

QUEENSLAND BUILDING SERVICES BOARD POLICY

(To be read in conjunction with the *Queensland Building Services Authority Act 1991* and the *Queensland Building Services Authority Regulation 2003*)

RECTIFICATION OF BUILDING WORK

Guideline Policy

It is a guideline policy of the Queensland Building Services Board that a person who carries out category 1 or 2 defective building work should be required to rectify that building work, unless in all the circumstances rectification is an unreasonable remedy.

Under section 72(1) of the *Queensland Building Services Authority Act 1991* (the Act), if the Queensland Building Services Authority (the Authority) is of the opinion that building work is defective, the Authority may direct the person who carried out the building work to rectify it. In deciding whether to give a direction for rectification of building work, the Act allows the Authority to take into consideration all the circumstances it considers are reasonably relevant. Those circumstances might include any delay by an owner in notifying the Authority of a defect, where the delay:

- (a) in respect of a category 1 defect, exceeds 3 months after the defect became apparent; or
- (b) in respect of a category 2 defect, exceeds:
 - (i) 6 months after the building work was completed or left incomplete; or
 - (ii) 7 months, if the owner notified the contractor of the defect within 6 months after the building work was completed or left incomplete.

Under the Act, a direction cannot ordinarily be given more than 6 years and 3 months after the building work was completed or left in an incomplete state. The only exception is if the Commercial and Consumer Tribunal is satisfied, on application by the Authority, that there is sufficient reason for extending that time.

The fact that a direction is given under the Act does not prevent disciplinary action in respect of the defective building work.

Category 1 Defective Building Work

For the purposes of this policy, category 1 defective building work is:

- A. Building work (other than residential construction work causing footing or slab movement) that is faulty or unsatisfactory because it either:
 - (a) adversely affects the structural performance of a building;
 - (b) adversely affects the health or safety of persons residing in or occupying a building;
 - (c) adversely affects the functional use of the building; or
 - (d) allows water penetration into a building.

Examples of category 1 defective building work include:

- leaks in roofs, showers, doors, windows or walls;
- faulty or inadequate flashing;
- faulty or inadequate damp proof course;
- fretting or spalling masonry;
- inadequate strength mortar;
- extensive cracking or distortion of wall or ceiling lining beyond normal frame settlement;
- shrinkage or thermal movement;
- extensive cracking or dislodgement of floor or wall tiles;
- defective, incomplete or inadequate termite protection methods;
- inadequate provision for discharge of roof water;
- incorrect or inadequate site drainage;
- paint – large areas delaminating – adhesion failure; and
- use of materials not fit for the purpose.

B. Residential construction work that has caused footing or slab movement as a result of:

(a) the contractor failing to provide the engineer with the following information (or, if the design was provided to the contractor by the owner, the contractor failing to obtain confirmation in writing from the engineer that the engineer had received the following information):

(i) *Location* – a site address, plan of survey or photograph to correctly identify the site;

(ii) *Site identification* - information relevant to:

- the contours of the site;
- the location of trees on the site and adjoining sites;¹
- existing overland flow provisions;
- footprint location of the proposed building and indication of platform levels; and
- location of proposed cut and fill.

(iii) *Land searches* – searches where available necessary to establish impediments to the proper performance or function of the footing or slab system having regard to the site's location and condition;²

(b) the contractor failing to obtain written confirmation from a registered professional engineer in Queensland (RPEQ) that:

Site Classification

(i) the engineer or their representative has visited the site;

¹ This information indicates to the engineer, through the use of photographs or other means, any trees and vegetation in the vicinity of the footing or slab system, including those adjacent to the footing or slab system on adjoining sites. It is noted, however, that an additional site visit by the engineer may still be necessary to determine whether design precautions are needed.

² These searches may include flooding, underground infrastructure, easements, vegetation protection and subdivisional fill. The nature of the searches, however, will always be dependant on the site's location and condition.

- (ii) the site investigation for soil testing has been undertaken by a RPEQ or a soil tester licensed under the Act;
- (iii) exploration positions or bore holes conducted by the site investigator have been undertaken in the proposed footprint of the building and below final platform level in accordance with Australian Standard AS2870;³
- (iv) soil samples have been taken for the purposes of laboratory testing in accordance with Australian Standard AS2870;
- (v) for clay sites the laboratory test and soil test report included ISS and YS values (obtained by shrink and swell tests) in accordance with Australian Standard AS2870;⁴

Engineer Design

- (vi) the design takes into account site conditions (eg location of trees, easements, fill etc) including all information provided to the engineer about location, site identification and land searches referred to in paragraphs B(a)(i), B(a)(ii) and B(a)(iii) above;
 - (vii) the design includes photographs of the site to correctly identify onsite and adjoining site topography prior to site specific earthworks;
 - (viii) the design complies with all relevant Australian Standards including AS2870, AS3600 and AS3700;
 - (ix) the design is certified by a RPEQ; and
 - (x) the design drawings include the selected footing systems, any special site works, means of diverting surface water away from the slab, actual location of control joints in brick and masonry construction, location of retaining walls and requirements for articulation (flexible joints), roof storm water and sanitary drainage;
- (c) the contractor failing to:

Compliance with Design

- (i) obtain the design drawings;
- (ii) comply with all components of the design, including the selected footing systems, any special site works, means of diverting surface water away from the slab, location of control joints in brick and masonry construction, location of retaining walls and requirements for articulation (flexible joints), roof storm water and sanitary drainage;

³ Unless otherwise prescribed under AS2870, a minimum of two exploration positions or bore holes are recommended as part of any site investigation, as well as any other additional investigation necessary to determine the characteristics of the site in accordance with AS2870. It is further recommended that bore holes extend to a depth to refusal on rock or to the depth of zone of seasonal influence and below final platform level.

⁴ AS2870 recommends that in Queensland, shrinkage index tests on an undisturbed core sample are used for clay sites rather than the conventional plastic index and linear shrinkage tests unless a reliable correlation of these tests with ground movement in the region is available.

- (iii) construct the footing or slab system in accordance with all relevant Australian Standards, including AS2870, AS3600, AS3700 and AS3500; or
- (iv) ensure that a RPEQ or building certifier has certified that the design has been complied with by the contractor.

Category 2 Defective Building Work

For the purposes of this policy, category 2 defective building work is building work that is faulty or unsatisfactory because it does not meet reasonable standards of construction and finish or has caused a “settling in period” defect in a new building.

Examples of category 2 defective building work include:

- sticking doors or windows;
- cracked plasterboard joints, cornice joints; and
- poor finishing detail, including paint work.

Rescission of Board Policies

The following policies of the Queensland Building Services Board are rescinded as of the day that this guideline policy takes effect:

- *Section 72: Power to Require Rectification of Building Work* made by the Board on 20 December 1995; and
- *Subsidence/Settlement – Responsibility for Rectification* made by the Board on 31 May 2000.

ENDNOTES

1. Made by the Queensland Building Services Board on 18 March 2004.
 2. Approved by regulation on 1 July 2004 (SL No. 66 of 2004).
 3. Published in the gazette on 27 August 2004.
 4. Commences and takes effect on 1 September 2004.
 5. Not required to be laid before the Legislative Assembly.
 6. The administering agency is the Queensland Building Services Authority.
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