



Building and Development Dispute Resolution Committees—Decision

Sustainable Planning Act 2009

Appeal number:	10-10
Applicant:	Queensland Fire and Rescue Service
Assessment manager:	Sunshine Coast Regional Council (Country Coastal Certifiers)
Concurrence agency: (if applicable)	None
Site address:	72 Caloundra Road Little Mountain Qld 4551 and described as Lot 12 on SP 122960 — the subject site

Appeal

Appeal by Queensland Fire and Rescue Service under section 528 of the *Sustainable Planning Act 2009* (SPA) against the decision of Country Coastal Certifiers to approve a development for construction of a Class 7a industrial building contrary to the advice of the Queensland Fire and Rescue Service.

This appeal was heard concurrently with Appeal no. 11-10, as the appeals refer to the same property.

Date of hearing:	11:30am on 19 March 2010
Place of hearing:	Level 7, 63 George Street Brisbane.
Committee:	Christopher Odgers – Chairperson Russell Bergman – Member Catherine Patterson – Member
Present:	Steven McKee – Applicant Chris White – Applicant Michael Corser – Applicant John Dunn – Assessment manager Richard Jones – Assessment manager Kari Stephens – Dillon Folker Stephens Paul Davis – Shawco Pty Ltd Michelle Davis – Shawco Pty Ltd John McLanders – Stramit Building Products Kerry Casin – Stramit Building Products Troy Bramley – Fyreguard

Decision:

The Committee, in accordance with section 564 (1) of the SPA, **confirms** the decision appealed against and dismisses the appeal.

Background

The subject site is currently developed and consists of a service station, UltraTune tenancy, and a caretaker's residence located over the service station. The application is to construct a 203m² extension to the existing industrial building.

The southern wall of the building extension is proposed to be constructed on or near the allotment boundary (within 400mm and angled to the allotment boundary). The new southern wall and 3m of the western wall are proposed to be constructed using Stramit Uniguard.

The applicant received an assessment application from the assessment manager dated 21 December 2009. The application nominated a combined assessment, including both a Building Code of Australia (BCA) deemed-to-satisfy design and an alternative solution. The submitted documents included only information in relation to the deemed-to-satisfy design.

Upon request by the applicant relating to the extent of the alternative solution, the assessment manager provided the fire engineering report authored by Bodycote Warrington Fire – Report number 2275300-RPT01 – Ver1.

The applicant's advice to the assessment manager dated 14 January 2010 states their assessment is non-complaint because the use of the Stramit Uniguard fire resistant wall is not BCA deemed-to-satisfy and is an alternative solution.

The assessment manager issued a decision notice 2009/BLDA-01359 on 21 January 2010. A copy of the decision notice was forwarded to the applicant on the 1 February 2010.

The applicant lodged their appeal on 15 February 2010. The basis of this appeal is that there is no legislative process for the acceptance of a generic alternative solution report to satisfy the BCA deemed-to-satisfy provisions.

Material Considered

The material considered in arriving at this decision comprises:

1. 'Form 10 – Appeal Notice' received by the Registry on 15 February 2010 with supporting information attached and including application for assessment of Special Fire Services, Form 1 development application Parts A & B
2. Letter from the applicant to the assessment manager and Shawco Pty Ltd dated 14 January 2010 advising that the assessment was non-compliant
3. Letter from the assessment manager to the applicant dated the 1 February 2010 with decision notice attached
4. Letter from the assessment manager to Garage World dated the 21 January 2010 with decision notice attached
5. Fire Engineering Report authored by Bodycote Warrington Fire – Report number 2275300-RPT01 – Ver1
6. Impact test certificate from Stramit dated 22 May 2006.
7. The SPA
8. The *Building Act 1975* (BA)

9. The BCA
10. Summary of background information received from Sunshine Coast Regional Council (21 points of discussion) tabled during the hearing
11. Building Commission of Victoria Certificate of Accreditation certificate number V05/01 dated 19 July 2005

Findings of Fact

The Committee makes the following findings of fact:

The assessment manager decided the Bodycote Fire Report and other supporting evidence was sufficient to represent the acceptance for use of the Stramit Uniguard material as complying with all relevant BCA performance requirements.

The assessment manager, in determining suitability, has not included on the decision notice the reasons set out in section 68A of the BA.

Reasons for the Decision

The assessment manager has the power and duty to so decide whether a material proposed to be used in construction complies with the BCA performance requirements. This power and duty is stated in section 48 of the BA and BCA Part A2 – Acceptance of design and construction.

Chris Odgers
Building and Development Committee Chair
Date: 18 May 2010

Appeal Rights

Section 479 of the *Sustainable Planning Act 2009* provides that a party to a proceeding decided by a Committee may appeal to the Planning and Environment Court against the Committee's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Committee or
- (b) that the Committee 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 Committee's decision is given to the party.

Enquiries

All correspondence should be addressed to:

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