

# Citing COVID-19 and \$1.5M in class action costs, cladding manufacturer goes into administration

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Cladding manufacturer Fairview Architectural has filed for voluntary administration, citing challenges posed by COVID-19 and \$1.5 million spent so far defending a class action alleging it misrepresented the quality of its “highly flammable” cladding.

“Following a series of company and industry challenges – which includes COVID19 – Fairview Architectural Pty Ltd has initiated a voluntary administration of its business,” Fairview said.

The company, whose cladding is used at major Australian airports, entertainment facilities, and government buildings, said it hopes to survive the administration process.

Said Jahani and John McInerney of Grant Thornton have been appointed as administrators.

William Roberts Lawyers filed a class action against Fairview in June of last year, alleging it misrepresented the quality of its allegedly highly flammable Vitrabond cladding. The class action, funded by Omni Bridgeway, seeks compensation for the cost of replacing the cladding and costs associated with making any affected buildings safe.

Fairview said the costs of defending the class action have threatened its long-term viability. It said it had engaged in talks to settle the matter despite believing the claims were baseless, although no court-ordered mediation has taken place.

“The firm has recently spent almost \$1.5 million defending a class action claim brought against it and the cost of continual legal defence threatened the company in the long-term,” Fairview said.

“While Fairview Architectural Pty Ltd believes there was no legal liability on it, the firm has engaged good faith settlement negotiations.”

The lead applicant in the class action has filed an application with the court seeking to lift the normal stay of proceedings against companies in administration to allow the class action to proceed.

William Roberts is also considering joining Fairview’s insurers, director Andrew Gillies and Gillies’ insurers.

The law firm has also been in touch with Fairview’s administrators.

“We have also requested documents from the Administrators, and will continue to discuss the position with them in the interest of class members,” William Roberts principal Bill Petrovski said.

A spokesperson for Grant Thornton, which will represent Fairview at Friday hearing, said the company would contest the request to lift the stay.

“The appointment of a voluntary administrator provides a company with a statutory moratorium on any enforcement action for the duration of the administration, which is around four weeks. The reason for the moratorium is to maximise the chances of a company or its business continuing in existence or, if not possible, to attempt to obtain a better return for creditors as opposed to an immediate liquidation or winding up,” the spokesperson said.

“The administrators commenced on 7 July 2020. Based on independent legal counsel, the administrators will seek to preserve the moratorium for the duration of the administration. This will ultimately be decided by the court. Regardless of the outcome of the court hearing this week, the administrators will continue to liaise with all affected creditors during the course of the administration.”

The first creditors meeting will also be held on Friday.

Fairview’s website describes Vitrabond as an aluminium composite panel comprised of a fire resistant core, sandwiched between either two aluminium or other natural metal cover sheets. Fairview admits the core is combustible, but maintains Vitrabond has excellent large scale fire resistance.

Fairview lists more than 50 projects on its website that have used Vitrabond across Australia, including: the Melbourne Airport tower; Star City Casino and Royal Randwick Racecourse in Sydney; the Attorney-General’s Department building in Canberra; Canberra Airport; the ABC Headquarters in Brisbane; and Metricon Stadium on the Gold Coast.

Vitrabond apartment buildings promoted by Fairview include Connor Central Park, Duo Central Park, Harbour Mill, Mirage and The Monarch in Sydney; 1 McNab Avenue, Bunjil Place, George Windsor, Joulia, Jacques, Momentum and XI Apartments in Melbourne; Gasworks in Brisbane; and the Kingston Foreshore in the ACT.

William Roberts [filed its first cladding class action last year](#) against fellow market leader Halifax Vogel Group (HVG) and German manufacturer 3A Composites over the Alucobond polyethylene cladding, which is also installed in countless buildings across the country.

HVF has [denied the material itself was unsafe](#), instead saying that its suitability for use in certain buildings would depend on an assessment by a builder, architect or certifier.

William Roberts and IMF Bentham are continuing to investigate possible class actions against other polyethylene core cladding manufacturers.

The Australian class actions were filed after major fires around the world in buildings that used polyethylene core cladding. Most notably, the 23 storey Lacrosse tower in Melbourne caught fire on November 25, 2014 and the Grenfell tower in London caught fire on June 14, 2017, resulting in loss of lives and property.

The NSW government issued a retroactive ban on the use of certain aluminium cladding which took effect on August 15, 2018, and applies to cladding where the core is more than 30 percent PE. In Victoria, orders to remove and replace flammable cladding have been issued to owners of several buildings.

Fairview is represented by Colin Biggers & Paisley.

The Fairview class action is [The Owners – Strata Plan No 91086 v Fairview Architectural Pty Ltd ACN 111 935 963](#). The Halifax Vogel and 3A Composites class action is [The Owners – Strata Plan 87231 v 3A Composites GmbH & Anor](#).