

commencement of the Environmental Planning and Assessment Amendment Act 2017 (NSW)

15 MARCH 2018

BUILDING PRODUCTS (SAFETY) ACT

INTRODUCTION

The Building Products (Safety) Act 2017 (NSW) ('the Act') was passed by the NSW Parliament and assented to on 30 November 2017 by the Governor. The Act comes after the tragic events of the Lacrosse fire in Victoria and the Grenfell Tower fire in London which led to combined total of 71 fatalities. Both tragedies involved the use of aluminium composite panels, a type of cladding that is highly flammable. The Act primarily focuses on identifying safety risks and enforcing checks and balances to prevent the use of unsafe building products.

Amendments to Schedules 2.1, 2.4 [3] and [4] and 2.5 of the Act commenced on 18 December 2017. However, the date of commencement for the remainder of the Act has not been set, but it is scheduled to coincide with the

BUILDING PRODUCT USE BANS

Upon commencement, the Commissioner or Secretary for Fair Trading, Department of Finance, Services and Innovation (Commissioner or Secretary) may prohibit the use of a specified building product in a building if it is satisfied the use of such a product is unsafe based on reasonable grounds.

GENERAL BUILDING SAFETY NOTICE

The Commissioner or Secretary may also issue a general building safety notice if it is satisfied on reasonable grounds that a class of building may be affected buildings. That is, if a banned building product is used in the building for a prohibited use, a notice will be provided to identify the safety risk posed to all affected buildings.

OFFENCES AND PENALTIES

Under section 15 of the Act, a corporation which contravenes a building product use ban is liable to a maximum penalty of \$1.1 million, and an individual may face two years' imprisonment or a fine of \$220,000, or both. The same penalties apply for a person or corporation which falsely represents a building product as being suitable for use in a building when in fact, such use would violate a building product use ban.

MOVING FORWARD

Under section 15 of the Act, a corporation which contravenes a building product use ban is liable to a maximum penalty of \$1.1 million, and an individual may face two years' imprisonment or a fine of \$220,000, or both. The same penalties apply for a person or corporation which falsely represents a building product as being suitable for use in a building when in fact, such use would violate a building product use ban.

For more information

For more information on the Building Products (Safety) Act contact one of our Principal Solicitors:

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