

# PROHIBITION OF HIGH-RISK CLADDING PRODUCTS

## Minister's declaration

With effect from 1 February 2021, the Minister for Planning has declared under section 192B(1) of the *Building Act 1993* (the Act), that certain high risk external wall cladding products are prohibited from use by any person in the course of carrying out any building work in Victoria in connection with a Type A or Type B construction building<sup>1</sup>.

## Buildings affected by the prohibition

The prohibition applies to Class 2 to 9 buildings required to be of Type A or Type B construction by the Deemed-to-Satisfy (DtS) Provisions of Part C1 of the Building Code of Australia Volume One (BCA), where an application for a building permit has been made to the relevant building surveyor on and after 1 February 2021<sup>2</sup>. The intent of the prohibition is that it applies irrespective of whether a Performance Solution is proposed to meet the Performance Requirements of the BCA. The prohibition does not apply to buildings of Type C Construction or to buildings that are classified as Class 1 and 10 in accordance with the Building Code of Australia.

## Prohibited cladding products

The declaration prohibits the use of the following external wall cladding products:

- aluminium composite panels (ACPs) with a core of less than 93 per cent inert mineral filler (inert content) by mass in an external cladding as part of a wall system; and
- expanded polystyrene (EPS) products used in an external insulation and finish (rendered) wall system.

## Minister's Guideline MG-14

From 22 March 2018, where an application for building permit proposed the use of EPS or certain ACP products in an external wall system, Minister's Guideline MG-14 required a determination of the Building Appeals Board to confirm that the use of these products complies with the Act and the relevant building regulations. From 1 February 2021 MG-14 is revoked.

## Cladding products not affected by the prohibition

The Minister's declaration does not affect the use of other external wall cladding products in buildings required to be of Type A or B Construction. This includes products such as insulated sandwich panels, EPS concrete (Conpolcrete™), which are not considered to be included in the definition of prohibited cladding products.

## Applying the prohibition and the BCA

The use of any product, system or method must comply with the Performance Requirements of the BCA through a DtS Solution, Performance Solution, or combination of solutions.

<sup>1</sup> See Part C1 of the [Building Code of Australia Volume One](#) for the meaning of 'Type A Construction' and 'Type B Construction'.

<sup>2</sup> See section 192B(2) of the *Building Act 1993* (Vic) that provides a declaration does not apply to building work that is the subject of an application for a building permit made before the date of commencement.

Many cladding products are not subject to DtS Provisions, requiring a Performance Solution to be used to meet the Performance Requirements.

Where a product is within the scope of the prohibition, the prohibition prevents any ability to install these products, even if they are subject to a Performance Solution.

## Impact of the Minister's declaration on existing building permits and Building Appeals Board applications

The Minister's declaration in respect of an application for a building permit or an existing building permit does not apply to the use of a prohibited external wall cladding product in buildings required to be of Type A or Type B construction under a permit in the following circumstances:

- where the application for a building permit was made to the relevant building surveyor before 1 February 2021
- an application to the Building Appeals Board in respect of an application for a building permit made to the relevant building surveyor before 1 February 2021.

If a building surveyor is considering an application for building permit made before 1 February 2021 that proposed the use of ACP and certain EPS external wall cladding products, MG-14 would apply.

## Cladding rectification program

The Minister's declaration is not retrospective and does not apply to any buildings for which a building permit was issued before 1 February 2021.

The decision to prohibit these products has been taken to limit the risk to the public from any future inappropriate use. The decision does not represent a changed view by the government about the risk presented by the products themselves.

The decision does not affect any risk assessments made by a building practitioner engaged by a building owner post construction, a relevant building surveyor, or as part of the state-wide cladding audit. Where these products have been installed appropriately and have been reviewed, assessed and approved by appropriate building practitioners, the installation of these products is not affected. This includes where cladding may remain on a building following rectification once appropriate authorisation has been given.

Owners and occupants of existing buildings should continue to respond to any advice or direction from the Victorian Building Authority, the municipal building surveyor or other building practitioner, if any, about measures to ensure their building is and continues to be able to be occupied.

## Failure to comply with the prohibition

Failure to comply with the prohibition may attract significant penalties of up to 500 penalty units for a natural person and 2,500 for a body corporate under section 16 of the Building Act.

## Further information

Information in support of the prohibition and about the actions being taken by the Victorian Government to address combustible external wall cladding is available on the Department of Environment, Land, Water and Planning website:

<https://www.planning.vic.gov.au/building-policy/cladding-rectification-program>

The Minister's declaration (Prohibition of High-Risk Cladding Products):

[GG2021S022.pdf \(gazette.vic.gov.au\)](#)

Further Information on combustible cladding may be found at:

<https://www.vba.vic.gov.au/cladding/faqs>

<https://www.vba.vic.gov.au/cladding/resources>

<https://www.vba.vic.gov.au/about/research/fire-safety-of-rendered-expanded-polystyrene-eps-in-exterior-insulation-finishing-systems-eifs-on-class-2-to-9-buildings-of-type-a-or-type-b-construction>

[https://www.vba.vic.gov.au/\\_data/assets/pdf\\_file/0010/97579/Fact-Sheet-Aluminium-Composite-Panels.pdf](https://www.vba.vic.gov.au/_data/assets/pdf_file/0010/97579/Fact-Sheet-Aluminium-Composite-Panels.pdf)

[https://www.vba.vic.gov.au/\\_data/assets/pdf\\_file/0011/97580/Fact-Sheet-Expanded-Polystyrene.pdf](https://www.vba.vic.gov.au/_data/assets/pdf_file/0011/97580/Fact-Sheet-Expanded-Polystyrene.pdf)

#### Want to know more?

If you have any questions about this information, please contact the VBA.

**Telephone:** 1300 815 127

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