

## How to protect your business against non-compliant cladding



**The UK's Grenfell Tower disaster has had widespread implications for professionals in Australia's construction industry. Here's how to help protect yourself if you're a contractor who's worked on any Australian building project.**

The UK [Grenfell Tower disaster](#) claimed the lives of 72 people on 14 June 2017.

The tragedy unfolded on television and computer screens around the globe, serving as a sharp and tragic wake-up call to governments and regulators around the world that cheap, non-compliant cladding materials could create devastating fire hazards for high rise buildings.

In Australia, the threat combustible cladding poses remains very real. [As evidenced by a recent fire at an inner city high-rise in Melbourne](#) that forced the evacuation of hundreds of residents and required more than 60 fire fighters to bring it under control.

Authorities and insurance companies have been quick to put new procedures and policies in place, including the [Victorian Cladding Taskforce](#) and [NSW's Fire Safety and External Wall Cladding Taskforce](#)

In NSW, [new laws](#) require owners of existing buildings with combustible cladding that fall within specified categories to register their building with the [NSW Cladding Registration portal](#) by 22 February 2019.

As non-compliant buildings are identified around the nation, owners may be ordered to remove the cladding from their buildings.

This has been seen already at the Lacrosse tower building in Docklands, Melbourne, which [caught fire in 2014](#). In turn, the [apartment owners are now suing](#) the builder and other consultants to cover the costs.

"They've initiated legal action against the builder and a lot of the consultants who worked on the project," explains Steadfast's Broker Technical Manager, Michael White.

"Because one thing about all these kinds of situations is that anybody who had anything to do with the project, no matter how remote, can get sued."

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### Non-compliant cladding test case

This particular court case is now shaping up as a test case that could set a precedent for at least 100 other buildings in Victoria alone – and they don't need to have suffered a fire to be ordered to remove non-compliant cladding.

“This could be for any kind of building around Australia that uses this non-compliant aluminium cladding, including strata building, hospitals, commercial buildings – anything,” says White.

The owners of those buildings may also take the builder and professionals involved in the design of the building to court to cover the costs of removing and replacing non-compliant cladding.

“That could include the architect, the builder, various engineering disciplines, the building certifier – basically anybody who is a professional or consultant who worked on the project,” says White.

### How to protect your business

As these cases relate to work done some time ago, White says there's not much – if anything at all – that professionals can do in terms of risk mitigation to protect themselves against being sued.

One option is to take out appropriate [Professional Indemnity \(PI\) insurance](#), says White.

This is because PI insurance is usually provided on a claims - made basis i.e. triggers when the claim is made, which may be in the future (as opposed to occurrence – based policies, whose trigger depends on when the occurrence occurred, which may be in the past).

“However, most building professionals would be aware that insurers are putting on exclusions for buildings that have used this kind of cladding material, or at the very least, asking questions about the use of the material,” adds White.

“So it's very difficult to obtain the right kind of PI cover, but it's not impossible.”

### How to get the right Professional Indemnity cover

In order to obtain appropriate PI cover, White says you should compile a comprehensive list of the jobs you've worked on – as well as what you did on those projects – and take it to your local Steadfast broker.

“Sometimes you might not necessarily be able to identify the job, because sometimes your involvement is quite remote from the actual job,” explains White.

“But, to the best extent you can, identify the jobs you were involved in because the more you understand about what you've been doing, the easier it is.”

### Don't run the risk

While some people may be tempted to risk not taking out PI cover and wait to see how the test court case pans out, doing so might put your business at risk.

Because, if the test case results in a number of contractors successfully sued, taking out PI cover that doesn't exclude cladding removal and replacement will only become more difficult and more expensive, says White.

And even if you firmly believe you won't be found at fault, that doesn't matter if you get sued – you'll still need to defend yourself in courts.

“And the cost, as you can imagine, could be horrendous,” White says.

So, for expert advice on the best insurance solutions for your business, talk to your Steadfast broker

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