

**Submission  
No 4**

## **INQUIRY INTO FURTHER INQUIRY INTO THE REGULATION OF BUILDING STANDARDS**

**Organisation:** ACP sub-committee

**Date Received:** 5 July 2021

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Dear Director,

I refer to the email of 1 July 2021 inviting a submission with respect to the further inquiry into the regulation of building standards. I am content for this submission to be published in full on your website (including details of my name and the identification of the Strata Scheme on whose behalf this submission is made).

As you would be aware for my original submission to your Committee, I am the Chair of the ACP sub-committee of [redacted] which is a large residential strata complex comprising of 104 apartments located in two buildings. We received from Sydney City Council (**Council**) a notice to replace our ACPs in late 2019 and have been working diligently towards meeting the terms of this order since it was received.

Our buildings have approximately 5,000 square metres of cladding that needs to be replaced. This cladding is not in large sheets, but comprises small areas located in entrances, fire exits, roof areas, on over 150 balconies, and on exterior sections as decorative panelling.

Whilst we appreciate the benefits of Project Remediate for strata schemes that are just starting their ACP replacement journeys, and while acknowledging that the Building Commissioner's focus properly is in helping these scheme owners navigate their way through the plethora of steps that need to be taken to successfully effect ACP replacement projects as well as providing interest free funding to enable them to do so, these benefits have effectively come too late for our strata scheme due to the following factors:

1. Our order from Council requires us to have the ACP replacement works effected by the first quarter of 2022, with all documentation and certificates required by Council being lodged with it by May 2022.
2. Our buildings' insurer (whom we have kept informed of developments since we received Council's order) has extended our policy to the end of 2021, on the basis that it will not renew it if this project is not substantially completed by Christmas 2021.
3. To join Project Remediate would mean that we would have to scrap all our work and the fees paid to consultants and experts to date (approximately \$100,000), and start again with consultants and experts nominated by the Building Commissioner.
4. By the time Project Remediate was ready to commence, we had already signed a legally binding building contract, as well as engagement contracts with our project supervisor and our fire certifier.
5. Many of our owners have put works on their apartments "on hold" so as to allow our ACP contractor unimpeded access to effect the panelling replacement works. Nevertheless, the replacement cladding product we have selected is fully in conformance with the recommendations of the Cladding Product Safety Panel.
6. We had already passed last year an owners' resolution to impose special levies to cover the costs of this project, and the collection of these is substantially completed.
7. We are most conscious of the significant risk to residents and their guest by virtue of the existence of flammable cladding, and felt that we had to remove this risk as soon as possible.

We note that we have been working on the solution (with appropriate experts) to this issue for two years, so the recent implementation of Project Remediate and the recent proclamation by the Cladding Product Safety Panel of the type of materials that were acceptable to replace ACPs have occurred well after our project had reached the point where works on replacing our ACPs was ready to commence.

Preliminary on-site works for our ACP replacement project commenced last month, with substantial replacement works commencing in a few weeks. Therefore, we are not in a position to avail ourselves of the benefits of Project Remediate. One aspect of this laudable program that we feel is lacking is some provision for an ex gratia payment for Owners Corporations which (like ours) have already embarked on their ACP replacement projects before Project remediate was devised or even commenced. We will not be imposing on the public purse for financial assistance with respect to consultants' and experts' fee, nor more importantly for the cost of replacing the ACPs and associated items behind them (in our case, at a total estimated cost of \$5,750,000). We are funding all of these expenses at our owners' costs, and there is a significant saving for the State of New South Wales in not having to fund and pay interest on these substantial monies over a 10 year period. I have written to the relevant Minister (Mr Anderson) and the Treasurer in this regard, but have not received an appropriate response. An ex gratia sum paid to our owners seems only fair in these circumstances, as otherwise they are being discriminated against due to the unfortunate timing of the issuing of Council orders and insurer's requirements, which means our owners cannot enjoy the financial advantages of Project Remediate but have to fund it themselves.

Our owners would appreciate your Committee in its review highlighting to the Government this unfair and discriminating anomaly, and seeking an ex gratia payment to our Owners Corporation. We think that that such financial assistance should also be made, as it is the Government's approved regime of private certifiers that allowed them to issue certificates to the effect that this unsafe and highly flammable cladding was compliant and therefore the residential building on which it had been installed were safe for occupation. Further, the financial assistance offered through Project Remediate is much less beneficial than the cash payments made by the Victorian Government which would be a more appropriate form of financial assistance to Strata Schemes like ours (that are well advanced with their ACP replacement projects).

I am prepared to discuss these matters further with the Committee if you think this is appropriate.

With kind regards,  
Chris Rumore  
Chair- ACP sub-committee