



# MELBOURNE APARTMENT OWNERS STILL WAITING FOR A RESOLUTION

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## Who is accountable for noncompliant flammable cladding?

**M**elbourne Docklands' Lacrosse apartment building fire in November 2014 sparked government, regulators, building industry organisations and individuals to pay attention to the use of noncompliant external wall cladding, and its serious implications for fire safety.

Fire Protection Association Australia (FPAA) Deputy Chief Executive Officer Matthew Wright says, 'The Lacrosse fire is an example of how dangerous combustible cladding can be for a large building – in that fire, the combustible cladding enabled the fire to spread from level eight all the way up to the roof, and in a very short period of time'.

Three years later, on 14 June 2017, the issue of noncompliant cladding was brought into the spotlight again when London's Grenfell Tower caught alight, with London Metropolitan Police confirming at least 80 deaths.

The FPAA called for a crackdown on the importation of substandard building products in 2015, and is currently still working with governments and other industry associations. 'The concern around polyethylene cladding is that it contains combustible materials, which can contribute to or increase the spread of fire,' Wright says.

After the Grenfell Tower fire, the government was forced to act, and on 6 September 2017, the Senate Economic References Committee released an interim report on aluminium composite cladding, which stated: 'A product that is nonconforming and/or noncompliant can pose serious risks to the integrity of a building, the safety and welfare of those on the construction site, and the ultimate inhabitants of the building'.

Nearly three years on from the Lacrosse building fire, the legal cases are yet to be resolved, and it is still unclear where legal and financial responsibility lies for this incident. While apartment owners wait for a solution, the building is still covered in unsafe cladding, and there's still no indication about who will be held accountable.

Leonie Roberson and her husband Steve own an apartment in the Lacrosse building in Docklands. They are among 137 apartment owners who are caught up in legal actions against the builder through the Victorian Civil and Administrative Tribunal (VCAT). Roberson says, 'The [builder] has taken no responsibility for the recladding of the apartments, and it is currently going through the courts'.

The Robersons bought the two-bedroom apartment off the plan in 2008 for \$595,000, but after the fire in 2014, their tenant had to move out for a number of months due to the property's smoke and water damage. Although insurance covered most of the cost, the Robersons are still out of pocket.

Property Council of Australia Chief Executive Ken Morrison says that 'there is still serious policy work ahead'. The Senate Committee recommended measures be put in place to increase accountability further across the building and construction supply chain, but 'the challenge is to deliver these in a way that has national consistency,' Morrison says.

According to the Senate Committee report, high-rise apartment buildings are not being built to the standards that the public expects. Engineers Australia noted that 'people who purchase an apartment expect that – for the many hundreds of thousands of dollars they have invested – the quality of their apartment is fault-free. Unfortunately, the system is not meeting those expectations'.

Cladding needs to meet the fire safety requirements specified under the Building Code of Australia, but the Lacrosse

building cladding is a cheap, imported, noncompliant product that has been used by builders around Australia. Aluminium cladding with a flammable plastic core and aluminium cladding with a safe, mineral fibre core can look, smell and feel exactly the same. This means that even builders don't have the tools or know-how to test whether their materials are compliant with Australian building regulations, and they may inadvertently use products that claim to meet Australian standards, but are actually unsafe.

Dr Kate Thuy Quynh Nguyen is an engineering research fellow at The University of Melbourne, and believes an engineering assessment of external cladding should be 'standardised practice' before installation to ensure that the risk of fire in buildings is reduced. 'Certain areas need scientific inputs to ensure the safety of our buildings,' Dr Nguyen says.

A new Australian Standard on fire testing facades has been released, but it is not compulsory under the law. It is up to an elected government to act and make a standard mandatory.

If the Robersons' apartment is deemed 'not compliant with Melbourne fire regulations', they can't sell it, and Roberson says they don't know if they are going to have to cover costs of the recladding until the VCAT case has been finalised – the builder is also not taking responsibility. So, who is responsible if VCAT rule that the noncompliant cladding needs to be replaced?

Roberson says that this ordeal has been 'very stressful' for her and her husband, and after three years, she hopes there will be some kind of resolution soon. 🙏

**If you have concerns about your own building, the Australian Building Codes Board has launched a new website where you can find out about nonconforming building products.**