



Attn: Proper Officer
Jaspar Constructions Pty Ltd (ACN 618 967 945)
65 Maguires Road
GABLES, NSW 2765

CAS Ref- 11194460

28 March 2024

Rectification Order

Section 49B of the Home Building Act 1989

Jaspar Constructions Pty Ltd (ACN 618 967 945) is being given this Rectification Order (Order) in relation to 3 Boab Street, Melonba NSW 2765 (Lot 7890 / DP1272676) (the Development)

Jaspar Constructions Pty Ltd (ACN 618 967 945) is required to cause building work to be carried out to remediate the defects as set out in below in this Order.

Failure to comply with the requirements in this Order is a criminal offence.

Background

1. The Department of Customer Service (**the Department**) administers the *Home Building Act 1989* (**the Act**).
2. Under section 49B(1) of the Act, if the Secretary of the Department, or their authorised delegate, may by written order given to a contractor, require the contractor to take steps specified in the order to ensure that a defect in residential building work or damage is rectified, if satisfied that:
 - (a) the residential building work done by the contractor or on the contractor's behalf is defective, or
 - (b) the residential building work done by the contractor or on the contractor's behalf was or is being carried out in a way that could result in a defect, or
 - (c) the contractor or a person acting on the contractor's behalf has, in the course of doing residential building work, caused damage to a structure or work, or
 - (d) as a consequence of defective residential building work done by the contractor or on the contractor's behalf, a structure or work has been damaged.
3. I, Stewart Scarlett, Acting Director (Building Compliance, Building Commission NSW, Department of Customer Service) am an authorised delegate of the Secretary of the Department.
4. The Development is comprised of a single storey brick veneer dwelling with metal roof. The Act applies to building work at the Development.
5. On 20/12/2023, authorised officers conducted a lawful inspection of the Development.

Requirements in relation to Defects

6. I, Stewart Scarlett, under section 49B(1) of the Act, require you **Jaspar Constructions Pty Ltd (ACN 618 967 945)** to do the things specified in column 6 in Table 1 to ensure that each respective defect described in columns 2, 3 and 4 of Table 1 is rectified. The time for compliance with each of the requirements in respect of the defects in this Order is **42 days** from the date of issue of this Order.

Table 1: Requirements in respect of Defects

Defect Ref Number	Location of Defect	Observations	Description of Defect	Technical Reference	Requirement to take steps specified (s 49B(1))
1	External wall	Plywood bracing had excessive cut-outs for services.	The cut-outs are excessive, potentially compromising the structural integrity of the plywood bracing.	The excessive cut-outs demonstrate a failure to comply with NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance And AS 1684.2-2021 Residential timber-framed construction Part 2: Non-cyclonic areas Clause 8.3.6.3	Rectify the plywood bracing to comply with: <ol style="list-style-type: none"> 1. NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance. 2. AS 1684.2-2021 Residential timber-framed construction Part 2: Non-cyclonic areas Clause 8.3.6.3. Certification of the work as built by the truss manufacturer, or a structural engineer will be deemed to comply with this Order.
5	External brickwork	The expansion tie across an articulation joint has been incorrectly embedded in the mortar joints. Also, a lack of mortar was observed to the bed and perpend joints.	Incorrectly installed expansion ties may affect the intended design movement of the brickwork. Lack of mortar in the bed and perpend joints can result in integrity of the brickwork being compromised.	The incorrectly installed expansion ties and lack of mortar demonstrates a failure to comply with NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance And AS 4773.2: 2015 Masonry in small buildings Part 2: Construction. Clause 7.4 Expansion joints and Clause 1.5.4 Masonry unit	Rectify the brickwork to comply with: <ol style="list-style-type: none"> 1. NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance. 2. AS 4773.2: 2015 Masonry in small buildings Part 2: Construction. Clause 7.4 Expansion joints and Clause 1.5.4 Masonry unit.

7	Bathroom	The bottom plate in the bathroom has been cut for a pipe penetration. The bottom plate was freely moving at the time of inspection.	Excessive cut outs of the bottom plate compromise the integrity of the timber frame.	The excessive cut out demonstrates a failure to comply with NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance And AS 1684.2-2021 Residential timber-framed construction Part 2: Non-cyclonic areas Clause 6.2.1.4	Rectify the timber framing to comply with: 1. NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance. 2. AS 1684.2-2021 Residential timber-framed construction Part 2: Non-cyclonic areas Clause 6.2.1.4
9	External wall	Brick cladding was overhanging the concrete slab by approximately 35mm in some areas.	Excessive brick overhangs may result in inadequate weight bearing and eventual collapse of the brickwork.	The excessive brick overhang demonstrates a failure to comply with NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance And AS 3700:2018 Masonry Structures. Table 12.1	Rectify the brickwork to comply with: 1. NCC 2022 BCA Volume 2 H1P1 Structural reliability and resistance 2. AS 3700:2018 Masonry structures, Clause 12.5.1 Tolerances in masonry - General & Table 12.1 (a) - Tolerances in masonry construction.

Duration of this Order

7. This Order remains in force until it is revoked by the Secretary, or their authorised delegate.
8. This Order is given on the date that is listed above in accordance with section 49B of the Act.



Stewart Scarlett
Acting Director Building Compliance
Building Commission NSW

Date: 28/03/2024

Reasons for Rectification Order

1. These Reasons for Order are with respect to the Order dated 28 March 2024 issued to **Jaspar Constructions Pty Ltd (ACN 618 967 945)** under the *Home Building Act 1989* (the **Order**). These Reasons for Order adopt the Background to the Order and any definitions within the Order, unless otherwise specified in the Reasons for Order.
2. I, Stewart Scarlett, am satisfied that the Development has one or more defects.
3. I have formed this belief after:
 - a. Reviewing an inspection report dated 20 December 2023 prepared by an authorised officer (**Inspector**) of the Building Commission NSW, who conducted an inspection of the **residential building work** pursuant to section 49A of the Act on 20 December 2023.

Consideration of written representations

4. The Secretary must consider written submissions made within the specified period pursuant to section 49B of the Act.
 - a. The submissions provided for item 1 do not provide sufficient evidence that the defect has been rectified.
 - b. The submissions provided for item 5 do not provide sufficient evidence that the defect has been rectified.
 - c. The submissions provided for item 7 do not provide sufficient evidence that the structural integrity of the frame has not been compromised.
 - d. The submissions provided for item 9 do not provide sufficient evidence that the defect has been rectified.

Note- The submissions provided for item 2, 3, 4, 6 & 8 demonstrated sufficient evidence that these defects had been rectified.

Why is it appropriate to give the Rectification Order?

5. I am of the view that the period above for defect 1 through 9 (inclusive) is a reasonable period for compliance in all the circumstances for the specified steps required by the Order to be taken. I have formed this belief balancing the risks that the defects pose against the period of time it will take to carry out the specified steps.
6. Considering the potential consequences, I give greater weight to the seriousness of the defects identified and the benefits arising from remediating the defects and I find that it is appropriate, in the exercise of my discretion, to make the Order to carry out the specified steps in the Order within the time specified in the Order.
7. I have considered all of the circumstances. I accept that the Order requires specified steps to be taken that may be costly. I give this consideration moderate weight. However, the cost to the contractor must be balanced against the benefit to the occupiers to be gained from having the defects rectified.

NOTES

49D Appeals to Tribunal against rectification orders.

- (1) A contractor may appeal to the Tribunal against a rectification order.
- (2) The appeal must be made within 30 days after notice of the order is given unless the Tribunal grants leave for the appeal to be made after that time.
- (3) The lodging of an appeal does not, except to the extent the Tribunal otherwise directs in relation to the appeal, operate to stay action on the order appealed against.

49E Offence — failure to comply with rectification order.

A person must not, without reasonable excuse, fail to comply with a rectification order. Maximum penalty —

- (a) for a corporation — 3,000 penalty units and, for a continuing offence, a further penalty of 300 penalty units for each day the offence continues, or
- (b) otherwise—1,000 penalty units and, for a continuing offence, a further penalty of 100 penalty units for each day the offence continues.