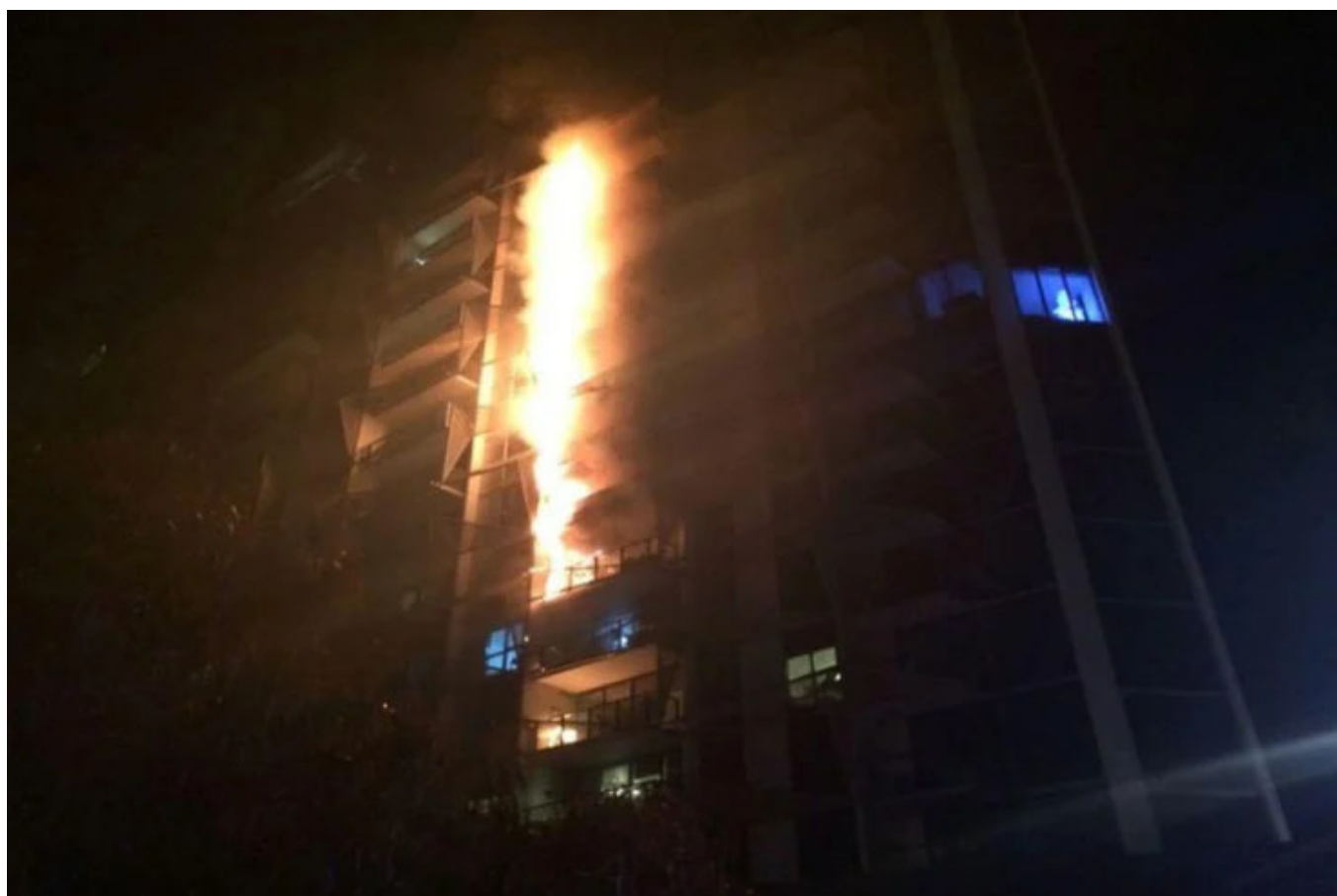


EDITORIAL

It's time for action to match the scale of our building problems

We all expect to be safe in our homes, but making them so can be complex and expensive when the work requires fixing unseen structural defects. What lies beneath the surface, out of sight and out of mind, can prove to be the scary bit.

That has been the unfortunate experience of many hundreds of apartment owners in Victoria whose buildings were dressed externally with [highly combustible, aluminium and polyethylene composite cladding](#).



The Lacrosse tower on fire in Docklands in 2014. MFB

The dangers of using such cladding became apparent in late 2014, when a fire spread rapidly up the side of the [Lacrosse apartment tower](#) in Docklands. Three years later, [72 people were killed](#) when a fast-moving fire, fuelled by similar cladding, engulfed the [Grenfell Tower](#) apartment block in London.

In the aftermath, many hundreds of buildings in Victoria, including 20 hospitals and the [MCG's northern stand](#), were found to have similarly flammable cladding. The need to replace that cladding was urgent, but the cost and the potentially lengthy legal train of liability generated alarm across the building and insurance industry.

The state government, to its credit, stepped into the breach. In July 2019, it [set up a \\$600 million](#) fund to replace cladding on higher-risk properties. The fund does not cover lower-risk properties where fire mitigation works might be done, and that has caused [a whole other range of issues](#).

As the removal assessment of hundreds of buildings began, a welter of serious construction defects was uncovered. Cladding Services Victoria, which oversees the rectification program, discovered [“considerable and widespread serious” defects](#) in at least 168 of the 339 buildings in its program.

These include a lack of waterproofing around balconies that has led to water ingress, resulting in severely rotted timbers and, in some cases, black mould. Cladding Services Victoria blames poor architectural design, careless construction or building methods, and a dearth of maintenance.

Its remit, obviously, is limited to several hundred buildings, but its findings imply there are much more extensive problems through the entire building industry – a woeful legacy of the past few decades of slapdash, profit-oriented development that all too easily slipped through the regulatory net.

Developers have cut corners to maximise profit at the expense of safety and amenity, while builders and private surveyors have lacked rigorous oversight. The regulatory system has been grossly inadequate.

Several reviews have focused on lifting safety and quality, and bolstering the monitoring and enforcement of building standards. The Shergold-Weir national [review](#) cited “diminishing public confidence” as it made 24 recommendations to improve regulations; the registrations of building practitioners; the building and design approvals process; fire safety design; inspection systems and regimes; building documentation; and more.

A 2018 [Senate committee report](#) condemned the regulatory system as “broken and fragmented”. It called for a “coherent and robust” regime, noting different standards and requirements applied in each of the eight regulatory jurisdictions.

In Victoria, the Lacrosse fire triggered a [statewide investigation and audit](#) of the use of cladding materials. Separately, the first phase of change from the ongoing [Building System Review](#) is the recently passed [Building Amendment Act](#). It is intended to toughen consumer safeguards and professional standards by introducing a Building Monitor to work alongside [the State Building Surveyor](#), both under the auspices of the Victorian Building Authority.

But much remains to be done. The building defects legacy will play out over decades, and there is no swift recourse for consumers.

To make matters worse, the Court of Appeal ruled last year that the Victorian Civil and Administrative Tribunal [does not have the authority](#) to hear cases involving Commonwealth law, a decision that significantly undermines VCAT's ability to hear complex building cases, because they tend to involve insurance, consumer and trade practices laws. A separate decision

in March found VCAT does not have the power to hear [so-called contributions proceedings under the Wrongs Act](#).

While many of these cases may end up being heard in the County Court, for building owners and apartment residents it's a devastating and expensive mess.

If that's not bad enough, changes brought in 20 years ago eliminated the requirement for residential developments of more than three storeys to have [domestic building insurance](#). That means many home owners – indeed, many battlers – have been left without access to Victoria's domestic building insurance scheme to cover construction defects.

The government put the building authority itself under review after the loss of its chief executive and revelations [that inspections were being completed on iPhones](#). When *The Age* revealed this week that [roofs were routinely inspected for faults](#) from the ground the government insisted that review would shortly bear fruit.

It might be easy to sheet blame to architects, builders, developers, lazy owner-management corporations, and industry regulators – all of whom bear responsibility to some extent – but the bigger question focuses on what is being done to improve regulations and standards across the entire industry.

Owners, surely, are entitled to expect more than shoddy building practices and expensive remedial works, while the entire community expects more than ineffectual regulation and piecemeal, glacial-paced intervention by the state government.