

Aluminium Cladding – Dealing with NSW Fair Trading’s Proposed Legal Reform

In the wake of the devastation of the London Fire, NSW Fair Trading is finally taking action concerning non-compliant aluminium cladding. Such action will include legal reform to give effect to:

1. Having a specialist unit conduct an audit with a view to issuing orders against owners of buildings to remove non-compliant aluminium cladding materials.
2. Requiring annual fire safety statements to report on the existence of any such cladding.
3. Prohibiting the supply of such materials into the state.

This will have a wide-reaching affect and the following is recommended for those who are concerned that they may have non-compliant aluminium cladding inappropriately installed in their building:

1. Arrange to inspect Council’s records to obtain details of the type of cladding installed and the manner of installation.
2. Arrange for an audit and risk assessment to be conducted by a qualified expert to identify the nature of the aluminium cladding used, its fire resistance properties and the fire risk associated with the cladding taking into account all fire control measures in the building.
3. Seek an expert’s opinion on the best method available to make the building safe and to provide a scope of works for the replacement of those materials.
4. Consider if planning authorities approval or an order from Council is required to be able to perform those works.
5. Obtain legal advice on who is liable to pay and whether or not it is too late to commence proceedings to obtain rectification or orders for damages. There could be numerous parties who are liable, such as, designers, developers, builders, subcontractors, manufacturers, importers, private certifiers, Council and insurers, such as, the Home Building Compensation Fund managed by NSW Fair Trading.
6. Amend briefs to the consultants who prepare the annual fire safety statements to ensure reporting on non-complying aluminium cladding and provide with that brief the appropriate materials from Council’s records.
7. Disclose the existence or potential existence of any non-complying aluminium cladding to the strata scheme’s insurer and seek confirmation of continuation of cover.

8. Disclose the existence of any non-complying cladding to the Home Warranty Insurer within 6 months of awareness and if suitable lodge an insurance claim.
9. If purchasing off the plan and you have concerns about the type of cladding used, report it to the developer, builder and certifier and carefully consider their response.

Relevant Articles:

[Aluminium Cladding – Real and Significant Risks and Problems. What is NSW Fair Trading doing?](#)

[Flame On? Concerning Aluminium Cladding Findings in VIC – Are Your Building Materials Compliant?](#)

[Fire Safety Upgrade Orders](#)

[Building Defects Overview](#)

[What do we need to tell our Insurer? ... \(and what happens if we don't?\)](#)

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