Building and Development Tribunals
Queensland Government
Department of Local Government and Planning

APPEAL **File No. 3/06/039**
Integrated Planning Act 1997

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: RC Building Inspections (Robert Boog BSA No A23103)

Site Address: *Withheld* – "the subject site"

Applicant: *Withheld*

Nature of Appeal

The appeal is against the decision of RC Building Inspections (Building Certifier Robert Boog BSA A23103) advising that he will not be able to certify final inspection of the dwelling on land described as "the subject site".

RC Building Inspections, in correspondence dated 22 March 2006, determined that a suitable termite protection system could not be installed to fully protect the timber poles and penetrations to the slab.

Date and Place of Hearing: 10.00am Monday 10 April 2006
Inspection of the dwelling and hearing at "the subject site"

Tribunal: Mr L F Blumkie

Present: Applicant / Owner
Mr Robert Boog RC Building Inspections
Registered Builder
Mr L Blumkie Tribunal Chairperson

Decision

The Tribunal, in accordance with Section 4.2.34 (2) (b) of the *Integrated Planning Act 1997*, **changes the decision of RC Building Inspections and allows a termite barrier to be installed in accordance with the following conditions:-**

1 Plumbing penetrations to the slab are protected in accordance with Australian Standard AS3660.1 and an appropriate certificate is issued to the owner by the licensed installation contractor, stating that the plumbing penetration protection satisfies AS3660.1; and

2 The ground floor slab edge exposure is a minimum of 75mm above the finished ground line; and
3 The timber poles are injected by a licensed sub-contractor with a suitable chemical barrier at ground floor concrete slab level in accordance with AS 3660 parts 1 and 2; and
4 The means of injecting the chemicals to the poles is installed so that the injection points remain easily and readily accessible for replenishment or replacement of the chemicals; and
5 The licensed contractor, who injects the chemicals to the poles:-
    (a) issues the owner with an appropriate certificate stating that the chemical treatment satisfies Australian Standard AS 3660 parts 1 and 2; and
    (b) supplies and installs durable Notices in accordance with clause 3.1.3.2 of the Building Code of Australia Volume 2.

Background

Building Approval was issued by RC Building Inspections for a two-storey dwelling located at "the subject site" on the 22 December 2001.

A footing inspection was carried out and approved by RC Building Inspections on 11 February 2002.

The concrete slab-on-ground was poured without any pre-slab inspection, however, photographs were available of the reinforcing for the floor in place.

The concrete slab was engineer designed in accordance with AS 2870.

The owner called for a final inspection on 14 February 2006.

The certifier advised, in correspondence dated 22 March 2006, that a final inspection certificate could not be issued, as a termite barrier had not been installed at the required stage.

An appeal was lodged with the Registrar of the Building and Development Tribunals on the 4 April 2006.

Material Considered

In coming to a decision, consideration was given to the following material: -

1 Drawings accompanying the appeal;
2 Copy of the Correspondence dated 22 March 2006 advising that a termite barrier had not been installed at the required stage;
3 Copy of the Form 10 – Building and Development Tribunals Appeal Notice dated 4 April 2006;
4 Verbal and written submissions from "applicant";
5 Verbal submissions from "builder";
6 Verbal submissions from Mr Robert Boog;
7 The *Integrated Planning Act 1997;*
8 The *Building Act 1975;*
9 The *Standard Building Regulation 1993;*
10 The Building Code of Australia 2006 Volume 2;
11 Australian Standard AS 2870; and
12 Australian Standard 3660 parts 1 and 2.

Findings of Fact

The *Building Act 1975* calls up the *Standard Building Regulation 1993* and requires a person carrying out building work to comply with this Regulation.

The *Standard Building Regulation 1993* states that the Building Code of Australia (BCA) forms part of this regulation.

The BCA volume 2 requires the primary building elements of class 1 and 10 buildings, considered to be susceptible to termite attack, to have a termite risk management system in place.

Under Part 3.1.3 TERMITE RISK MANAGEMENT of the BCA, acceptable termite barriers are:-

1 Concrete slab-on-ground complying with AS 2870 subject to

(a) all penetrations being suitably protected; and
(b) the slab edge being left exposed, not less that 75mm above finished ground level.

2 Barriers installed in accordance with AS 3660.1. - There are two types of penetrations to the slab namely:- (a) plumbing penetrations
(b) timber pole penetrations

In Queensland where a chemical soil barrier is used, then durable notices must be installed in accordance with 3.1.3.2 (b) of the BCA volume 2.

Reasons for the Decision

1 The concrete slab-on-ground was accepted by the Certifier, at the hearing, as complying with AS 2870. This decision was on the basis that:-

- the concrete slab was engineer designed in accordance with AS2870 and the design formed part of the Building Application; and
- the concrete slab sub-contractor was known to the certifier as a reputable person; and
- the builder confirmed at the hearing that the reinforcing installed as slab reinforcing was in accordance with the design documents.
- Photographs, confirming installation of the reinforcing for the concrete slab (in place), were made available at the hearing.

2 The plumbing penetrations can be protected in accordance with AS 3660.1 after installation. A licensed contractor should carry out this building work and it would be reasonable to require the person to provide an appropriate certificate on completion of the installation.

3 The slab-on-ground edge exposure is more than 75mm above the finished ground level.

4 Evidence presented at the hearing by the applicant (obtained from licensed termite treatment contractors) was that the timber poles could be chemically treated at slab level to prevent termites using the poles as means of reaching other primary building elements in the building.

A licensed contractor should carry out this building work and it would be reasonable to require the person to provide an appropriate certificate on completion of the treatment.

5 Where chemical treatment is used, the method of treatment, to be in accordance with the BCA, must be easily and readily accessible and be capable of being replenished or replaced.

In this instance, it is possible to remove the external metal wall sheeting and gain access to all the poles within the building. The external poles are already easily and readily accessible.

Provided the method of applying the chemical to the internal poles is extended to the outside of the metal wall sheeting, then in my opinion, applying the chemical will always be easily and readily accessible.

6 Any future owner of the building should be fully aware of the termite treatment system installed and maintained in the building. Hence durable notices must be installed, similar to that required by the BCA for chemical soil treatment. Chemical treatment of the poles is, in my opinion, a similar circumstance to soil treatment and therefore must also be recorded on the building.

7 After discussion the certifier, builder and owner were all in agreement with this overall method of termite treatment.

Hence, the Tribunal, after consideration of the particular method of construction and in accordance with section 4.2.34(2)(b) of the *Integrated Planning Act 1997*, changes the decision of RC Building Inspections and allows a termite barrier to be installed in accordance with the following conditions:-

1 Plumbing penetrations to the slab are protected in accordance with Australian Standard AS3660.1 and an appropriate certificate is issued to the owner by the licensed installation contractor, stating that the plumbing penetration protection satisfies AS3660.1; and
2 The ground floor slab edge exposure is a minimum of 75mm above the finished ground line; and
3 The timber poles are injected by a licensed sub contractor with a suitable chemical barrier at ground floor concrete slab level in accordance with AS 3660 parts 1 and 2; and
4 The means of injecting the chemicals to the poles is installed so that the injection points remain easily and readily accessible for replenishment or replacement of the chemicals; and
5 The licensed contractor, applying the chemicals to the poles:-
    (a) issues the owner with an appropriate certificate stating that the chemical treatment satisfies Australian Standard AS 3660 parts 1 and 2; and
    (b) supplies and installs durable Notices in accordance with clause 3.1.3.2 of the Building Code of Australia Volume 2.

Leo F Blumkie
Building and Development
Tribunal Chairperson
Date: 12 April 2006

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 Local Government and Planning
PO Box 31
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