



Précis Paper

Defective non fire resistant cladding

A discussion of the risks posed by non fire resistant cladding, the various types of cladding, new regulations in the wake of the Grenfell Tower fire, and risk strategies for conveyancers, legal practitioners and their clients.

Discussion Includes

- Recent defective cladding disasters
- What is cladding, and what is it used for?
- Types of cladding
- What are the advantages of cladding?
- Cladding and fire resistance
- Cladding regulation in NSW
- Buildings at risk in NSW
- Strengthening fire safety regulation
- Which buildings do these regulations apply to?
- Issues with residential properties
- Risk management when buying a cladded property
- Helping a client identify cladding risks

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Video Title

1. In this edition of BenchTV, Garth Brown (Brown and Brown Conveyancers) and Jennifer Treur (JAM Directions) discuss non fire resistant cladding, which is a great risk to property and to human life. They look at the various types of cladding, new regulations in the wake of the Grenfell Tower fire, and risk strategies for conveyancers, legal practitioners and their clients.

Recent defective cladding disasters

2. There have been some recent disasters caused by non fire resistant cladding, most terrible of all being the fire at Grenfell Tower, London, in June 2017, in which 79 people lost their lives.
3. In 2014 the Lacrosse building in Docklands Melbourne also caught fire due to defective cladding.
4. Non fire resistant cladding is a risk that all legal practitioners and conveyancers need to be aware of in order to protect their clients and other people in the building.

What is cladding and what is it used for?

5. Cladding is the outer 'skin' of a building, put there to tidy up the building and make it look aesthetically pleasing.

Types of cladding

6. There are a few different types of cladding, such as timber weatherboard, brick hanging, fibre cement, cloudy steel, and aluminium cladding.

What are the advantages of cladding?

7. During winter, cladding helps to keep the heat in the building, and during the summer it keeps the heat out. It also stops the wind and rain from entering.
8. Cladding makes good sound insulation against traffic

Cladding and fire resistance

9. Cladding is generally fire resistant. However, aluminum composite panel cladding contains at its centre a foam which is made of oil, and this foam is flammable.

10. When cladding is attached to a building on brackets, hanging about 30 cms out, this creates a wind tunnel. Should the foam in the cladding ever catch fire, the wind tunnel will exacerbate it. This was exactly what happened at Grenfell Tower.

Cladding regulation in NSW

11. Following the Grenfell Tower disaster, the laws around cladding and fire regulations have been significantly upgraded, particularly when it comes to design, construction and maintenance, but also with regards to older buildings too.
12. These are the *Environmental Planning and Assessment Amendment (Identification of Buildings with External Combustible Cladding) Regulation 2018 (NSW)* and *State Environmental Planning Policy Amendment (Exempt Development— Cladding and Decorative Work) 2018*.

Buildings at risk in NSW

13. The NSW Government wanted to quantify the risk and find out exactly how many of these buildings had been constructed with non fire resistant cladding, and so the NSW Cladding Taskforce was formed to identify these buildings. After examining approximately 178,000 buildings, it was revealed that 1000 had non fire resistant cladding.
14. They were then able to send out letters to those buildings to let the owners know of the problem and inform them of what changes needed to be made.

Strengthening fire safety regulation

15. The new legislation gives fire safety experts a greater role in the design of a building, such as where the fire hydrants, fire rails and sprinklers are located.
16. They also ensure that defective cladding is no longer installed in new buildings.

Which buildings do these regulations apply to?

17. The new regulations apply to every building over two storeys, which would include such things as townhouses, public assembly halls, theatres and cinemas.

Issues with residential properties

18. All owners in large residential areas need to be aware of the new regulations and have to spend money to rectify defective cladding. This generally involves having a fire expert come in to assess and give advice.

19. There are also two large, special levies to cover the rectification costs. This can be a huge financial burden for people who are buying into the properties, particularly those that are over two storeys high.

Risk management when buying a cladded property

20. One of the first questions a conveyancer should ask a purchaser is if the property is cladded. If it is cladded, the conveyancer needs to make inquiries to the vendor in order to determine the type of cladding and to figure out if it is fire resistant; if there has been a fire safety expert involved, and if there have been any letters from the Cladding Taskforce.
21. It is also a good idea to go and have a look at the property itself, and also to research the property on the internet. There is more to a property than just looking at the title, and the quality of the building relates to the quality of the title.
22. It is important to cover this risk, as although the material is no longer being used, many older buildings could contain the defective cladding, and should these properties ever catch alight, the practitioner could end up being sued by the client.

Helping a client identify cladding risks

23. It is important to help your client identify cladding issues, especially as it is not only a question of money and titles, but of human life also.

BIOGRAPHY

Garth Brown

Principal, Brown and Brown Conveyancers, Sydney

Garth Brown is a Degree Qualified Accountant and Certified Conveyancing premium property specialist. He was awarded conveyancer of the year AICNSW 2015 at Brown and Brown Conveyancers and is an expert legal consultant, law firm coach and industry thought leader with over 20 years' experience.

Website : www.conveyancers.net.au

Jennifer Treur

Creative Director, JAM Directions, Sydney

Jennifer Treur is creative director and owner of JAM Directions - an award winning creative production company based in Sydney. JAM consults to companies on Branding, Marketing and Online solutions.

BIBLIOGRAPHY

Legislation

Environmental Planning and Assessment Amendment (Identification of Buildings with External Combustible Cladding) Regulation 2018 (NSW)

State Environmental Planning Policy Amendment (Exempt Development— Cladding and Decorative Work) 2018

Environmental Planning and Assessment Act 1979