

Fire Safety In Aged Care Facilities

**Fire Sprinkler
Systems
Implementation
Committee
Annual Report**

April 2016

Prepared by the Fire Sprinkler Systems
Implementation Committee

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Letter to Secretary

Ms Carolyn McNally
Secretary
Department of Planning & Environment
23-33 Bridge Street
Sydney NSW 2000

Dear Ms McNally

I have pleasure in submitting to you the third Annual Report of the Fire Sprinkler Systems Implementation Committee.

The Report addresses the Committee's operations from March 2015 until early April February 2016, acknowledges the work of the Department on the program and reports on progress with fire sprinkler system installations in existing residential aged care facilities across the State.

Excellent progress was made in 2016 with fire sprinkler retrofits. The program peaked during 2016 with the majority of residential aged care facilities meeting their 1 March 2016 retrofit completion date. The Committee met on 18 occasions during the reporting period, and a sub-committee met on four occasions to fast track postponement application processing. The sub-committee also supported the Department at provider information sessions.

The Report is submitted to you in accordance with Environmental Planning and Assessment Regulation 2000 for you to provide to the Minister for Planning and Minister for Ageing and for publication on the Department of Planning and Environment's website.

Yours sincerely



Ivan Donaldson
Chairperson
Fire Sprinkler Systems Implementation Committee

30 April 2016

Executive summary

This report covers the operations of the Fire Sprinkler Systems Implementation Committee ('the Committee') for the period of March 2015 to April 2016.

On 1 January 2013, laws took effect requiring automatic fire sprinklers to be installed in all residential aged care facilities in NSW. Aged care providers were given up to 1 March 2016 to meet these requirements, or to 1 March 2017 if a postponement was granted.

The Government's policy responds to the life safety risk due to the difficulty residents may have in evacuating these buildings in an emergency. This risk was highlighted by the tragic events at the Quakers Hill nursing home fire in November 2011 and the 2014 Coronial Inquest into the incident.

The Committee is a key element of this policy. It monitors progress with the Government's installation deadlines, determines any applications from residential aged care providers for the postponement of their completion dates for installation, and provides advice and feedback to the Department of Planning and Environment on the program. During the year, the Committee met 18 times, considered 39 postponement applications and worked closely with the Department to advance the program.

Progress

As the program reaches its final stage the Committee is pleased to report excellent progress, with over 93% of aged care facilities in NSW now sprinkler protected. It is anticipated that remaining facilities will meet the Government's plan to have sprinklers installed in all aged care homes by 2016-2017.

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When the program began in early 2013, industry reported that only about 404 of the 885 facilities in NSW had sprinklers. Now, as a direct result of the Government's program, 804 facilities have sprinklers installed. Moreover, over 98 percent of those aged care homes required to install sprinklers under the program have either completed or started work.

As at 1 April 2016, of the 481 facilities required to retrofit sprinklers:

- 400 have completed
- 34 had their deadline postponed to between July 2016 and 1 March 2017 subject to fire safety conditions
- 20 are in the process of completing their installations or completing replacement buildings
- 27 have closed

The majority of facilities that closed have been replaced by a new facility building with sprinklers on the same site or nearby locations. The Committee received no criticism about the program's impact on closures through the program.

A summary of sprinkler retrofits 2013 – 2016

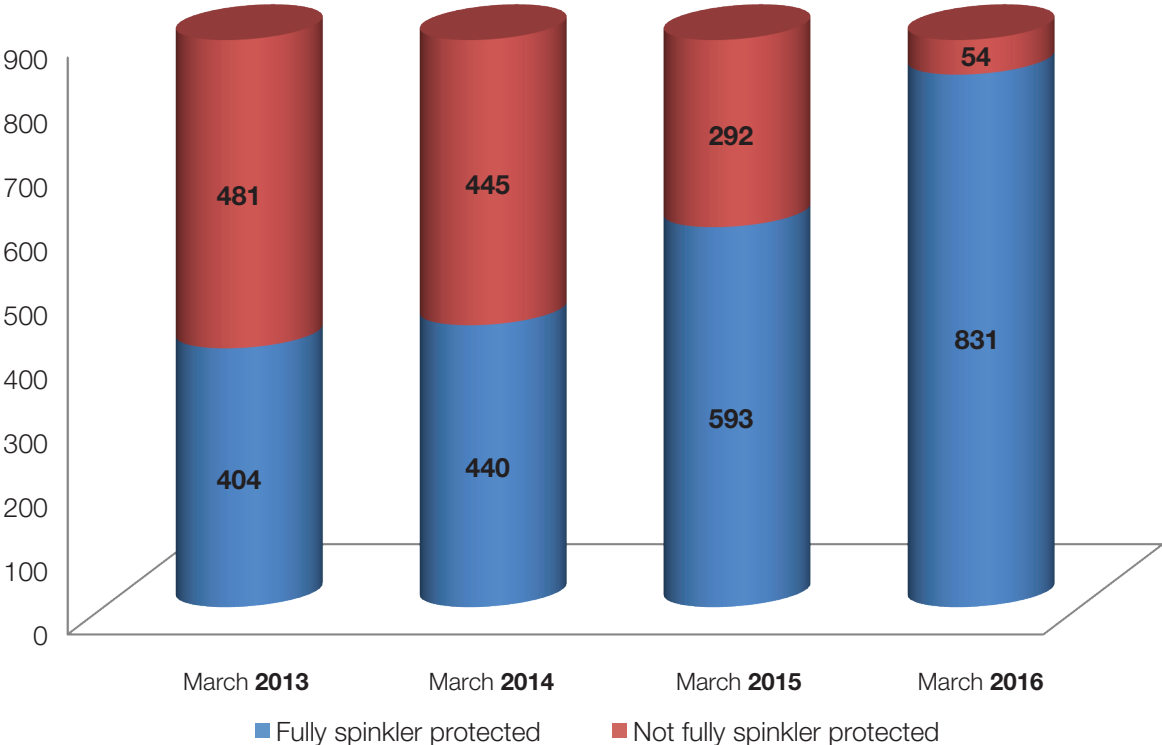
In March 2013 there were 885 Commonwealth accredited residential aged care facilities in NSW. At that time, 404 (45%) of these facilities were reported by aged care providers as being fully sprinkler-protected and 481 (55%) were not.

In March 2013, aged care providers could nominate to retrofit sprinklers by 1 September 2014 (18-month group) or by 1 March 2016 (three-year group). There are no exemptions to the requirement to retrofit and limited extensions of time are available.

The staging of the program into two tranches was designed to minimise adverse impacts on service provision by providing lead-in time for aged care providers to plan the work, raise funds and minimise disruption for residents and families.

Retrofit completions over the past 3 years are shown in **Figure 1** below. In the first year of the program 36 (7.6%) facilities completed the program. In the second year 153 (32%) of facilities completed and 238 (49.5%) in the third year. As at 1 April 2016, there were 54 (11%) facilities still to complete a retrofit including 34 facilities that have been granted an extension of time to complete the installation and 20 facilities in the final stage of installation or waiting on completion of a new facility building.

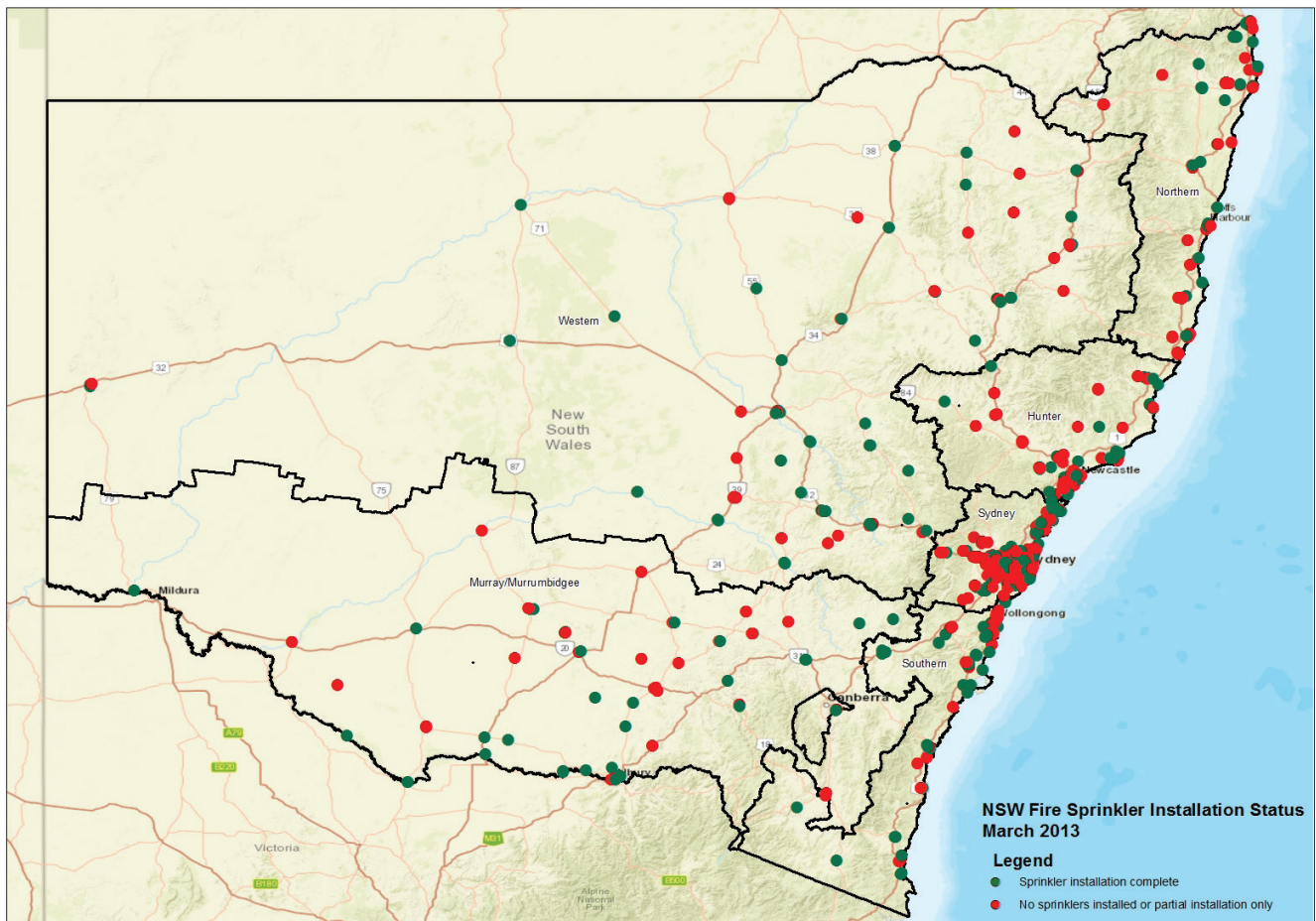
Figure 1 shows the progress of the retrofit program since March 2013.



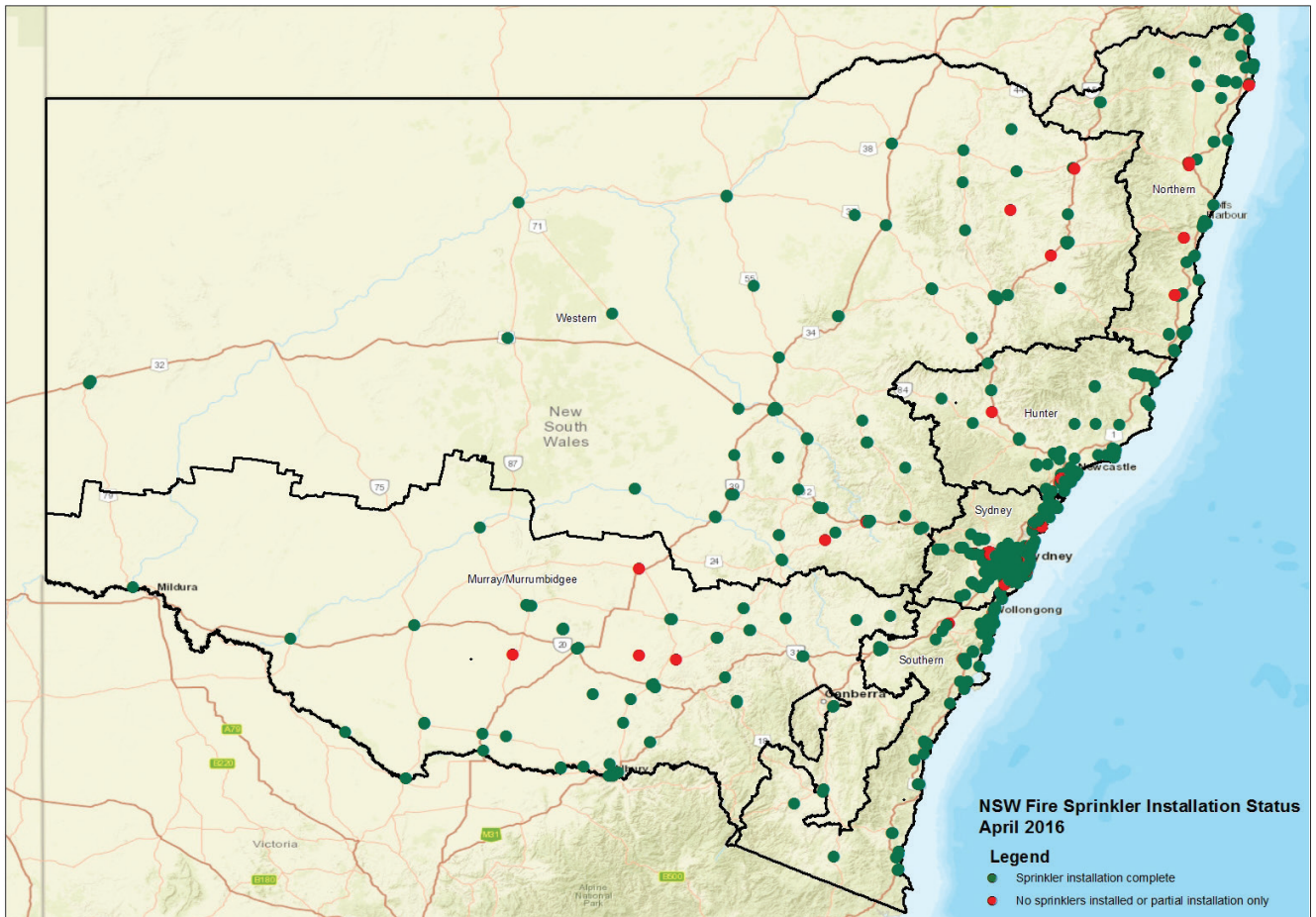
Note: Facilities that have closed since March 2013 have been included as fully sprinkler protected. The information in this report uses installation progress information submitted by aged care providers.

Snapshot of the program

Map 1a shows the location of all 885 facilities including the location of those with and without fire sprinklers as at **March 2013**.



Map 1b shows the location of all 885 facilities including the location of those with and without fire sprinklers as at **1 April 2016**.



Postponement determinations

The Committee sets the requirements for postponing the deadline for installation and determines postponement applications.

During the reporting year, the Committee considered 39 applications for an extension of the 1 March 2016 completion date and, subject to conditions, approved 38 applications. One application that was refused due to fire safety concerns has since completed the sprinkler retrofit within the required time.

In some cases, the Committee found that exceptional circumstances had arisen which prevented the original deadline being achieved including delays with new facility buildings under construction; discovery of hazardous materials; contractor availability; funding difficulties; major refurbishment works in conjunction with the retrofit. In other cases, the Committee found that there would have been a significant financial burden on the applicants which may have adversely affected residential care should the applications have been refused.

The Committee's mix of fire safety expertise and aged care industry and consumer representation meant it brought a balanced approach to determining these applications.

A key requirement for an application to be considered was the preparation of a fire safety report by an A1 category certifier accredited by the Building Professionals Board to assess the adequacy of existing fire safety measures and the need for any other action in the temporary absence of sprinklers.

The Committee formed a sub-committee to consider the fire safety reports lodged with postponement applications. The full Committee continued to determine postponement applications against the overall postponement criteria, including input from the fire safety reports.

Postponements granted by the Committee ranged from 3 months to a maximum of 12 months. The Committee placed conditions on all approvals for an extension of time including a suite of interim fire safety measures. Other conditions included regular reporting to the Committee, certification of interim fire safety measures and access to the facility by Fire and Rescue NSW and the local Council for the purposes of unannounced inspections.

The Committee acknowledges the assistance of a Sydney based company, BM+G, and Fire and Rescue NSW, who prepared fire safety reports for a number of regional / remote facilities with funding difficulties, on a pro bono basis, saving significant costs associated with obtaining a report.

Four (4) of the 38 facilities granted an extension have completed their installations ahead of time. The remainder are on track to meet their deadlines. Details of the 39 applications determined in the reporting year and the postponement criteria are set out in **Appendices C and B**.

Key work areas

The main issues focused on were the need to determine postponement applications in a timely manner, the formulation of a risk management strategy as well as the ongoing monitoring of the program.

An issue for the Committee was the delay in determining postponement applications as a result of the many A1 certifier fire safety reports not meeting the requirements for these reports. These reports were a key tool for the Committee's decision making process as they provided an independent assessment of the facility's current fire safety measures and recommendations for interim fire safety works to mitigate the potential risk to life prior to the installation of a fire sprinkler system. To assist providers that had lodged postponement applications the Department, together with members of the Committee, held two meetings in May 2015 with aged care providers and developed a checklist of minimum requirements for fire safety reports. Extra staffing was provided to the Department by Fire and Rescue NSW to assist in assessing the applications.

The Committee determined 39 postponement applications over eight meetings from June 2015 to October 2015

While the legislation required postponement applications to be lodged with by 1 March 2015, a number of incomplete applications were received. The last fire safety report was received in early October 2015. The Committee determined 39 applications over eight meetings from June 2015 to October 2015.

The Committee continued to identify program risks and mitigation measures. Throughout the year the Committee identified 3 main program risks: risk of non-compliance with timeframes; unacceptable loss of beds related to facilities with funding issues; specific buildings with higher potential fire safety risks.

The Committee increased monitoring of facilities at risk of not meeting timeframes, identifying solutions such as writing to councils for assistance with planning approvals and requiring regular updates from providers. It is regularly updating the Commonwealth Department of Health (DOH) on progress and issues as DOH accredits aged care premises and can apply its sanction powers, if necessary.

The Committee identified a cohort of providers in regional / remote locations that said they may not be able to meet the requirements due to inability to raise the funds for the sprinkler installation. The Committee approved postponements to 1 March 2017 for these facilities based on financial hardship subject to interim fire safety measures. The Department and Committee facilitated pro-bono inspections of these properties and fire safety reports required for the postponement application. Four of the five facilities have now received funding through the Commonwealth Aged Care Approvals Round (ACAR). At the time of writing this report only one facility remains to secure funding for the sprinkler installation. Alternative funding activities are underway.

The Committee continued to monitor the risk of buildings with potential fire safety risks due to defective installations or non compliant facilities. For identified facilities the Committee requested that Fire and Rescue NSW inspect the premises and refer the matter to the local Council to ensure rectification and compliance. Furthermore the Committee has had discussions with representatives of the Commonwealth Department of Health regarding the length of time for compliance and in some cases the Committee's ongoing obligation to monitor the progress of fire sprinkler installations.

The Committee supported the Department's management of cases that proceeded to install sprinklers without approval (unauthorised installations). In these instances the Department seeks independent building certification of the installation and addition of the sprinkler system to the fire safety maintenance requirements for the building.

The Committee received regular detailed reports from the Department on a range of matters including Implementation Plan progress, installation status, late 18-month group installations, unauthorised installations, postponement progress reports and data tracking overviews. This reporting has been a timely, invaluable resource to facilitate the Committee's monitoring role. The Committee acknowledges the valuable support the program received from the Department's ePlanning branch that developed analysis tools specifically for the program.

In conducting its work, the Committee has met its responsibilities under the Environmental Planning and Assessment Regulation.

The year ahead

The Committee expects that the next 12 months will see the completion of the remaining installations. This includes facilities that have been granted a postponement as well as facilities that are currently non-compliant having not met their deadline date.

The Committee will continue to monitor facilities that have been granted a postponement of time to complete the sprinkler installation to ensure compliance with implementing the conditions and progress on the installation of sprinklers or decommissioning of the building.

While the Committee acknowledges it has limited authority in respect of late installations, it has endorsed the Department's non-compliance policies including requiring regular reporting from providers on the status of the installation program, notifying and providing regular updates to the Commonwealth Department of Health that oversees the compliance of residential aged care facilities with Commonwealth accreditation requirements, as well as advising councils of the Department's actions.

As the program enters the final phase the Committee is mindful that a review of the program including lessons learnt from its implementation in NSW is desirable and would encourage the Department to undertake this work with input from the Committee.

The Committee will continue to focus on the finalisation of the remaining installations to bring the program to a successful conclusion in 2017.

APPENDIX A

ANNUAL REPORT REQUIREMENTS

Under the EP&A Regulation 2000, the Committee must provide an annual report of its operations during the preceding year to the Secretary, Department of Planning and Environment. The Secretary must provide a copy of the report to the Minister for Planning and the Minister for Ageing. The report must be published on the Department's website.

This annual report discusses the operations of the Fire Sprinkler Systems Implementation Committee ('the Committee') for the period of March 2015 to April 2016. The Committee was established by the NSW Government as part of the package of measures to respond to the life safety risks highlighted by the tragic fire at a Quakers Hill nursing home on 18 November 2011. In response to this fire incident, the Government introduced laws, effective from 1 January 2013, to require automatic fire sprinkler systems to be installed in both new and existing residential aged care facilities in NSW.

The Committee was established under the EP&A Regulation 2000 to, amongst other things, monitor the progress of the installation of fire sprinkler systems in existing residential aged care facilities. The creation of the Committee recognises the higher degree of complexity of installing fire sprinklers in existing facilities and therefore the benefits of monitoring compliance and managing any extensions of time.

The report provides the public with information on the progress of fire sprinkler system installations in existing residential aged care facilities in conjunction with information published on the Department's website. The Government's desire to improve safety for residents and staff of aged care facilities has strong community support. There has been little objection amongst the aged care industry to the concept of installing sprinklers since the Government announced in August 2012 that it would become mandatory for all residential aged care facilities to have an automatic sprinkler system installed. This is evidenced by the high level of compliance with the program.

APPENDIX B

LEGISLATIVE REQUIREMENTS FOR FIRE SPRINKLER SYSTEM INSTALLATION IN AGED CARE FACILITIES

Timelines and technical requirements

The laws requiring fire sprinklers apply to new facilities and to all existing residential aged care facilities that are accredited by the Commonwealth.

Timelines apply to existing facilities in order to phase in the introduction of sprinkler installations providing sufficient time for providers to plan the work.

The laws mean that facilities without fire sprinkler systems as at 1 January 2013 were required to install fire sprinklers by 1 September 2014 (18-month group) or by 1 March 2016 (3-year group), or by a later date if an extension of time was granted because of exceptional circumstances (up to 6 months for the 18-month group; up to one year for the 3-year group). Anyone who starts operating an existing facility after 1 January 2013 has to install sprinklers within 12 months or by the completion date nominated by the original provider (whichever is the sooner).

The NSW Fire Sprinkler Standard sets the technical requirements for fire sprinkler systems and associated works in residential aged care facilities that are new, have new parts, or already exist. The Committee notes that, in May 2015, there was national recognition of the vulnerability of frail, aged residents in residential care regarding fire safety. Recognising the actions of Victoria and Queensland and NSW, the Building Code of Australia (BCA) introduced expanded provisions for fire sprinkler protection to capture all new residential aged care buildings. Previously, the BCA did not have provisions for sprinkler protection in class 3 and 9a residential aged care buildings under 25 metres in height.

Role of Fire Sprinkler Systems Implementation Committee

Under clause 186Q of the EP&A Regulation 2000, the Committee is appointed by the Secretary, Department of Planning and Environment. It has both determination and advisory functions. The specific functions under the Regulation are:

- Determining the form of the implementation plans and progress reports submitted to the Committee by aged care providers
- Reviewing implementation plans and progress reports
- Publishing those implementation plans and progress reports on the Department's website
- Determining applications for the postponement of the required completion dates for the installation of fire sprinkler systems in residential aged care facilities
- Monitoring the progress of the installation of fire sprinkler systems in residential aged care facilities
- Providing an annual report to the Secretary of the Committee's operations during the preceding year by 1 March in every calendar year and with any other information or report that is requested by the Secretary. The Secretary must, as soon as is reasonably practical after receiving the annual report, provide a copy of the report to the Minister for Planning and the Minister for Ageing and publish a copy of the report on the Department's website.
- Any other function conferred or imposed on the Committee by the Regulation or any other law.

Membership of the Committee

The membership of the Committee is as follows:

Chairperson – Ivan Donaldson (formerly General Manager Australian Building Codes Board).

Department of Planning and Environment representatives – Alexandra O’Mara (Executive Director, Resource and Industry Policy); Stephen Durnford (Team Leader, Environment and Building Policy) and Helen Ting (Principal Policy Officer, Environment and Building Policy) as alternatives [Department to be Deputy Chair].

Fire and Rescue NSW’s representatives – Greg Buckley (Chief Superintendent); Mark Whybro (Assistant Commissioner) as alternative.

Aged care industry representatives – Illana Halliday (CEO Aged and Community Services Association NSW & ACT); Loula Koutrodimos (CEO Leading Aged Services Australia NSW-ACT) as alternative.

Fire protection system design and installation experts – Mark Cummings (Member Executive Committee Association of Hydraulic Services Consultants Australia (NSW)); Bill Lea (Director Fire Protection Association Australia) as alternative.

Expert in representing seniors in community organisations – Ian Day (CEO Council of the Ageing NSW); Lisa Langley (Policy Manager COTA NSW) as alternative.

The Committee wishes to thank Mr Charles Wurf, alternate aged care industry representative from April 2013 until September 2015, for his valuable contribution to the Committee.

The Committee also wishes to thank Mr Mark Lawler, Director, Asset Management, a representative from the Department of Family and Community Services, Ageing, Disability and Home Care who provided valuable input to Committee and Subcommittee meetings from September 2013 until September 2015.

The Committee wishes to acknowledge the Sub-committee formed to consider fire safety reports lodged with postponement applications prior to their lodgement by the Department with the Implementation Committee for determination. The membership of the Sub-committee consisted of:

Chairperson: Ivan Donaldson or Stephen Durnford, Team Leader Environment and Building Policy Unit.

Members: Chief Superintendent Greg Buckley (Fire and Rescue NSW) or other representative from Fire and Rescue NSW; Bill Lea and Mark Cummings from the Implementation Committee with fire safety experience; Stephen Durnford, Team Leader Environment and Building Policy Unit; Alan Host, Senior Building Codes Officer, Building Policy Unit; Helen Ting, Principal Policy Officer Environment and Building Policy Unit.

The Committee also acknowledges the strong secretariat and technical advice it received from the Department officers, Liz Skerrett and Matthew Wunsch.

APPENDIX C

Postponement applications determined March 2015 to March 2016

Facility	Decision	Previous required completion date	New required completion date	Actual completion date
Adelene Hostel	Approved	1 March 2016	1 August 2016	Pending
Adelene Nursing Home	Approved	1 March 2016	1 March 2017	Pending
Allawah Lodge	Approved	1 March 2016	1 March 2017	Pending
BCS Niola	Approved	1 March 2016	1 March 2017	Pending
BCS Orana Centre	Approved	1 March 2016	1 March 2017	Pending
BCS Waldock	Approved	1 March 2016	1 March 2017	Pending
BCS Yallambi	Approved	1 March 2016	1 March 2017	Pending
Bellorana Hostel	Approved	1 March 2016	1 March 2017	Pending
Booroongen Djugun Aged Care Facility	Approved	1 March 2016	1 March 2017	Pending
Bupa Greenacre	Approved	1 March 2016	1 March 2017	Pending
Bupa Maroubra	Approved	1 March 2016	1 July 2016	Pending
CA Brown	Approved	1 March 2016	1 July 2016	Pending
Carey Bay Village	Approved	1 March 2016	1 June 2016	25 February 2016
Clermont Aged Care	Refused	1 March 2016	1 March 2016	24 January 2016
Clarence Nursing Home	Approved	1 March 2016	1 September 2016	Pending
Cypress View Lodge	Approved	1 March 2016	1 March 2017	Pending
Doonside Aged Care	Approved	1 March 2016	1 March 2017	Pending
RSL Governor Phillip	Approved	1 March 2016	1 July 2016	Pending
Grace Munro Aged Care Centre	Approved	1 March 2016	1 March 2017	Pending
Illawarra Diggers	Approved	1 March 2016	1 March 2017	Pending
Inasmuch Community	Approved	1 March 2016	1 March 2017	Pending
John Paul Village	Approved	1 March 2016	1 March 2017	Pending

Facility	Decision	Previous required completion date	New required completion date	Actual completion date
Junee Hostel	Approved	1 March 2016	1 March 2017	Pending
Lourantos Village	Approved	1 March 2016	1 March 2017	Pending
McQuoin Park	Approved	1 March 2016	1 March 2017	Pending
Mount St Joseph's	Approved	1 March 2016	1 March 2017	Pending
Mt Providence Village	Approved	1 March 2016	1 March 2017	Pending
Pacific Lodge	Approved	1 March 2016	1 March 2017	Pending
Queanbeyan Nursing Home	Approved	1 March 2016	31 Dec 2016	Pending
Rose Mumbler Village	Approved	1 March 2016	1 March 2017	Pending
Rosedurnate Hostel	Approved	1 March 2016	1 March 2017	1 March 2016
Rosedurnate Nursing Home	Approved	1 March 2016	1 March 2017	1 March 2016
RSL Macquarie Shores	Approved	1 March 2016	1 March 2017	25 January 2016
Sister Dorothea Village	Approved	1 March 2016	1 March 2017	Pending
Southern Cross St Francis Apartments	Approved	1 March 2016	30 June 2016	Pending
St Basil's Nursing Home	Approved	1 March 2016	1 March 2017	Pending
St Catherine's Aged Care	Approved	1 March 2016	1 March 2017	Pending
St Joseph's – Mary's Grange Wing	Approved	24 February 2015	24 February 2016	21 March 2016
Toronto Nursing Home	Approved	1 March 2016	1 March 2017	Pending
Uralba Retirement Village	Approved	1 March 2016	1 March 2017	Pending

APPENDIX D

CRITERIA FOR THE POSTPONEMENT OF REQUIRED COMPLETION DATE FOR FIRE SPRINKLER SYSTEM INSTALLATION IN AGED CARE FACILITIES

Postponement criteria for facilities with a required completion date of 1 September 2014

1. (a) Evidence that exceptional circumstances have arisen since the facility nominated its deadline that prevent this deadline being achieved

OR

1. (b) Evidence that compliance with the original deadline would create such a significant financial burden that it would result in adverse residential care outcomes (Clause 186L(6) of EP&A Regulation).

AND

2. Evidence that the applicant has at least completed the project planning phase and the terms of its sprinkler installation tender specifications for the fire sprinkler system installation before applying for postponement.

AND

3. Evidence of compliance with the Commonwealth's accreditation requirements for fire safety.

AND

4. A detailed project plan (including key milestones and dates) demonstrating how the new required completion date being sought, if granted, will be complied with.

Postponement criteria for facilities with a required completion date of 1 March 2016

1. (a) Evidence that exceptional circumstances have arisen since the facility nominated its deadline that prevent this deadline being achieved.

OR

1. (b) Evidence that compliance with the original deadline would create such a significant financial burden that it would result in adverse residential care outcomes (Clause 186L(6)(b) of the EP&A Regulation).

AND

2. Evidence that the applicant has substantially complied with the implementation plan for the facility. Substantial compliance includes substantial progress in complying with the intent and milestones of the plan to install a compliant fire sprinkler system (Clause 186L(6)(a) of the EP&A Regulation).
3. A fire safety report is required by the Committee to assess the adequacy of existing fire safety measures or any other action needed in the temporary absence of a sprinkler installation. The fire safety report is to be prepared and signed by an A1 category certifier accredited by the Building Professionals Board. The report must be informed by an inspection report that reflects the current status of the property and include details of the following.
 - The fire safety measures installed in the building (including early warning systems) and their operational status;
 - Degree of compartmentation in the building to prevent the spread of fire and smoke in relation to Part C of the Building Code of Australia;

-
- Fire Brigade intervention and operations in relation to the availability of a hydrant system. In addition, state the relevant standard of performance to which the hydrant system was installed (eg AS 2419.1 – 2005);
 - The provision for escape in the event of an emergency including the number, location and distribution of exits together with the maintenance of tenable conditions in evacuation routes during a fire;
 - Emergency plans and procedures for the building that comply with AS 4083:2010 “Planning for emergencies – Health care facilities” so as to facilitate the evacuation of occupants in the event of an emergency; and
 - Recommendations (if any) concerning interim fire safety measures which could form conditions of any approval to postpone the required completion date for the installation of sprinklers in the facility;

This report must be accompanied by a copy of the current fire safety statement for the building and a copy of the facility’s Commonwealth accreditation certificate. The certifier will sign a report indicating that, in his/her expert opinion, the measures in place are adequate to support the requested postponement and, if not supported, the certifier will recommend additional measures pending the sprinkler installation.

AND

4. A detailed project plan (including key milestones and dates) demonstrating how the new required completion date being sought, if granted, will be complied with.

Postponement criteria for new operators (i.e. those that commenced operations after 1 January 2013)

For those providers that began operating a facility after 1 January 2013, the assessment criteria that will apply to any postponement application will correspond with the original nominated completion date that was selected for the facility.

April 2016