
More than 1000 buildings could join cladding class action

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Compensation in Australia's first combustible cladding class action could be worth many billions of dollars and take in more than 1000 buildings, according to a federal court judgment giving the first official indication of how big the claims could be against Alucobond manufacturer 3A Composites and supplier Halifax Vogel Group.

Potential claimants also existed in every state and territory in Australia, Justice Michael Wigney said in the interlocutory judgment that rejected 3A Composites' attempt to limit the number of members in the open-ended class, a move litigation funder Omni Bridgeway called a "significant victory".



Flat chance: The Federal Court has thrown out Alucobond manufacturer 3A Composites' bid to limit the number of claimants against it. **Pat Scala**

Justice Wigney's comments do not mean apartment owners in 1000 buildings have signed up to join the class action – and Omni Bridgeway has declined to say how many owners have registered – but the judgment that goes against 3A Composites gives a clear indication of the stakes for which the manufacturer and its local supplier are playing.

"The evidence filed by the parties in relation to the interlocutory application suggests that there is likely to be more, perhaps many more, than 1,000 group members and that the potential damages claims may total many billions of dollars," Justice Wigney said.

Osnabrück, Germany-based 3A declined to comment on the size of the class and declined to say whether it would fight or settle the case.

"3A Composites is not in a position to confirm whether there are at least 1000 buildings in Australia that would be subject to the class action," it told *The Australian Financial Review*.

"3A Composites has always understood that its products were being safely used by qualified professionals and 3A Composites intends to vigorously defend its legal position in the class action."

The class action, of which [the 17-unit Shore Dolls Point building in southern Sydney](#) is the lead claimant and the only confirmed member, argues that the 100 per cent polyethylene-core panels were unsafe and not fit for purpose under Australian Consumer Law.

Shared liability

3A says the panels complied with relevant standards but argues that if they were found to have been applied in a way that made them unsafe, then the liability should be shared by the builders, contractors and consultants whose decisions allowed the panels to be used in an unsafe way.

The manufacturer sought details from the claimants of the third-party companies involved in the installation of panels on those buildings.

3A also wanted to close off the date by which claimants could register, so that it would not find itself facing damage claims down the track on buildings for which it could not share liability with the contractors because the time available to it for making such claims had passed.

Justice Wigney agreed that 3A had valid concerns about sharing liability but concluded that the importance of keeping the registration process for owners claims

open outweighed the risk to 3A.

Secrecy over the lists of cladding-affected buildings in Australia – in contrast to other jurisdictions such as [cities in New Zealand that have made this information openly available](#) – makes it harder for 3A to get information about which third-party companies were involved in putting its panels on apartment buildings.

The company said it could not comment on Australian governments' decisions not to disclose affected buildings.

"3A Composites does not consider it appropriate to comment on matters of government policy, including in relation to the ability of the public to access government cladding registers," it said.