
BUILDING SYSTEM

Building regulation advisory note

Circular	BS 18-001
Issued	25 September 2018
Related	Nil

Buildings with external combustible cladding

The purpose of this circular is to inform building owners, industry practitioners and councils about amendments to the *Environmental Planning and Assessment Regulation 2000* to assist in identifying certain multi-storey buildings with external combustible cladding.

Introduction

This circular outlines the new requirements introduced by the *Environmental Planning and Assessment Amendment (Identification of Buildings with External Combustible Cladding) Regulation 2018* (the Cladding Regulation).

The purpose of the new requirements is to identify certain buildings with external combustible cladding. The focus is on multi-storey buildings where people sleep (excluding houses) and public buildings.

The Cladding Regulation will come into effect on 22 October 2018. From that date, owners of buildings with combustible cladding will need to register by providing details about their building and its cladding to the NSW Government.

Background

Following a high-rise fire tragedy at London's Grenfell Tower in June 2017, the NSW Government announced a package of reforms to address the use of potentially dangerous cladding on buildings in NSW. This work included a variety of measures to improve fire safety and reduce the risks around the use of combustible cladding products. The Cladding Regulation builds on existing work by the NSW Cladding Taskforce to identify buildings with combustible cladding.

The Department of Planning and Environment exhibited a draft regulation for public comment from 4 December 2017 until 16 February 2018 outlining a proposed scheme to identify and collect information about certain buildings with external combustible cladding. The Cladding Regulation incorporates changes to some key issues raised in submissions during this exhibition period.

Overview of the Cladding Regulation

The Cladding Regulation introduces new provisions relating to buildings with external combustible cladding including:

- Registration requirements for owners of certain buildings with external combustible cladding;
- New powers for councils, Fire & Rescue NSW and, in certain circumstances, the Department, to give directions to building owners to register and provide information;
- Referrals to Fire & Rescue NSW for new building work involving certain alternative solutions for external combustible cladding.

External combustible cladding

Recent events nationally and internationally have highlighted fire safety risks associated with the use of certain types of combustible products on the external walls of buildings. Two of the common products are metal composite panels and insulated cladding systems.

The Cladding Regulation applies to certain buildings that have the following types of external combustible cladding applied to any external walls or other external areas of the building:

- any cladding or cladding system comprised of metal composite panels, including aluminium, zinc and copper; or
- any insulated cladding system, including a system comprised of polystyrene, polyurethane or polyisocyanurate.

Metal composite panels form part of a cladding system and are comprised of a core material laminated between two sheets of metal (most commonly aluminium). Although many products appear similar, the composition of the core material could vary considerably in terms of its combustibility and its

potential to contribute to the spread of fire. Due to the core material being concealed, it is often difficult to distinguish the composition of the material.

Insulated cladding systems comprise foam panels that are fixed to a structural frame and then sealed, rendered and painted. The appearance of an insulated cladding system is like rendered concrete or masonry.

More information about identifying external combustible cladding can be found on the Department's website at www.planning.nsw.gov.au/cladding.

Types of buildings

The Cladding Regulation (excluding the changes to clause 144) applies to the following types of buildings that are two or more storeys:

- Class 2 buildings (e.g. apartment buildings);
- Class 3 buildings (e.g. hotels, motels, boarding houses, backpackers' accommodation, and residential parts of a school);
- Class 9 buildings (e.g. public buildings, health-care, childcare and aged-care buildings), and
- Class 4 (residential) part of a class 9 building

Owners of these types of buildings with external combustible cladding will need to register and provide accompanying information. More detail about identifying types of buildings is available at www.planning.nsw.gov.au/cladding.

Note: The Cladding Regulation targets residential and public buildings that are two storeys or higher above the ground. The aim is to capture buildings with external combustible cladding that could contribute to fire spread via the external wall of the building.

Registration process

Owners of buildings to which the Cladding Regulation applies are required to register their building details if their building has external combustible cladding of the types listed above.

Identification of these buildings helps ensure Fire & Rescue NSW can act to address any risk the cladding poses in the event of a fire. Identification also assists councils in their role as building control authorities to determine whether any assessment or rectification actions are necessary.

For buildings occupied prior to the commencement of the Cladding Regulation, owners must register within 4 months of the Cladding Regulation commencing and provide details of their building and the cladding materials on the external areas of the building. The 4-month deadline for registration is 22 February 2019.

Buildings completed after the commencement of the Cladding Regulation must be registered within 4 months of the building first being occupied (owners may choose to register the building earlier e.g.,

following completion of building works and prior to building occupation).

Registration is completed via a quick and simple, user-friendly online system. More information for building owners about the registration process is available at www.planning.nsw.gov.au/cladding.

New direction powers for councils, Fire & Rescue NSW and the Department

The Cladding Regulation includes new powers for councils, and authorised Fire & Rescue NSW officers to issue directions requiring building owners to register. Directions can also be issued by the Department but only in relation to development consents which it has granted.

A direction from a council, Fire & Rescue NSW or the Department can require action to be taken earlier than the timeframes prescribed by the Cladding Regulation.

To complement these new powers, authorities will be able to issue penalty notices to building owners for non-compliance with the new requirements under the Cladding Regulation.

Additional referral for new building work involving external combustible cladding

The Cladding Regulation also includes an amendment to clause 144 of the *Environmental Planning and Assessment Regulation 2000* to require the plans and specifications for certain new building work involving external combustible cladding to be referred to Fire & Rescue NSW. This is in addition to the existing referral requirements that currently apply.

The changes relate to building work where:

- an alternative solution to meet performance requirement CP2 of the BCA is proposed; and
- The building work involves the use of external combustible cladding; and
- the proposed alternative solution does not apply the BCA verification method CV3 in its entirety.

The additional Fire & Rescue NSW referral will apply to the following building types:

- Class 2, 3 or 9 buildings of two or more storeys including any related class 4 part of a class 9 building of two or more storeys, and
- Class 5, 6, 7 or 8 buildings of three or more storeys including any related class 4 part of a class 5, 6, 7 or 8 building of three or more storeys.

Further Information

Further information on the Cladding Regulation is available in FAQs www.planning.nsw.gov.au/cladding.

NSW Acts and Regulations can be accessed on the Parliamentary Counsel Office's website at www.legislation.nsw.gov.au.

Department of Planning and Environment circulars are available at: planning.nsw.gov.au/policy-and-legislation/building-systems-circulars

Authorised by:

Liz Develin
Acting Secretary

Important note: This circular 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 circular.

© State of New South Wales through the Department of Planning and Environment planning.nsw.gov.au

Disclaimer: While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.