INFORMATION

For further information in relation to this advisory note please call the department's fire sprinkler enquiry line (02) 8575 4068.

Important note: This document does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this document.

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