

22 September 2015

Cladding Action – legal update

James Hardie has recently applied to strike out the first claim in the Cladding Action claim asserting that the claim is barred by the 10 year long stop in the Building Act. That application will be opposed and we will rely on the recent decision of the Court of Appeal in the leaky schools litigation between the Ministry of Education and cladding manufacturer Carter Holt, which held that the 10 year long stop in the Building Act does not apply to this type of claim.

We will see in coming weeks if Carter Holt is granted leave to appeal to the Supreme Court. If leave to appeal is granted then a hearing of that appeal and a decision from the Supreme Court may be some time away – probably next year.

Owners who think they are eligible to join the Cladding Action must move quickly to be in position to have their claims assessed and lodged before a December 2015 deadline when a new 15 year longstop comes into force. After December 2015 it may be too late for many potential claimants.