

CLADDING FACT SHEET FOR REMEDIAL PRACTITIONERS

DESIGN AND BUILDING PRACTITIONERS ACT 2020 (DBPA)

DESIGN AND BUILDING PRACTITIONER REGULATIONS 2021 (DBPR)

From **1 July 2021**, if you are performing remedial "building works" on a Class 2 building or related mixed use building, you may be subject to the new obligations arising under the DBPA.

- remedial building works may include the making of alterations and additions to a building or the repair renovation or protective treatment of a class of building falling under the DBPA
- if "building works" are being performed to a "building element" (such as fire safety systems, waterproofing, internal or external components essential to stability of building, mechanical, plumbing, electrical) a "regulated design" is required and obligations under the DBPA must be adhered to
- if a design is prepared for a performance solution for building work, it is a regulated design and obligations under the DBPA must be adhered to

To determine whether you need to seek approval for cladding rectification works:

- If you have been issued with a Fire Safety Order from a consent authority which requires cladding rectification work to the building, then separate building approval is not required to undertake works to comply with the Order unless the works deviate from the Order.
- If you have not been issued with a Fire Safety Order, then you will need to seek building approval before undertaking any cladding rectification works. Approval can be obtained by seeking development consent from council through the lodgement of a development application (DA). A construction certificate (CC) will also need to be obtained prior to the work commencing.

Note: building approval in the form of a complying development certificate (CDC) as exempt development is only available if the building is a 1 or 2 storey dwelling house, attached development or detached development and does not involve the use of external combustible cladding.

Generally, all cladding rectification works fall under the provisions of the DBPA:

Note: the only exemption where the DBPA does not apply is where the works are carried out as exempt development under a CDC.

DBPA OBLIGATIONS AFFECTING CLADDING REMEDIAL WORKS

- there is no class of design practitioner specifically for cladding
- a design compliance declaration must be provided by a registered design practitioner declaring the design within the scope of their registration and accompany any regulated design
- classes of registered design practitioners who may be involved in providing design compliance declarations for regulated designs for cladding include the following noting that the entire façade system may need to be co-ordinated with various specialist consultants:
 - Design practitioner – Façade (entire façade system including cladding which may also include thermal, acoustic and structural aspects and may require specialist advice on these issues)
 - Design practitioner – Architectural (with specialist advice for location of fire services on floor plans, passive fire safety in fire-resisting elements, building enclosure including external walls/cladding)
 - Design practitioner – Structural (structural design sections and elevations outlining relationship to external building elements such as façade cladding)
 - Design practitioner – Fire Safety Engineering

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- all regulated designs and design compliance declarations must be lodged by the building practitioner before commencing work
 - a *standard title block* must be included in the regulated design prepared by the design practitioner
 - the NSW Planning Portal is presently only accessible for building works with a DA/CDC number, the current email address for submission of all relevant documents is dbpaudits@customerservice.nsw.gov.au [keep an eye out for updates regarding portal access]

NOTES

Building approval:

- Unless a Fire Safety Order has been issued, building approval will be required before undertaking any cladding rectification works.
- Approval can be obtained by:
 - seeking development consent from council through the lodgement of a DA. A CC will also need to be obtained prior to the work commencing.
 - a CDC (exempt development) (defined in the EPA Reg 2000) → not subject to DBPA

Under a Fire Safety Order:

- A consent authority can issue the owners of a building with a Fire Safety Order to require cladding rectification work. Where this has occurred, separate building approval is not required to undertake works to comply with the terms of the Order unless you are seeking to vary the works being performed under the Order.
- The standards for any cladding rectification work required to meet the terms of an Order will be determined by the consent authority. However, the works are subject to the requirements of the DBPA:
 - registered design practitioner must prepare designs for work and declare that the work meets the requirements of the BCA; and
 - the design and declaration must be lodged before the registered building practitioner can commence building work.

The above is not intended to be legal advice and should not be relied on as such. If you require legal advice as to your particular situation please do not hesitate to contact us.