Aluminium Cladding – Dealing with the NSW Cladding Taskforce Request

In the wake of the devastating London Fire, NSW Fair Trading is finally taking action concerning non-compliant aluminium cladding. It has formed the NSW Cladding Taskforce and is writing to owners in the form of the attached letter requesting owners to among other things:

1. Review all the design, construction and approval documents for the building to determine whether external wall cladding was installed on the building. If so, you should seek advice about the suitability of the type of material used and the method of installation; and

2. Ensure that the annual fire safety statement for the building is up to date and all fire safety maintenance measures have been addressed; and

3. Consider engaging a suitable professional to review and inspect the overall fire safety of the building, including the installation of any external wall cladding, and provide an assessment of any steps required to maintain or improve the building fire safety; and

4. Take action to make any recommended changes to the building.

This will have a wide-reaching impact on the 1000 plus buildings identified by NSW Fair Trading as having potentially non-compliant cladding. 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 to address the issues.

4. Consider if approval from a planning authority or an order from Council is required to be able to perform these scope of 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.

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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. If the schemes insurer will not confirm insurance for the while building obtain legal advice as it is mandatory to insure that part of the building.

9. 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.

10. 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.

11. Register the buildings details at https://www.claddingregistration.nsw.gov.au/

12. Carefully comply with the NSW taskforce requests.

Relevant Articles:

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

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?)

Key takeaways

- Building owners must review cladding materials and installation methods for compliance.
- Engaging qualified professionals for audits and assessments is crucial for fire safety.
- Legal advice is necessary to determine liability and potential claims regarding cladding issues.
- Insurance disclosures regarding non-compliant cladding are mandatory for strata schemes.
- Owners should register their buildings with the NSW Cladding Taskforce for compliance tracking.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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