



APPEAL

Integrated Planning Act 1997

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Gold Coast Building Certification Group

Site Address: *withheld*-“the subject site”

Applicant: *withheld*

Nature of Appeal

Appeal is against the decision of the Gold Coast Building Certification Group not to issue a ‘Form 21 - Final Inspection Certificate’ for a dwelling.

Date and Place of Hearing: 9.00 am Tuesday 15 January 2008
at “the subject site”

Tribunal: Mr Greg Rust

Present: Applicant/Owner/Builder

Decision

In accordance with Section 4.2.34 of the *Integrated Planning Act 1997*, the Tribunal **changes** the decision of the Gold Coast Building Certification Group, by directing Gold Coast Building Certification Group to issue a ‘Form 21 - Final Inspection Certificate’ subject to the following:-

- **Receipt of a certificate from the licensed builder or suitable licensed contractor, in the approved form confirming inspection of the termite management system and its compliance with AS3600.**

Background

The dwelling, subject of the appeal, was completed by the licensed builder, *withheld*, in 2007. A frame inspection and a final inspection had been carried out by the Gold Coast Building Certification Group. The inspection notice issued by the Gold Coast Building Certification Group, dated 26 October 2007, made note that a termite management certificate was required for the system used to be provided in accordance with AS 3600.1.2000.

Material Considered

1. "Form 10 – Notice of Appeal" lodged with the Registrar on 20th November 2007 with supporting documents and photographs;
2. Frame and Final Inspection Reports of the Gold Coast Building Certification Group;
3. Written submission from *withheld*, dated 15th November 2007;
4. Verbal submission from *withheld* at the on-site hearing, 15th January 2008;
5. Building Code of Australia (BCA);
6. *Building Regulation 2006*;
7. The *Integrated Planning Act 1997*; and
8. Online licence search of *withheld* on BSA website.

Findings of Fact

Section 5 of AS3600 Part 1 2000 'Termite Management – New Buildings' outlines the deemed to satisfy requirements for sheet materials in respect of a termite barrier system to deter termites from gaining access to a building. In this case, the system used by the builder is sheet stainless steel bridging 200mm concrete filled block work at the basement of the building.

The barrier is visual at the edge of the stainless steel both from inside and outside of the building. However, the barrier has been penetrated by hold down rods in the cavity between the brick veneer and timber frame of the house. These penetrations are not visible and cannot be inspected without invasive destruction. Clause 5.6.3 AS3600 details the method of compliance of these penetrations i.e. 'rods which pass through a termite shield shall be covered with a tight fitting metal washer'. During the on-site hearing the builder identified that a tight fitting washer and nut had been used in accordance with clause 5.6.3.

Part 7 of the *Building Regulation 2006* deals with general provisions about certificates. A QBSA licensee may provide a certificate for an aspect of building work, in this case a termite system installed by the builder himself. This scope of work is considered to be within a builder's licence capacity holding an open licence. Therefore the builder should supply evidence of suitability as a QBSA competent person detailing the termite management system installed for the house, subject of this appeal.

Reasons for the Decision

Two ways are available to determine the compliance of the termite system installed in the house. The first by destructive invasion of the ceiling within the basement therefore making visual access available or secondly by the person responsible for the system providing documentary evidence that the system has been installed accordance with AS3600.1.2000.

The Tribunal does not believe it is appropriate for the builder to perform destructive access so the termite system can be inspected, however, documentary evidence should be supplied by the licensee outlining the system of termite treatment in accordance with AS 3600.1.2000 has been achieved.

The evidence provided should detail compliance of section 5 of AS3600.1.2000 in respect of material, fabrication of metal shields, mitre cuts, end joints, engaged piers, turn down at inside angles and anchorage and beyond reasonable doubt stand as documentary evidence of compliance.

The Tribunal notes that separate licence provision exists under the QBSA for Termite Management - Physical for the certification of a manufactured product, however, the system used and installed by the builder does not fit this category.

Greg Rust
Building and Development Tribunal Chairperson
Date: 10 March 2008

Appeal Rights

Section 4.1.37. of the *Integrated Planning Act 1997* provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Tribunal's decision is given to the party.

Enquiries

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals
Building Codes Queensland
Department of Infrastructure and Planning
PO Box 15009
City East QLD 4002
Telephone (07) 3237 0403 Facsimile (07) 3237 1248