

# SAFER BUILDINGS

## FIRE SAFETY RISK: BUILDING OWNER OBLIGATIONS

Under Part 4A of the Building Regulation 2006 (Regulation), obligations have been placed on building owners to complete all necessary steps of the combustible cladding checklist (Checklist).

For some building owners this will include completing part 3 of the Checklist which requires engaging a fire engineer to prepare a building fire safety risk assessment (BFSRA) and Fire Engineer Statement (FES) for their building.

The Checklist has been designed to provide building owners with the necessary information to make informed decisions about any fire safety risks associated with their building and take appropriate measures to mitigate these risks.

This fact sheet details the requirements for a building owner notified of an associated fire safety risk at their building and outlines the penalties and enforcement action for non-compliance.

### BUILDING DETERMINED A CLADDING FIRE RISK

If a fire engineer engaged to inspect a building, provides an FES that finds that building has an associated cladding fire risk, urgent requirements are imposed upon the owner of that building.

Under these circumstances, the owner's obligations include:

1. displaying an Affected Private Building Notice (notice)
2. providing QBCC evidence of display of the notice, using Form 76
3. informing building occupants of this fire safety risk and
4. taking action to mitigate the fire safety risk and or removing the combustible cladding.

Building owners must also keep copies of all documents related to the Checklist for a minimum of 7 years (from date provided to the QBCC).

### 1. DISPLAYING AFFECTED PRIVATE BUILDING NOTICE

Display of the notice must be done in the 'approved way'. Read the fact sheet [How to display an Affected Private Building Notice](#), for simple to follow instructions.

The notice, must be displayed within 60 business days after the FES is given to the building owner and must remain in place until either:

- the combustible cladding is removed from the building, or
- until the day a building certifier gives the building owner a compliance certificate (Form 29) stating that the combustible cladding on their building satisfies the requirements of the Building Code of Australia.

It is an offence if an owner is given a compliance certificate and a copy is not provided to the QBCC within five business days.

If combustible cladding has been removed from a building, a building owner can provide the QBCC with evidence of this to enable the removal of an Affected Private Building Notice.

Examples of documentation that the QBCC would accept include:

- Form 11 (certificate of classification), if this has been provided
- statutory declaration stating combustible cladding has been removed
- photographs showing removal of combustible cladding, and
- invoices evidencing removal of combustible cladding.

### 2. PROVIDING EVIDENCE OF DISPLAY OF THE NOTICE

Within five business days of the notice being displayed, the building owner is required to provide evidence that this has taken place.

This evidence, which includes photographs of the notice on display, should be provided to the QBCC using Form 76 (Compliance Notice) emailed to [qbcc.saferbuildings@qbcc.qld.gov.au](mailto:qbcc.saferbuildings@qbcc.qld.gov.au)

### 3. INFORMING BUILDING OCCUPANTS

In cases where the affected private building comprises two or more lots (for example, an apartment building) and where a body corporate roll is kept, the building owner (body corporate) must within 60 business days after the FES is given to them, give a copy of the BFSRA to:

- a) each owner of a lot in the building
- b) each leasehold interest holder of a lot in the building.

For a person who enters onto the body corporate roll at a later time, they must be provided a copy of the BFSRA within 60 days of their admission.

Where there is no body corporate roll kept, the building owner must, within 60 business days of receiving the FES, leave a copy of the BFSRA at, or post a copy to, the address of each lot in the building.

### 4. MITIGATING A FIRE SAFETY RISK

Fire safety risk mitigation measures may be recommended by a fire engineer engaged to complete part 3 of the Checklist. A fire safety risk mitigation measure is a system or strategy implemented, for a limited period, to reduce the likelihood of fire occurrence and/or to reduce the consequence of a fire if it was to occur.

This may include, but not be limited to:

- increased maintenance of critical fire safety systems
- removal of vegetation, car parking, smoking areas, or other fuel sources from the building surrounds
- increased emergency evacuation drills
- immediate removal of some parts of the external wall assembly
- part or whole shut down of the facility.

The measures are recommended to improve the fire safety of the building until further fire engineering investigation is carried out (and cladding rectification work is undertaken if required). For this reason, these measures should be implemented immediately after the BFSRA is received by the building owner.

If the fire engineer determines a building has a cladding fire risk, it is the building owners obligation to implement a solution for their building to remove this risk. The QBCC encourages building owners to discuss their particular circumstances with their insurance provider, to further inform their decisions for or against particular actions.

### PENALTIES AND ENFORCEMENT ACTION

Failure to comply with various sections of the Regulation is an offence which carries penalties. These penalties include possible commencement of a prosecution in the Magistrates Court where a monetary penalty and a court order compelling the owner to complete the Checklist can be sought.

An offence of section 16X of the Regulation, that is; not completing Part 3 of the Checklist or providing a BFSRA or Fire Engineer Statement to the QBCC, attracts a maximum penalty in excess of \$22,000.