



Legal Update

Combustible Cladding Checklist and its impact on Selling

Checklist Deadline approaching

Time is running out to register your building and complete the combustible cladding checklist on the Safer Buildings website (www.saferbuildings.qld.gov.au) - don't miss the 29 March 2019 deadline! You can ask for an extension of time but your request must be made via the website by 1 March 2019.

Registration and completion of a Combustible Cladding Checklist is required by 29 March 2019 if:

- you own a building which is a Class 2 to 9 building, of Type A or B construction; and
- the building was built (or has had cladding altered) after 1 January 1994 but before 1 October 2018; and
- even if there is no combustible cladding in the building.

For example, the laws would only apply to residential units (Class 2) that have 2 or more storeys and an office building or shop (class 5 or 6) of 3 or more storeys. Owners of Class 1 buildings (e.g. single homes, row house, town house or villa) do not need to register. For information on classes of buildings and types of construction, please refer to the Building Codes of Australia Classes of Buildings (www.qbcc.qld.gov.au/building-codes-australia-bca-classes-buildings).

For owners of strata title units, the Body Corporate is the entity responsible for registering and completing the checklist for the building.

If you own buildings in Queensland, but live interstate or overseas, you are still required to register and complete the checklist and can engage an agent on your behalf.

The checklist has 3 Parts, and you may not be required to complete all three, depending on your answers to the questions posed. It is expected that the majority of buildings will not have combustible cladding and after completion of the first Part, will not require further assessment by a building industry professional and/or fire engineer.

Part 1 is registration and completion of the Part 1 questions on the checklist. There is a process to follow including downloading, signing and uploading a statutory declaration at the end of Part 1. The answers to the questions will determine if you are required to proceed to Parts 2 and 3, including engaging a building industry professional and/or a fire engineer.

Part 2 (completion of the next step of the checklist and engaging a Building Industry Professional) is to be completed if applicable by 29 May 2019 – not far away.

Part 3 involves engaging a Fire Engineer and registering their details by 27 August 2019 and then completing Part 3 of the checklist and uploading that by 3 May 2021.

You can go straight from Part 1 to Part 3 if you know or suspect your building has combustible cladding. If you need to complete Part 2 or Part 3, you should talk to a professional as soon as possible so that they can meet the relevant timeframes.

There are penalties for failing to undertake the process.

Further information on the process and penalties can be found on the Safer Buildings website (www.saferbuildings.qld.gov.au).

Your obligations for management and sale of the Building

You must keep the completed Part 1 Combustible Cladding Check list for your building for at least 7 years after a copy is completed and uploaded online to the Safer Buildings website.

If your building has combustible cladding and you move on to Part 3, there are various obligations to display certain notices, and to keep a copy of all of the completed checklist together with the Building Fire Safety Risk Assessment and Fire Engineer Statement for 7 years, with copies given to each lot owner and tenant.

If you sell the building before you comply with one or more of the relevant provisions of the legislation, you must give the new owner a notice in the approved form about the extent to which you have complied and a copy of each document given by or to you as the original owner, and you must give the Safer Buildings department a copy of the notice that is given to the new owner.

From when ownership of the building changes, the obligation to comply with the relevant provision for the building applies to the new owner. The new owner has an obligation to complete the checklist, keep the related documents and display affected private building notice, if applicable. As such, we can expect to see this as a key contract and due diligence issue in the sale/purchase of Class 2 to 9 buildings.

If you have any questions, feel free to contact Alison Fleming, Partner of our office on (07) 5443 1566 or mail@tml.com.au.

22 February 2019

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Thompson McNichol Lawyers

Suite 5, 32 Aerodrome Road | PO Box 552 | Maroochydore | QLD | 4558
E mail@tml.com.au | P 07 5443 1566 | F 07 5443 7196 | W tml.com.au

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