

Why this apartment with cladding is safe but not sellable

Michael Bleby *Senior reporter*



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A Melbourne investor's \$422,000 apartment sale is at risk of falling through because the Victorian Building Authority may not be able to formally confirm that the building meets combustibile cladding requirements – despite already declaring it a low risk – before the sale is due to close.

Businessman David Proctor last month agreed to sell his two-bedroom apartment in Coburg but his buyer's bank insisted on receiving an acquittal, or cancellation, by the VBA of the enforcement notice it had issued over cladding on the three-storey building.



Hold up: David Proctor is trying to sell an apartment in a building with combustibile cladding that experts say is safe, but the regulator still officially regards as non-compliant with the building code. **Eamon Gallagher**

The VBA in September told residents the panels used on the walls were low-risk in terms of spreading fire, which was confirmed by CSIRO testing.

[https://www.vba.vic.gov.au/__data/assets/pdf_file/0004/153886/VBA-EPS-Concrete-August-2022.pdf] Last week the agency told Mr Proctor it might not be able to lift the restriction on his building before his scheduled settlement.

“The building may require re-inspection before the enforcement is cancelled and we cannot guarantee the enforcement will be removed before 21/12/22,” the agency said.

Mr Proctor, who paid \$420,000 in 2013 for the two-bedroom apartment and needed to sell it to fund his purchase of a new home, was concerned the deal would fall through.

“We have got eight weeks to settle this, otherwise we lose the buyer,” he said.

Rising interest rates also make servicing the mortgage on the apartment he is trying to dispose of more expensive. Mr Proctor’s tenant is paying \$380 a week, which no longer covers his rising mortgage payments.

“We have to start topping up every month,” he said. “That’s another element of stress.”



The panels on the upper floors of the building around Mr Proctor’s apartment are a mix of concrete and EPS (expanded polystyrene), but in a mix and density experts say is unlikely to spread flame. **Eamon Gallagher**

The curse of the crisis that rendered apartments unsellable has moved into a new phase as the regulator grapples with the technical and reputational risks of giving buildings a green tick to go back into the pool of tradeable properties.

Victoria has more cladding-affected buildings than any other state and has so far identified 1934 buildings – containing many thousands of apartments – with combustible cladding.

Regarding Mr Proctor’s building, the 30-unit redevelopment of a former knitting mill, precast panels on the upper part of the building are a mix of concrete and expanded polystyrene, which by itself is a combustible material.

However, the low mix of EPS with concrete and the high density of the panels made them unlikely to spread flames, said Jonathan Barnett, a consulting fire engineer who recommended lifting the enforcement order.

How hard can it be to confirm the building has deemed compliance so an owner is not trapped in a unit they can’t sell?

— OCN executive director Karen Stiles

“They’re afraid that if there’s a fire and something goes wrong two weeks after removing the notice, they’re going to look bad,” Basic Expert’s Dr Barnett said. “[But if that happened] I’m the one who’s going to look bad!”

The VBA said it needed time to ensure buildings were safe for occupation.

“Victorian Building Authority inspectors identified safety issues at a Coburg property and issued an enforcement notice to have these matters rectified,” state building surveyor Andrew Cialini said.

“We work collaboratively with councils, the building industry and owners, allowing ample, generous and reasonable timeframes to improve building safety.”

Many apartment buildings with combustible cladding were also found to have other problems that might render them non-compliant under the building code, but these should be treated separately from the cladding issue, Dr Barnett said.

“If they want to go back and find more things and issue a new notice, they can do so,” he said. “In the meantime, there’s no reason they can’t remove the notice.”

This week – after *The Australian Financial Review* made queries about the building – the VBA contacted Mr Proctor to arrange a building inspection for next week.

Strata advocates say regulators need to be quicker to act.

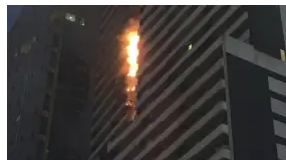
“If they can taint the title they have a duty to remove the stain if there is a deemed compliance solution,” strata lawyer Stephen Goddard said.

“The VBA is there for the purpose of the threat to life safety but what they are not doing is acknowledging the impact on capital values.”

Owners Corporation Network, an advocacy group for strata owners, agreed.

“The regulator failed owners with flammable cladding in the first place,” executive director Karen Stiles said.

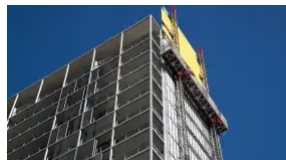
“They’re obliged to be part of, if not driving, the solution. How hard can it be to confirm the building has deemed compliance so an owner is not trapped in a unit they can’t sell?”



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