

Vero Insurance to argue owners suffered no property damage in cladding class action



Construction 2022-09-19 11:17 pm By [Cindy Cameronne](#) | Sydney

Insurer for cladding manufacturer Fairview Architectural, Vero Insurance, will argue a \$190 million policy does not cover claims in a class action alleging combustible cladding caused losses for property owners, a court has heard.

In a case management hearing on Monday, Federal Court Justice Michael Wigney was told that Vero would fight an interlocutory application by property owners seeking to join the insurer as a respondent, **alleging its policy** responds to claims of loss and damage in the case.

Justice Wigney said the “ultimate question” at the interlocutory hearing scheduled for next week would be whether the process of removing and replacing the cladding could be considered damage to the property that engages Vero’s insurance policy.

Counsel for the class action, Peter Braham SC, said AAI, which trades as Vero, had the burden of proving it was entitled to disclaim liability under the policy.

“[AAI] wants to prove on balance of probabilities there is in fact no property damage,” said Braham.

William Roberts Lawyers filed two class actions in 2019 after major fires broke out in buildings that used polyethylene core cladding, most notably, the 23 storey Lacrosse tower in Melbourne in 2014 and the Grenfell tower in London in 2017.

A case against Halifax Vogel Group (HVG) and German manufacturer 3A Composites centres on Alucobond polyethylene cladding, which is also installed in countless buildings across Australia. The case against failed Fairview Architectural alleges the company misrepresented the quality of its popular but allegedly highly flammable Vitrabond cladding.

The class is seeking damages, compensation, interest and costs. Primary losses include the cost of replacing the PE cladding with suitable material and any other costs to fireproof affected buildings.

On its website, Fairview listed more than 50 projects that had 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.

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.

In May, ASX-listed funder Omni Bridgeway sold a 30 per cent stake in the class action against Fairview Architectural and the [class action](#) against Halifax Vogel Group (HVG) and 3A Composites for \$19.5 million to Gerchen Capital Partners.

The Fairview class action is represented by Peter Braham SC and Jerome Entwisle, instructed by William Roberts Lawyers. AAI is represented by Julian Sexton SC and Christine Ernst, instructed by Moray & Agnew. The defendants in the class action against Halifax and 3A Composites are represented by King & Wood Mallesons and Wotton & Kearney.

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](#).