



APPEAL

File No. 3 – 02 - 009

Integrated Planning Act 1997

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Express Plan Approval Services Pty Ltd

Site Address: 1 Maltravers Drive, Arundel

Nature of Appeal

Appeal under Section 91 of the Standard Building Regulation 1993 against the decision of Express Plan Approval Services Pty Ltd not to issue a final inspection certificate as the painting of an exposed concrete edge to be used as a termite barrier is not in accordance with the provisions of Part 3.1.3 of the Building Code of Australia 96.

Date and Place of Hearing: 3.00 pm on Thursday 7 February, 2002
at 1 Maltravers Drive, Arundel

Tribunal: E K George

Present: Applicant
Mr Milenko Ruzic – Express Plan Approval Services Pty Ltd
Mr Sandy Brown – Boral Bricks
Mr Allan Studwell - Flexitech
Mr Tony Tonakis

Decision

In accordance with Section 4.2.34(2) of the Integrated Planning Act 1997, I set aside the decision of Express Plan Approval Services Pty Ltd as contained in its written notice dated 18 January 2002, not to issue a final inspection certificate for the painting of an exposed concrete edge to be used as a termite barrier for the Class 1a building located at 1 Maltravers Drive, Arundel.

A final inspection certificate may be issued to allow the application of Flexitech “Pastelcote” to the previously exposed edges of the concrete slab of the dwelling as an integral part of the Termite Management System, subject to the following conditions:

- 1.0 As provided in the submission from Flexitech dated 6 February, 2002, Boral Bricks Pty Ltd are required to provide to the applicant (Constructions Galore Pty Ltd) an unconditional warranty of 20 years, for the application of Pastelcote, dated from the date of application.

- 2.0 This warranty is to be incorporated in the documentation of the Termite Management System presented to the owner of the dwelling.
- 3.0 In accordance with Part 3.1.3.2 of the Queensland Variation to the Building Code of Australia 96, two durable notices are to be affixed to the building in prominent locations (i.e. in the meter box, and in one kitchen cabinet) advising the building occupants of the following:
 - a. That Flexitech “Pastelcote” has been applied to the previously exposed concrete edges of the dwelling as part of the Termite Management System.
 - b. That this system should be inspected and maintained, in accordance with the recommendations of the manufacturer/applicator.
 - c. That the system is unconditionally warranted by Boral Bricks Pty Ltd for a period of 20 years from the date of installation. (Date of installation is to be stipulated in these notices).
 - d. That detailed information is available from Boral Bricks Pty Ltd (Contact positions and details are to be included in these notices).

Background

The site meeting was held as detailed above. At the site meeting, the previously applied material was inspected. Information available on Pastelcote was discussed. Following this discussion, it was agreed that further information available on Pastelcote would be forwarded to the Tribunal for consideration.

Material Considered

- 1.0 Part 3.1.3 Termite Risk Management – BCA 96.
- 2.0 Building Newsflash – Building Codes Queensland – 21 January 2002.
- 3.0 Submission from Flexitech – 6 February 2002, with detailed information on the product “Pastecote”.
- 4.0 Documentation submitted by Mr Allan Studwell to Mr Brenton Peters, Queensland Forestry Research Institute, with response from Mr Brenton Peters to Mr Allan Studwell.
- 5.0 Verbal submissions provided by all parties at the hearing.
- 6.0 Notice of appeal dated 21 January 2002 and copy of the decision from Express Plan Approval Services Pty Ltd dated 18 January 2002.

Findings of Fact

- 1.0 The decision of Mr Kennedy, of Express Plan Approval Services Pty Ltd was in accordance with the provisions of Building Newsflash – Building Codes Queensland 21 January, 2002.

2.0 Subsequent documentation submitted by the manufacturer of Flexitech “Pastelcote” demonstrated that this material, properly applied and maintained meets the *Performance Requirement P2.1* of the *BCA 96*, for termite risk management.

Reasons for the Decision

The **explanatory information** contained within Part 3.1.3.1 Application – BCA 96 states “The intent of these requirements is to provide for a termite barrier that will ensure that termites will not enter a building by a concealed route. The installation of termite barriers will not stop termite activity from occurring on the site.”

With reference to “Painting the slab edge”, contained in Building News Flash – Building Codes Queensland, issued 21 January, 2002, oil based paints are prohibited due to their propensity to blister from water vapour trapped behind them, with resulting blisters concealing mud tubes used by subterranean termites.

From inspection of the documentation submitted on the properties and performance of Flexitech “Pastelcote”, I consider that this material will perform in accordance with *Performance Requirement P2.1* of the *BCA 96*, i.e. that it will provide satisfactory performance as part of the termite management system.

Documentation submitted in regard to Flexitech “Pastelcote” demonstrates its ability to meet the performance requirements, provided it is applied by a suitably qualified applicator, and is maintained in accordance with the recommendations of the manufacturer.

Note: This decision only applies to the building work undertaken at 1 Maltravers Drive, Arundel and it should not be construed as an approval for the use of Flexitech “Pastelcote” on any other building or site. Each case would need to be assessed on its merits by the relevant building certifier.

The manufacturer of the product may, pursuant to Section 13 of the Standard Building Regulation 1993, apply to the Australian Building Codes Board for a certificate of conformity.

Errol K George
Building and Development
Tribunal Referee
Date: 21 February 2002

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:

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