



# COMBUSTIBLE CLADDING: JUST ONE OF THE MANY ESSENTIAL ISSUES BUILDING OWNERS SHOULD AUDIT, RECORD AND MANAGE

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As the saying goes:

- there are the things that you know;
- the things that you know that you don't know (the known unknown); and
- the things that you don't know that you don't know (the unknown unknown).

The recent Grenfell Tower fire tragedy in London highlights the potential catastrophic consequences of failing to find out the unknown unknown things and/or failing to take action to appropriately deal with the necessary things once known, such as the condition and performance standards of the materials in the building along with the necessary maintenance obligations of the Body Corporate.

There has been considerable media attention around the widespread existence of non-conforming building materials and potential devastating ramifications for Bodies Corporate. This article is aimed at the practical and proactive steps which Bodies Corporate can take to empower themselves and protect their lot owners and residents.

It is certainly true that the effective maintenance of strata title buildings is a complex affair. The contracts for the construction of the buildings on scheme land are entered into between the developer and the builder, long before the lot owners are ever in the picture. This means that; the lot owners have no input into the selection of materials or the standards of construction, and they are often unaware of the location of essential documents for the proper administration of their schemes, including construction contracts, plans and specifications.

This means that the Body Corporate and lot owners inherit the building with often unknown building materials; unknown latent conditions and they are unaware of the maintenance requirements for their particular building. This also has a direct effect on effectively budgeting for the future expenditure to properly maintain the building in order to maximise its effective lifespan.

Add to this the fact that there is a high amount of change within Bodies Corporate, which exacerbates the difficulty in managing vital information about the building. Lot owners sell, Body Corporate Managers can change from year to year, resident managers can sell their management rights and committees often change each year. What this means is that the collective knowledge of all of the people who have been involved in the building is rarely centralised and as a result, key information and

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documentation is often misplaced along the way or is never obtained in the first place.

We recommend that Bodies Corporate take control of their information and documentation by implementing a building management document or plan. By the committee working in with the Body Corporate Manager to create a bespoke plan for the operation and management of their building, Bodies Corporate will be able to identify what they know, what are the known unknown things about the building, and what unknown unknown things about their building (which are generally discovered by expert reports and professional advice). Additionally, this information is to be documented and centralised so that the Body Corporate does not lose this information as lot owners, Body Corporate Managers, resident managers and committees change over time.

As part of the process of creating the building management plan, it is essential for Bodies Corporate to know the current (point-in-time) status of their building and documentation. For this reason, we highly recommend engagement of an expert, or team of experts, to enable the Body Corporate to “catch up” on the history of their building by obtaining all necessary documentation and obtain a status report as to the condition of their building as at today. This information and documentation can then be included in the building management plan and future obligations and expenditure for the building can be informed by this information. Additionally, all new occurrences at the building can be recorded in the building management plan as time goes on so that committees have the information which the need to effectively act on behalf of the Body Corporate to make decisions within their authority and to properly inform the lot owners in order for them to make effective decisions at general meetings.

Building condition and maintenance is only one of the many things which we recommend is included in an effective building management plan. If Bodies Corporate know what they know, know what they don't know, and find out the unknown unknown things, then they are in a much greater position to plan for and make effective decisions on all matters which can have an effect on their building.

Hopefully, such an approach can enable Bodies corporate to minimise or prevent financial and physical disasters.

If you would like further information on the above matters, or any other Body Corporate legal issues, please contact James Nickless, Partner of ClarkeKann Lawyers.

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