



Australian College
of Professionals

College Chronicle

Cladding

May 17, 2019

RTO 91513



Cladding has become one of those issues for strata managers that can cause complete headaches with little relief in sight. When an owners corporation is faced with the excessive costs associated with the rectification works due to the installation of inappropriate cladding, they will obviously want to pass that cost off where they may be able to. The question is who will the Courts consider to be the liable party for damages in such cases?

The owners corporation of the Lacross Tower building in Melbourne was faced with this question after their building was damaged in 2014 by fire which spread by flammable cladding used in its construction. A claim for damages was made against the builder in the Victorian Civil and Administrative Tribunal (VCAT) and a decision was handed down earlier this year that the builder was liable for the damages. However, that liability and the damages awarded were to be shared amongst the architect, the fire engineer, the certifier and the person responsible for the blaze initially (being a tenant).

The central finding of the Tribunal was that the primary cause of the spread of the fire was the use of an Aluminium Composite Panel (ACP) with 100% polyethylene core as the external cladding, noting that polyethylene has a calorific value similar to petrol, diesel and propane.

Under a design and construct contract with the developer, the builder was primarily responsible for the external cladding selected. The builder claimed that the building certifier, the architect, the superintendent and the fire design engineer all failed in their “duty of care” to provide warning of the potentially disastrous consequences of that selection.

Whilst the judge has stated that his decision was that the builder was liable, due to contract issues the costs should be apportioned to each of the above mentioned because the builder did not have a good enough knowledge of Aluminium Composite Panels (ACPs) fire risk and as such relied on the contracts with specialists in the industry. The split and the decisions for the split are as follows:

- The Architect was found liable to contribute 25% of the costs as they had failed to:
 - remedy the Alucobond Specification allowing “Indicative to Alucobond” and design drawing providing for the extensive use of ACPs that caused the design to be non-compliant with the Building Code of Australia (BCA) and not fit for purpose; and
 - ensure that the ACP sample provided by the builder was compliant with their design intent

...Continued ➤

Continued...

It should be noted that the Certifier was ordered to pay 33% of the costs because they failed in:

- approving the architect's specification of ACPs "Indicative to Alucobond" in non-compliance with the BCA;
- Not querying the incomplete description of the cladding systems in the fifth iteration of the Fire Engineering Report prepared by the fire engineer;
- Its "peer professional opinion" defence, noting the contrary view was found to defy logic and common sense

The fire engineer was found to hold 39% of the liability as they had failed to:

- conduct a full engineering assessment of the tower in accordance with the requisite assessment level; and
- failed to recognise the ACPs proposed for use did not comply with the BCA and warn the builder of that fact.

When assessing what the options are for the owners corporations who are dealing with rectifying cladding issues, encourage them to discuss with their legal representative who may be liable in relation to the defects of their building, because the above case shows that the builder may not be the only one responsible for the rectification costs.

'Til next time, wishing you every success in your business ventures,

Rosy Sullivan | College Director & Principal

4 HOUR CPD SEMINARS

TUE 21 ST MAY	WEST WYALONG Sales & Prop Mgmt	TUE 11 TH JUN	SYDNEY CBD Real Estate Sales
FRI 24 TH MAY	NEWCASTLE Sales & Prop Mgmt	TUE 11 TH JUN	SYDNEY CBD Property Management
THU 6 TH JUN	RAYMOND TERRACE Sales & Prop Mgmt	WED 12 TH JUN	GOSFORD Sales & Prop Mgmt
FRI 7 TH JUN	MUDGEES Stock & Station	WED 19 TH JUN	SYDNEY CBD Business Broking
FRI 7 TH JUN	MUDGEES Sales & Prop Mgmt	FRI 21 ST JUN	CASTLE HILL Sales & Prop Mgmt

2 HOUR CPD SEMINARS (8am - 10am unless specified otherwise). Pre-reading required

Full 12 points!!

FRI 24 TH MAY	PARRAMATTA Sales & Prop Mgmt	TUE 4 TH JUN	SYDNEY CBD EVENING - 5PM-7PM Sales & Prop Mgmt
FRI 31 ST MAY	SYDNEY CBD Sales & Prop Mgmt	FRI 7 TH JUN	SYDNEY CBD Strata
FRI 31 ST MAY	CASTLE HILL Sales & Prop Mgmt	THU 13 TH JUN	PARRAMATTA Sales & Prop Mgmt



From the office

“How time flies when you’re having fun” is definitely the metaphor that best explains the movement that ACOP has had this past fortnight (in fact all of this year so far). With the great success of Rosy’s Consumer Guides launch held just over two weeks ago now, we have been busy not only educating those within the property industry but also new comers on the incredible information this resourceful book holds within its pages. The Guides go to great lengths to simplify processes by cutting out the jargon and assisting the consumer to get ahead in the game of everything property related. As I know this will spark interest - I can only suggest heading to our website and ordering your copy. These nine Consumer Guides are available as an ebook resource to use on the go and also as a hard paper-back books if you are looking to provide this to your family, friends and clients. Incredibly, although Rosy has been in the midst of this book launch she has also been visiting the beautiful coastal suburbs of Ballina and Coffs Harbour as a guest speaker on the EAC Insights Tour providing updated information and knowledge about industry changes and also emotional intelligence within the workplace.

The College has been super-busy with In-House training, providing CPD seminars to entire agencies as a well our public courses these past two weeks. Our trainer’s adventures have stretched from Castle Hill to Byron Bay and so many exciting locations in-between with the running of our CPD seminars alongside our licensing courses here at ACOP. We had the pleasure of welcoming some fresh new faces to the property industry as we held our Certificate of Registration workshop for Real Estate, Strata Management and Business Broking. Amongst our Certificate of Registration students we also had an abundance of students attend our licensing courses including the Property Management module, the Trust Accounting module and finishing off with a full class of students attending our Business Broking Agency Practices licensing module.

Now if you have been keeping up with “From the Office”, you will know this section is always used to celebrate the internal happenings of the College or some may say coincidentally, finding reasons to have cake for lunch. It is with great happiness from not only myself but also the team we would like to say a big happy one year anniversary to Jaymi who is one of our training consultants. Jaymi (who is part time with the College and part time at university) creates endless smiles within the office and always hypes the team up with the hottest RnB song trending. We thank Jaymi for her hard work, and we hope she enjoyed the delicious antipasto platter – and we can’t wait for her to be working full time with us during her mid-year University break. Finishing off this last fortnight I take the opportunity to say thank you to my ACOP family – as yesterday I celebrated my 27th birthday alongside the best team that I could ever imagine - they decorated my desk, purchased limited edition Arnott’s chocolate for breakfast and went to great lengths to ensure my day was amazing. It ended (of course) with the most decadent and dense caramel mud cake with a smile you couldn’t wipe off my face. Thank you all again and here’s to many more years as a member of the ACOP family.

CERTIFICATE OF REGISTRATION COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

MON 3RD WED 5TH JUN	PARRAMATTA
WED 12TH FRI 14TH JUN	SYDNEY CBD
MON 15TH WED 17TH JUL	SYDNEY CBD
SAT 20TH SUN 21ST JUL	SYDNEY CBD WEEKEND WORKSHOP

FINANCE & MORTGAGE BROKING COURSES

Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

MON 24TH WED 26TH JUN	SYDNEY CBD Certificate IV in Finance & Mortgage Broking
THU 27TH FRI 28TH JUN	SYDNEY CBD Diploma of Finance & Mortgage Broking Management (Upgrade Program - Must hold Certificate IV in Finance & Mortgage Broking)

PROPERTY LICENCE COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

5 TH - 6 TH JUN	Staff Management SYDNEY CBD	3 RD - 4 TH JUN	Financial Management SYDNEY CBD
27 TH - 30 TH MAY	Sales for Real Estate SYDNEY CBD	FRI 24 TH MAY	Trust Accounting + Insurance SYDNEY CBD
29 TH JUL - 2 ND AUG	Stock & Station Agency Practices SYDNEY CBD	17 TH - 19 TH JUN	Trust Accounting SYDNEY CBD
1 ST - 4 TH JUL	Strata Management Agency Practices SYDNEY CBD	20 TH - 21 ST JUN 18 TH - 19 TH JUL	Property Management SYDNEY CBD PARRAMATTA
THU 23 RD MAY	Real Estate Auctioneer Accreditation SYDNEY CBD	8 TH - 9 TH AUG	Business Broking Agency Practices SYDNEY CBD

View our course calendar for all course details.

THE AUSTRALIAN COLLEGE OF PROFESSIONALS
IS PROUD TO PRESENT THE

CONSUMER GUIDES





THESE 9 GUIDES WERE CREATED
TO HELP YOU WORK MORE
EFFECTIVELY WITH YOUR AGENT

LEARN WHAT YOUR AGENT KNOWS
REDUCE THE CONFUSION
BE AHEAD OF THE GAME

Purchase the
Consumer Guides at

acop.edu.au



-  1300 88 48 10
-  enquiries@acop.edu.au
-  www.acop.edu.au
-  Level 2, St Andrews House
Sydney, NSW 2000



Australian College
of Professionals

Follow us



More information on our courses and a full course calendar can be found at www.acop.edu.au