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# DOES YOUR STRATA SCHEME HAVE COMBUSTIBLE CLADDING? THE TOP 3 ITEMS TO REVIEW NOW.

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## DOES YOUR STRATA SCHEME HAVE COMBUSTABLE CLADDING? THE TOP 3 ITEMS TO REVIEW NOW!

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Many strata buildings built since the 1990's contain some form of external cladding as part of their construction. Certain types of cladding, including aluminium composite cladding was utilised due to its properties as a lightweight material, sound and thermal insulative properties, and aesthetic appeal. The Lacrosse Building Fire in Melbourne in 2014, and the Grenfell Tower disaster in London in 2017, lay bare the dire consequences arising from the use of such combustible and poor fire resistant materials, particularly in circumstances where the cladding material sandwiches highly flammable and combustible core materials such as polystyrene, which ignites easily and burns rapidly due to its foam core and thin metal external surfaces.

### **Combustible Cladding Buildings**

Building owners including owners corporations are now left to deal with what steps to now take to rectify the problem. A number of buildings, including strata residential buildings of two storeys or more, with certain types of metal composite panels or insulated cladding systems, have recently had to register their building under the planning regulation. That regulation established a scheme requiring the owner of a building to which external combustible cladding has been applied to provide the Department of Planning and Environment with details of the building and cladding. That regulation authorises the secretary of the Department to maintain a register of building to which external combustible planning has been applied. Interestingly at this stage such a register is not a register that is publicly available to search, so a purchaser of a unit in a building with a cladding problem will need to rely on searching the books and records of the owners corporation and if permitted by the strata scheme, engage an appropriate building consultant and potentially (if permitted by the owners corporation) test the material that surrounds a unit. It is unlikely that the latter will be permitted, but one of the unfortunate aspects is some forms of combustible cladding appears as a render finish, so it may not always be apparent or discernible to the uninitiated what to look for.

Clearly this issue is of concern to owners and occupiers of units in strata schemes whose buildings have combustible cladding on the exterior of their buildings and results in an increased risk of fire occurring in the building if the risks are not mitigated or managed properly. It also raises a number of issues and the potential need for removal and replacement of the external cladding with other materials over time.

### **What can an owners corporation do?**

So what can an owners corporation do as an interim measure to manage and mitigate the risk where possible? Clearly an owners corporation should take all steps to assess the fire risk arising from any



external combustible cladding if it has not already done so for the purposes of the planning regulation, and identify where the combustible cladding materials are located. An owners corporation can also consider in the meantime regulating certain types of behaviour by amending or adopting additional by-laws for your strata scheme, with a view to mitigating risk.

### **Mitigate and Minimise the Risk**

Often in a number of buildings, such as in the Lacrosse Building in Melbourne, the combustible cladding was installed around balconies and entry foyers. The Lacrosse Building Fire was caused by a cigarette which was not put out properly on a balcony and fire spread up 13 storeys of the building from balcony to balcony in 10 minutes.

#### **1. Prohibit Smoking**

A no smoking by-law, prohibiting smoking on balconies or outside common foyers of a building, where those balconies or foyers contain combustible cladding would be a prudent move. One could go further and only permit smoking indoors, or otherwise permit smoking away from the building in a designated smoking area if that is safe to do so.

#### **2. Obstruction of Common Property**

Another by-law to look at is obstruction of common property. One reason why there were so many casualties as a result of the Glenfell Tower disaster a public housing building, was that there were a number of items in common hallways that obstructed the free passage of persons to lower floors in the event of an emergency. Your strata scheme could look at strengthening the no obstruction of common property by-law with this in mind.

#### **3. Restrict Fire Hazards**

Another by-law restriction which could be placed on your strata scheme is prohibiting the use of barbecues on balconies and of other potential fire hazards such as gas lamps and other highly flammable materials for example, artificial plants, astro turf and the like. Your strata scheme may want to restrict the hanging of washing on the balcony of a building. It is not unusual for certain strata schemes to restrict the type of balcony furniture which may be used on a balcony, and generally this is done with making sure that such furniture is in keeping the overall appearance of the building. Perhaps consideration ought to be given to use of materials that are less flammable and combustible, for example no plastic chairs and tables.

While such by-laws do not ultimately address what will be a costly problem for the owners corporation, they may assist in the meantime in mitigating and minimising risk.

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**About JS Mueller & Co**

JS Mueller & Co has been servicing the strata industry across metropolitan and regional NSW for 40 years. We are a specialist firm of strata lawyers with in depth and unmatched experience in, and comprehensive knowledge of strata law and levy collection.

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