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# VIC: Q&A Can non-fire rated Aluminium Composite Panels comply with National Construction Code

Published date September 25, 2018 — 2 Comments



This questions about combustible cladding on a building have been answered by Sahil Bhasin, Roscon Group.

## Question: Are there circumstances where non-fire rated Aluminium Composite Panels comply with the National Construction Code? If not, who is responsible to replace?

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Are there circumstances where non-fire rated Aluminium Composite Panels comply with the National Construction Code? If not, who is responsible to replace?

We are in a four storey apartment building with a Certificate of Occupancy issued in late 2013.

**Answer: Regardless of the amount of cladding present, buildings should undergo a risk assessment to identify whether the cladding constitutes an undue risk of fire spread at the façade of the building.**

Aluminium Composite Panels (ACP) is prominently marketed in three variations, 100% polyethylene Core (Combustible), 30% Polyethylene Core & 70% Mineral Core (Fire Retardant), 10% Polyethylene Core & 90% Mineral Core (Non-Combustible), however, all 3 fail AS 1530.1 (1994) as they are Combustible.

The words 'Fire Retardant' and 'Non-Combustible' are marketing terms used by the manufactures which don't link to any Australian or International standards.

Some of the only items used for cladding which withstands AS 1530.1 (1994) are concrete tilt panels or bricks, as the testing regime requires items to withstand a furnace at 750 degrees for 30mins. See the **'100% Combustible' 10% Polyethylene Core & 90% Mineral Core fail the Australian Standard test.**

By the nature of the question, the following statements assume the Owners Corporation you reside in has received a Building Notice.

Prior to your Owners Corporation receiving a notice or order via the Municipal Building Surveyor, the Victorian Cladding Taskforce led by the Victorian Building Authority have verified that there is an unacceptable level of danger to life, based on the combustible external cladding that does not comply with the Building Code of Australia.

If you have received a Building Notice it will denote that the external walls of the building contain combustible materials, which is contrary to specification C.1.1 of the Building Code which requires all

external walls and attachments to be non-combustible.

As an Owners Corporation you are now required to 'SHOW CAUSE' in writing within 30, 60 or 90 days w/ Occupation of the building should not be prohibited or why you should not replace all combustible mate and or carry out other items denoted in the notice or order.

We understand this is a very frustrating and stressful time for all owners and occupants of the building, the notice is an encumbrance on selling your asset, in turn reducing the asset value and increasing your insurance premium.

You are now required to undertake a Fire Engineering Review in line with the International Fire Engineeri Guidelines to look at possible Performance Solutions or Deemed-to-Satisfy Provisions which only a Fire Engineer can submit. This process can save considerable funds on rectification works, rather than just replacing all the combustible materials which could cost millions of dollars. For this to occur a Fire Engineering Brief and Fire Engineering Report will need to be completed.

These two documents provide an approach to justify the performance solutions identified through qualitative and quantitative analysis statements. Statistical and or supportive evidence will also be usec where assumptions for fire engineering analysis are made.

As you have mentioned the building was constructed and Occupancy Permit issued in 2013 the claddin would form part of a Building Defect claim as the Owners Corporation and hold the builder responsible under the **Statutory Warranties: Section 8 of the Domestic Building Contracts Act 1995** for 10 years from the date of the Occupancy Permit or the Certificate of Final Inspection. This includes the National Construction Code, guides to standards and tolerances and Australia Standards.

The builder can be held responsible under the Statutory Warranties: Section 8 of the Domestic Building Contracts Act 1995, when building works do not comply with:

- The Contract
- The Planning Permit
- The Building Permit
- The National Construction Code (NCC) – Formerly BCA
- The Building Act or its Regulations
- Relevant Australian Standards

All domestic building work must be carried out:



- In a proper and workmanlike manner and in accordance with the plans and specifications
- In accordance with and comply with all laws and legal requirements
- With reasonable care and skill
- So that the home will be suitable for occupation on completion
- Materials supplied will be good and suitable for purpose

If Builder is in breach of a section 8 warranty:

- The works can be considered defective/non-compliant works
- Owners can seek damages
- Damages equate to the costs for the works to be rectified
- Subject to a test of necessity and reasonableness
- Necessary to produce conformity
- Rectification would not be unreasonable

As your Building is over 3 storeys the 'Home Warranty Insurance' doesn't apply, see this news story cover the matter [from ABC News](#).

At the time of replying to your question, Roscon is one of two Fire Engineers in Victoria that has been granted access to the Risk Matrix the Victorian Building Authority used to direct the Municipal Building Surveyor to issue your Owners Corporation a Building Notice.

This allows Roscon to look at the initial rating of a building (Extreme, High, Moderate or Low) and subsequently design Fire Engineering solutions and run design simulation through the Victorian Building Authorities, 'Risk Matrix' to reduce the risk rating of a building, thus reverse engineering solutions and presenting a compelling argument to have the Building Notice revoked as quickly as possible, lifting the encumbrance on selling your asset and restoring the asset value.

As a registered domestic and commercial unlimited builder, Roscon can also assist in the Project Management of any Building or Emergency Orders which require rectification works, including advising committee of funding options available rather than raising special levies.

As the industry leading Fire Engineers for cladding, our team look forward to assisting Victorians through this difficult period.



This post appears in [Strata News #210](#).

## Q&A What Percentage of Combustible Cladding on Building is Dangerous?

**Question:** Our Strata Corporation has sent us a letter and they are investigating all buildings under their control; however, they state that only buildings with 30% or more combustible cladding are to be forwarded to insurance companies for review. Is this correct?

Our Strata Corporation has sent us a letter and they are investigating all buildings under their control; however, they stated that only building with 30% or more built with combustible cladding are to be forwarded to insurance companies for review. Is this correct? Or does it depend on whether the cladding conforms to the correct Australia standards?

**Answer:** Regardless of the amount of cladding present, buildings should undergo a risk assessment to identify whether the cladding constitutes an undue risk of fire spread at the façade of the building.

Some insurers are using the percentage of cladding coverage as an interim parameter to adjust insurance premiums on buildings with aluminium composite or expanded polystyrene cladding. This is because the issue is new and guidelines are still being developed on a State and Federal Government level.

Cladding on the external façade of a building is required to be non-combustible for any residential buildings three stories or greater under the National Construction Code. Any amount of combustible cladding can undermine the fire engineering design of the building, as this has been prepared under the assumption that the façade cannot be set alight. Regardless of the amount of cladding present, buildings should undergo a risk assessment to identify whether the cladding constitutes an undue risk of fire spread at the façade of the building.

A detailed cladding assessment would consider the location of the cladding and the manner with which it is installed as well as the existing essential safety measures (fire safety) systems which are present at the site, each of these is equally as important as the total cladding coverage. Examples, where the amount of combustible cladding coverage may be a very small percentage but would add significantly to the fire risk include:

- Any situation where cladding has been installed near or above a required exit such as a fire escape, where the exit is unusable in the event of a fire – this is particularly relevant where there are no alternative exits.

pathway.

- Where cladding has been installed as the walls of balconies, but the fire sprinklers do not extend to the balcony area.
- Where the cladding is a strip of narrow width but has been installed as a continuous element which spans upwards across more than 2 levels. If a fire occurred at the base of such a panel it would easily move upwards to floors above.
- When cladding is located near common ignition sources this can be near bin storage, balconies, electrical equipment etc.

Conversely there can be situations where there is a large percentage of cladding coverage which does not constitute an undue risk of fire spread at the façade because it may be a non-continuous architectural feature that is not considered to form part of the external wall of the building, with non-combustible elements separating panels and acting as a 'firestop'.

All these factors need to be considered when assessing combustible cladding at a building.

This post appears in [Strata News #175](#).

#### Read next:

- [Insurance costs rise on presence of cladding](#)
- [VIC: Victorian Cladding Taskforce Taking Action On Cladding](#)

Sahil Bhasin

General Manager

**Roscon Group**

T: 1800 767 266

E: [info@roscon.com](mailto:info@roscon.com)

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