

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## CIVIL DIVISION

### BUILDING AND PROPERTY LIST

VCAT REFERENCE NO. BP1019/2016 AND BP1594/2015

### CATCHWORDS

*Review of plumbing rectification notice issued by the Victorian Building Authority under part 12A of the Building Act 1993. VCAT review jurisdiction. Finding that two sewer drains with flat spots do not meet requisite performance requirements for sanitary drainage system, in particular the requirement as to avoiding the likelihood of blockage, as prescribed pursuant to the Plumbing Regulations 2008 and the Plumbing Code of Australia. Decision of the VBA in respect of the two drains as set out in the rectification notice affirmed.*

<b>APPLICANT</b>	Ali El-Ali
<b>RESPONDENT</b>	Victorian Building Authority
<b>WHERE HELD</b>	Melbourne
<b>BEFORE</b>	Senior Member M. Farrelly
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	14 and 15 December 2017
<b>DATE OF ORDER</b>	1 February 2018
<b>CITATION</b>	El Ali v Victorian Building Authority (Building and Property) [2018] VCAT 115

### ORDERS

#### Orders by consent:

1. The Rectification Notice number RECNOT00003876 issued by the respondent and dated 20 November 2015 is varied as follows:
  - a) The rectification work required as set out in the notice in respect of item 1 is replaced with “*install a reflux valve in the courtyard of Unit 1*”;
  - b) The rectification work required as set out in the notice in respect of item 2 is replaced with “*install an inspection shaft on the sewer drain outside Unit 3*”. It is noted that this work has been carried out.
  - c) The rectification work required as set out in the notice in respect of item 3 is replaced with “*install a grate seal (an alternative product to the DrainFresh grate) in the shower of the main bathroom in unit 2*”. It is noted that this work has been carried out.

- d) The rectification work required as set out in the notice in respect of item 4 is replaced with “*install a grate seal in the shower of the main bathroom in unit 2*”. It is noted that this work has been carried out.
2. The Rectification Notice number RECNOT00003969 issued by the respondent and dated 25 May 2016 is varied as follows:
    - a) The “rectification work required” as set out in the notice in respect of item 1 is replaced with “*install a reflux valve in the courtyard of Unit 1*”;
    - b) Item 4 in the notice is entirely deleted.

### **Further orders of the Tribunal**

3. The decision of the respondent in respect of each of item 2 and 3 in the Rectification Notice number RECNOT00003969 issued by the respondent and dated 25 May 2016 is affirmed.
4. Costs reserved with liberty to apply. Any application for costs is to be referred to Senior Member Farrelly who will make orders in chambers as to the conduct of any such costs application.

### **SENIOR MEMBER M. FARRELLY**

#### **APPEARANCES:**

For Applicant:	Ms A. Golding of Counsel
For Respondent	Ms K. Weymouth, Solicitor

## REASONS

- 1 In 2011/2012, Nationwide Plumbing Pty Ltd was engaged by a builder, Mr Ammache (“**the builder**”), to carry out plumbing works as part of the construction of 3 new units at the property 1 Yunki Court, Ashwood Victoria (“**the property**”). The applicant, Mr Ali E-Ali, has at all relevant times been a licensed plumber and director of Nationwide Plumbing Pty Ltd. The plumbing works included the installation of stormwater drainage and sanitary/sewer works (“**the plumbing works**”).
- 2 Part 12A of the *Building Act* 1993 (“**the Act**”) sets out numerous provisions in respect of plumbing works. On 31 May 2012 the applicant, as the certifying licensed plumber, issued three plumbing compliance certificates (one for each of the 3 units) in respect of the plumbing works. The compliance certificates, mandated by section 221ZH of the Act, confirmed that the plumbing works complied in all respects with plumbing laws as defined in part 12A of the Building Act.
- 3 The builder and the owners of the property have, for some time, been in dispute in relation to the building works at the property and the building contract governing those works. That dispute, the subject of a separate proceeding in the Tribunal, includes allegations as to defects in the plumbing works. Nationwide Plumbing Pty Ltd has been joined as a party to that proceeding.
- 4 During the course of the dispute between the owners and the builder, the Victorian Building Authority (“the VBA”), through its employee plumbing inspector Mr Mikic, inspected the plumbing works at the property on a number of occasions.
- 5 On 20 November 2015, the VBA issued a rectification notice pursuant to section 221ZW of the Act addressed to the applicant. The notice was prepared and signed by Mr Mikic. The notice identifies four items of the plumbing works as being in breach of applicable plumbing laws. The notice also briefly sets out the required rectification works in respect of the four identified items (“**the first rectification notice**”). A copy of the first rectification notice is annexed to these reasons.
- 6 On 19 May 2016, Mr Mikic carried out a further inspection of the plumbing works at the property. The inspection included CCTV (camera) inspection of sewerage drains servicing unit number 2 and unit number 3 at the property. Following the inspection, the VBA issued a second rectification notice pursuant to section 221ZW of the Act addressed to the applicant on 25 May 2016 (“**the second rectification notice**”). The second rectification notice, prepared and signed by Mr Mikic, identifies four items of the plumbing works as being in breach of applicable plumbing laws, and briefly sets out the required rectification works in respect of the four identified items. A copy of the second rectification notice is annexed to these reasons.

- 7 Section 221ZW (6) of the Act provides that a rectification notice issued under section 221ZW must make it clear in what way the plumbing work in question requiring rectification is defective.
- 8 The applicant has, under section 221ZX of the Act, issued proceedings in the Tribunal seeking a review of the first rectification notice (proceeding BP1594/2015) and a review of the second rectification notice (proceeding BP1019/2016). Pursuant to section 42 of the *Victorian Civil and Administrative Tribunal Act 1998* (“**the VCAT Act**”), the proceedings fall within the Tribunal’s “review” jurisdiction. Under section 51 of the VCAT Act, in exercising its review jurisdiction in respect of a decision, the Tribunal has the functions of the decision-maker and may, amongst other things, affirm, vary or set aside the decision under review.
- 9 During the course of the proceedings, the parties agreed to orders for the carrying out of a test procedure at the property. The agreed orders were made at a compulsory conference on 30 January 2017. The orders made 30 January 2017 in respect of the test procedure were:
- i. This compulsory conference is adjourned to 10.00am on 20 March 2017 before Senior Member E. Riegler to be conducted on site at 1 Yunki Court, Ashwood, at which time testing of the sewer line servicing Unit 2, 1 Yunki Court, Ashwood will be undertaken (‘the Testing’).
  - ii. Subject to the Applicant advising the Respondent and the Principal Registrar in writing **on or before 17 March 2017** that the Testing is to be conducted on a without prejudice basis (under the auspices of the compulsory conference), the Testing is to be conducted with prejudice and any observations of or findings from the Testing may be relied upon by the parties at the hearing of this proceeding and the related proceedings BP1594/2015 and D1001/2013, where such proceedings are heard concurrently with this proceeding.
  - iii. In order to carry out the Testing, the following procedure is to be adopted:
    - (a) The Testing is to be effected by crumpling a length of distinctly coloured toilet paper between 1-2.5 metres long into the size of a tennis ball and flushing that paper into sewer line through the toilet pan located in the Ensuite to Unit 2, 1 Yunki Court, Ashwood – that process being repeated 20 times.
    - (b) The vanity basin in the Ensuite is to be operated in between each flushing repetition for a period of 20 seconds at a moderate flow.
    - (c) The Applicant must arrange for all materials and equipment required for the Testing to be supplied at his own cost.
    - (d) The Applicant is to arrange for the manhole in the courtyard of Unit 1, 1 Yunki Court, Ashwood to be lifted and reinstated for the purpose of inspecting whether the toilet paper passes through the sewer line at that point.

- (e) The Applicant is at liberty to arrange for the sewer line servicing the three residential units within 1 Yunki Court, Ashwood to be jet cleaned and CCTV video recorded at his own cost prior to the resumption of the compulsory conference on 20 March 2017.
  - (f) Should the Testing result in a blockage, the Applicant must arrange for the blockage to be cleared at his own cost.
- 10 The parties agree that the test procedure carried out at the resumed compulsory conference on site on 20 March 2017 (“**the 20 March 2017 test**”) was carried out “with prejudice” in the sense that evidence as to the carrying out of the test and the results of the test is admissible.

## **THE HEARING**

- 11 The proceedings came for hearing before me on 14 and 15 December 2017. The applicant was represented by Ms Golding of Counsel. The respondent was represented by Ms Weymouth, solicitor.
- 12 At the commencement of the hearing, the parties confirmed that they had reached agreement in respect of all four items in the first rectification notice, and items 1 and 4 in the second rectification notice. As agreed by the parties, I will make consent orders in respect of the items 1, 2, 3 and 4 in the first rectification notice and the items 1 and 4 in the second rectification notice.
- 13 Accordingly, the only matters remaining in dispute between the parties are items 2 and 3 in the second rectification notice. Item 2 identifies the incorrect gradient of the sewerage drain below the laundry area to unit 3 at the property. Item 3 identifies the incorrect gradient of the sewerage drain to the toilet in the ensuite of unit 2 at the property. In each case, the required rectification work is the reconstruction of the relevant section of the drain so that a suitable gradient is achieved.
- 14 The applicant called evidence from:
- Mr Wilson, a plumber who had carried out minor plumbing rectification works at the property in August 2015 and April 2016. Mr Wilson also attended the property for inspection purposes on several other occasions, including the 20 March 2017 test;
  - Mr Alexander who provided expert evidence and produced written expert reports. Mr Alexander also attended the 20 March 2017 test;
- 15 The VBA called evidence from:
- Ms Wedande, one of the co-owners of the property and the resident, with her family, of unit 1;
  - Mr Patrick Land, the tenant of unit 2 from around May 2012 to May/June 2017;

- Mr Mikic who, as noted above, is the VBA plumbing inspector who prepared the rectification notices. Mr Mikic also attended the 20 March 2017 test.
- 16 The evidence of Mr Alexander and Mr Mikic, which comprised the bulk of the evidence, was heard concurrently. During the course of their evidence, video footage from the CCTV (camera) inspection on 19 May 2016 was shown.

### Plumbing Laws

- 17 Plumbing work in Victoria is regulated by the Act, in particular Part 12A, and the *Plumbing Regulations* 2008 (“**the Regulations**”).
- 18 There is no dispute that the sewer drains forming the subject matter of the dispute in this proceeding constitute “*drainage work*” as defined in regulation 15 of the Regulations.
- 19 Section 221B(1) of the Act defines the Plumbing Code of Australia as *the Plumbing Code of Australia set out in Volume Three of the National Construction Codes Series including any variations or additions in the Appendix Victoria set out in Appendix A of that Volume* (the “**PCA**”).
- 20 Regulation 7 of the Regulations provides that, subject to limited exceptions (which are not relevant in this proceeding) the PCA is adopted by and forms part of the Regulations, as modified by them.
- 21 Part C2 of the PCA deals with sanitary drainage systems. At section CP 2.1, the PCA sets out *Performance Requirements* in respect of a sanitary drainage system. The system must be designed and constructed and installed in such a manner as to meet 12 listed criteria. Two of those 12 criteria are:
- avoid the likelihood of blockage and leakage (section CP2.1(b)); and
  - avoid the likelihood of ingress of water, foul air and gasses from the system into buildings (section CP2.1(g))
- 22 Part A0 of the PCA provides (at A0.5) that compliance with *Performance Requirements* can only be achieved by:
- a) complying with the *Deemed-to-Satisfy Provisions*; or
  - b) formulating an *Alternative Solution* which:
    - i. complies with the *Performance Requirements*; or
    - ii. is shown to be at least equivalent to the *Deemed-to-Satisfy Provisions*; or
  - c) a combination of (a) and (b).
- 23 The *Deemed-to-Satisfy Provisions* in respect of a sanitary drainage system are provided at section C2.2 of the PCA which provides, amongst other things, that where a drain is connected to a Network Utility Operator’s sewerage system (as is the case with the two sewer drains in question in this

proceeding) the *Performance Requirements* are deemed to have been satisfied where:

the design, construction, installation, replacement, repair, alteration and maintenance of a sanitary drainage system is in accordance with [Australian standard] AS/NZS 3500.2 or, for a Class 1a or Class 10 building, section 4 of AS/NZS 3500.5.

- 24 There is no dispute that the relevant provisions under AS/NZS 3500.2 require that, in order to be deemed-to-satisfy the *Performance Requirements*, the two drains in question in this proceeding must have a 1.65% grade fall. There is no dispute that the two drains each have a flat section which holds water, and as such they do not meet the deemed-to-satisfy provision.
- 25 It is also not disputed that no *alternative solution*, by which it might be said that the drains will meet the performance requirements or be shown to be at least equivalent to the deemed-to-satisfy provision, has been formulated or proffered.

#### **Primary submissions and the evidence of Mr Alexander and Mr Mikic**

- 26 The applicant says that, despite the flat section in each drain, each drain nevertheless meets the *Performance Requirements*. In this regard the applicant relies upon the opinion of Mr Alexander.
- 27 Mr Alexander says that because the flat section in each drain is located at the higher end of the drain, the flat section has negligible effect on the flushing of waste down the drain.
- 28 As discussed later, I find that the property, in particular unit 2, has a history of blocked sewer drains and foul odours. This is not a matter of real dispute. Mr Alexander says that these problems have been caused, not by the flat section in each of the drains, but rather by the infestation of tree roots lower down the drainage system in the ceramic section of drain outside the boundary of the property, that is, in the section of drain which is the responsibility of the relevant utility authority.
- 29 Mr Alexander says that the satisfactory performance of the drain under unit 2 was verified by the 20 March 2017 test. Although no similar testing was done on the drain from unit 3, Mr Alexander surmises that, because the flat section/holding of water is less severe in the unit 3 drain, and there have been fewer reported problems historically with the unit 3 drain, the unit 3 drain performs at least as well as the unit 2 drain.
- 30 Mr Alexander says also that his opinion that the drains meet the performance requirements was reinforced when he observed the CCTV footage taken on 19 May 2016. He says that the appearance of each of the drains in that footage confirms his view that the blockage problems of the past emanate from the lower end of the drainage system.

- 31 The VBA accepts that Mr Alexander is suitably qualified to provide an “*expert judgement*”, within the meaning of the PCA, to assess *alternative solutions* and *assessment methods* which may be used to determine whether a plumbing or drainage solution complies with the *Performance Requirements*.<sup>1</sup>
- 32 However, the VBA says that the two drains in question simply do not meet the *Performance Requirements*. Each drain does not meet the *deemed-to-satisfy* requirement of a gradient fall of 1.65%, and no *alternative solution* has been proffered.
- 33 Mr Mikic says that, over time, the sewer drains build up sediment and paper-mâché at the flat sections that lead to drain blockages. He forms this view on the basis of his more than 30 years’ experience as a plumber, and his inspections of the drains in question, including the inspection on 16 May 2016 when the CCTV footage was taken. He says the history of blockages in the drains supports his opinion.
- 34 Mr Mikic does not accept that the 20 March 2017 test of the sewer drain under unit 2 proves that that the drain meets the *Performance Requirements*. It is not disputed that immediately prior to the testing on 20 March 2017, the drain was cleared of roots and pressure cleaned. Mr Mikic says that, with such prior works having been carried out, the testing on 20 March 2017 cannot be taken to have accurately simulated normal heavy usage. In his view, the 20 March 2017 test proves nothing more than that a drain with a flat spot may function adequately immediately after it has been cleared of debris and tree roots, and pressure cleaned.

### **CCTV footage**

- 35 Some time was spent in evidence viewing and discussing the video footage of the drains obtained at the CCTV inspection on 19 May 2016. The two drains in issue, and the sewer drain servicing unit 1, ultimately flow into one PVC drain, which in turn flows to the boundary of the property where it meets the ceramic sewer drain which is the responsibility of the relevant utility authority.
- 36 Mr Alexander says the videos support his opinion in that:
- There is clear evidence of root infestation at and beyond the point where the PVC drain meets the ceramic drain. That is, infiltration of tree roots is apparent in the ceramic portion of the drain beyond the boundary of the property, and there is no indication of tree roots breaching the PVC drain within the boundaries of the property.
  - Staining of the PVC drains caused by sewerage waste becomes more prominent as the property boundary approaches. That is, the tell-tale signs of blockage are more prominent towards the end of the drain where the PVC drain meets the ceramic drain at the boundary of the

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<sup>1</sup> See PCA section A0.8, *Alternative Solutions*, and section A0.9, *Assessment Methods*



property. Mr Alexander says that this supports his contention that past blockages are the result of tree root infestation and not the result of the flat spots in the two drains.

- 37 Mr Mikic agrees that the videos show evidence of tree root infestation at and beyond the point where the PVC drain meets the ceramic drain.
- 38 As to the staining on the PVC drains, Mr Mikic says that the condition of the drains as shown in the video footage is directly related to the fact that the drains were pressure cleaned immediately prior to inserting the camera into them. In respect of the drain under unit 2, Mr Mikic says the drain held significant waste and it took a considerable time, approximately 1 ½ hours, to pressure clean the drain sufficiently to allow the insertion of the camera down the drain and to allow visible video footage to be obtained. Mr Mikic says that this prior pressure cleaning of the drain would naturally result in a cleaner looking drain towards the starting, toilet end of the drain.
- 39 Most significantly, Mr Mikic points to the clear video evidence of ponding water in the flat spot in each drain. Under unit 2, there is approximately 2.2 metres of drain where water ponded, with the level of ponding being approximately half the drain. Under unit 3, the degree of ponding was less. Several metres of the drain held water, with the level of ponding being approximately 10% of the drain.
- 40 Mr Mikic says that the force of a toilet flush will reduce or slow at the ponding, and that over time paper-mâché and solids will collect in the ponded area thus increasing the likelihood of blockage.
- 41 Mr Alexander accepts that the drains pond in the flat spots as shown in the video footage. But, as noted above, he says that this is inconsequential to the drainage functioning of the drains because the flat spot with ponding is at the “high” end of the drains. And, as noted above, he says that the 20 March 2017 test verifies his opinion.

### **Evidence of other witnesses**

- 42 The evidence of note of witnesses other than Mr Alexander and Mr Mikic may be briefly summarised as follows.

#### **Mr Wilson**

- 43 Mr Wilson is a plumber who attended to minor plumbing works at the property, namely the installation of grate seals in the showers in unit 3. Mr Wilson also attended a number of inspections at the property, including the 20 March 2017 test.
- 44 On a couple of his visits to the property, Mr Wilson recorded conversations he says he had with a woman called “Alex” who, according to Mr Wilson, was at one time one of the tenants residing in unit 3. It seems that Mr Wilson took on this extra investigative role in response to the applicant’s request that Mr Wilson make enquiries of the tenants at the property.

- 45 In any event, at the hearing Mr Wilson presented two short recordings of conversations he says he had with “Alex”. In the first recording, apparently taken on 29 April 2016, “Alex” says that there has been no smell in the shower. In the second recording, “Alex” says she has been living there for 2 years and never noted a smell in the bathroom.
- 46 If the recordings are presented as evidence to support the proposition that there has been no real problem with sewer blockages and smells at unit 3, I do not accept the evidence. “Alex” was not called to give evidence. The circumstances surrounding the recordings, including whether Alex knew of and consented to the recordings, are not clear. If the applicant wished to present evidence from a tenant of the property, then that tenant ought to have been called to give evidence at the hearing.

### **Ms Wedande**

- 47 Ms Wedande is one of the co-owners and a resident, along with her family, of unit 1. She confirmed that the property has a history of sewer blockages and smells, the most recent blockage being in the toilet at unit 3 in around September 2017. She says that her husband has on numerous occasions unblocked toilets in all the units at the property using a plunger. She says also that a plumber attended the property on numerous occasions over the years to attend to blocked drains and to investigate the cause of foul odours. I accept Ms Wedande’s evidence in this regard. Although the accuracy of a diary she kept to record instances of blockages/smells was challenged, her evidence was largely uncontested.

### **Mr Land**

- 48 Mr Land and his son moved into unit 2 at the property in May 2012, and lived there until approximately May/June 2017. He says that the ensuite toilet was problematic from the outset as it regularly blocked and emanated foul odours. He says that he and his son avoided using the toilet. The toilet was eventually replaced, however he says that sewerage odours continued to seep into the master bedroom, and that he and his son ceased using the toilet altogether as a means of limiting the foul odours. He says that, in the time he resided at unit 2, a number of plumbing works were carried out at the instigation of the owners of the property in an attempt to diagnose and rectify the problem of the foul odour. Those works included camera investigation of the drain, correction of a misaligned toilet pipe and replacement of the toilet. He says that the foul odour inevitably returned sometime after works were carried out.
- 49 Mr Land’s evidence in this regard is not contested, and I accept it.

### **Finding**

- 50 On all the evidence, I do not accept the applicant’s contention that the two drains in issue meet the *performance requirements*.

- 51 I am satisfied on the evidence of Ms Wedande and Mr Land that the sewer drains servicing unit 2 and unit 3 on the property have a history of blockages with resulting foul odours.
- 52 I accept that the infestation of tree roots in the ceramic drain at and beyond the boundary of the property has contributed to, or may even be the main cause of, blockages in the drains. However, that does not equate to establishing that the drains installed by the applicant meet the *performance requirements*.
- 53 The relevant *performance requirements* require that the drainage system be designed, constructed and installed in such a manner as to, amongst other things, ***avoid the likelihood*** of blockage and ***avoid the likelihood*** of ingress of foul air and gasses from the system into buildings.
- 54 It is no accident that the performance requirements will be deemed to have been satisfied where the drainage system, amongst other things, drains with the prescribed 1.65% gradient fall.
- 55 No *alternative solution* has been put by the applicant in place of the deemed-to-satisfy (gradient fall) provision. Indeed, it is difficult to envisage a satisfactory solution alternative to gradient fall.
- 56 A drain should, as its name implies, “drain” and not “pond”. There is no contest that the two sewer drains in question each have a flat spot where water/waste ponds.
- 57 I accept the evidence of Mr Mikic that a flat spot in a sewer drain, such as the flat spots in each of the two drains in question, is likely, in time, to lead to blockages. Or, to put it another way, I accept that a sewer drain with a flat spot will be more likely to block than a sewer drain that has the prescribed gradient fall throughout.
- 58 As such, I find that by installing the sewer drains with flat spots, contrary to the deemed-to-satisfy provision as to prescribed gradient fall, and without any *alternative solution*, the applicant has failed to meet the performance requirements of installing the drains in such a manner as to *avoid the likelihood* of blockage and/or the ingress of foul air into the building.
- 59 The 20 March 2017 test does not disturb this finding. I accept Mr Mikic’s evidence that the 20 March 2017 test proves little more than that a drain with a flat spot may function adequately immediately after it has been cleared of tree roots and debris and been pressure cleaned. The 20 March 2017 test does not disturb my finding that, by installing the drains with flat spots, contrary to the deemed-to-satisfy provision as to gradient fall, the applicant has not met the requirement to install the drains in a manner so as to ***avoid*** the likelihood of blockage and/or the ingress of foul air into the building.
- 60 The second rectification notice describes the defective work, in respect of each of the two drains, as “*incorrect gradient*”, and sets out the required rectification works as follows:

In respect of the drain at unit 3:

To reconstruct the property sewerage drain, with approved grade, at the sewer drain below laundry 1 meter from Overflow Relief Gulley at Unit 3 No 1 Yunki Court Ashwood.

In respect of the drain at unit 2:

To reconstruct the property sewerage drain, with approved grade, at the sewer branch drain from the toilet bend under the toilet in the ensuite to the main branch drain Unit 2 No 1 Yunki Court Ashwood.

- 61 I am satisfied that the description of the defective works and the prescribed rectification works are adequate and comply with the requirement in the Act to make clear in the rectification notice the way in which work that needs rectification is defective.
- 62 Accordingly, I find that the decision of the VBA in respect of each of item 2 and 3 in the second rectification notice should be affirmed, and I will make orders as such. As noted above, I will also make consent orders in respect of the items 1 and 4 in the second rectification notice and all four items in the first rectification notice. I will reserve costs with liberty to apply.

**SENIOR MEMBER M. FARRELLY**

**RECTIFICATION NOTICE**

BUILDING ACT 1993 221ZW

Notice No: RECNOT00003876

**Victorian  
Building  
Authority**

Goods Shed North  
733 Bourke Street,  
Docklands Victoria 3008

PO Box 636  
Melbourne Victoria 3001

Tel: 1300 815 127

**To:** El-Ali, Ali Khodr  
FACTORY 16/ 632-642 CLAYTON RD  
CLAYTON STH VIC 3169

**Site:** Units 1, 2, 3 No 1 Yunki Court  
Ashwood  
Vic 3147

Registered Licence No: 45483

**TAKE NOTICE** that the plumbing work at the above site carried out by you, or carried out under your supervision, is in breach of the plumbing laws (Note 1) as described in the Schedule.

You **MUST** rectify the plumbing work in the manner set out in the Schedule within 28 days of the date of this Notice (Note 2).


\*Within 5 working days of completion of the required rectification works you must provide the undersigned Plumbing Inspector with a compliance certificate issued in respect of the plumbing work as rectified (Note 3)

**NOTES**

1. "Plumbing laws" means any provision in any of the following legislation that regulates the carrying out of plumbing work -
  - (a) Part 12A of the Building Act 1993
  - (b) The Gas Safety Act 1997
  - (c) The Water Act 1989 and the Water Industry Act 1994; and
  - (d) Any Regulations made under Part 12A of the Building Act 1993 or any Act listed in (b) or (c) hereof.
  
2. (1) Section 221ZW(5) of the Building Act 1993 states a person -
  - (a) must comply with any requirement made by an Inspector or Auditor in a rectification notice; and
  - (b) must not ask for, or receive, from the person for whom the work was originally carried out (or any agent of that person) any money in respect of any cost arising from anything the person does in complying with a rectification notice.  
Penalty: 50 penalty units.

**SCHEDULE**

Item No.	Class and Description of Plumbing Work	Description of Breach	Relevant Plumbing Law (see Note 1)	Rectification Work Required
1	DRAINAGE (Below Ground Sewer)	Incorrect connection configuration	Building Act 1993, section 221FA; Plumbing Regulations 2008 Part 3 r.15 (1) (a) and (b); AS/NZS 3500.2:2003 Cl 4.4.1	To reconstruct the below ground sanitary drain and install a boundary trap in boundary trap areas.
2	DRAINAGE (Below Ground Sewer)	Unacceptable drain design	Building Act 1993, section 221FA; Plumbing Regulations 2008 Part 3 r.15 (1) (a) and (b); AS/NZS 3500.2:2003 Cl 3.2	To relocate the property sewerage drain, clear of the additional development, so it does not pass under unit 1.
3	DRAINAGE (Below Ground Sewer)	Defective trap installation serving the shower in main bathroom Unit 2	Building Act 1993, section 221ZZV; Plumbing Regulations Part 3 r.15 (1) (a) and (b); AS/NZS 3500.2:2003 Cl 6.4.3	To reconstruct the trap serving the shower in main bathroom
4	DRAINAGE (Below Ground Sewer)	Unacceptable drain design	Building Act 1993, section 221FA; Plumbing Regulations Part 3 r.15 (1) (a) and (b); AS/NZS 3500.2:2003 Cl 11.18.1	To install trap on shower in ensuite unit 2

<p>DATED: 20 November 2015</p> <p>NAME: Michael Mikic</p> <p>Plumbing Inspector:</p>	<p>Should you have any queries about this Notice please contact the Plumbing Inspector named on this notice</p>  <p>Telephone: 0409 392 092 Fax:</p>
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## RECTIFICATION NOTICE

BUILDING ACT 1993 221ZW

Notice No: RECNOT00003969



<b>To:</b> El-Ali, Ali Khodr Building 12 489A Warrigal Road MOORABBIN VIC 3189	<b>Site:</b> Unit 1, 2 & 3 No 1 Yunki Court Ashwood VIC 3147
Registered Licence No: 45483	

Goods Shed North  
733 Bourke Street,  
Docklands Victoria 3008

PO Box 536  
Melbourne Victoria 3001

Tel: 1300 815 127

**TAKE NOTICE** that the plumbing work at the above site carried out by you, or carried out under your supervision, is in breach of the plumbing laws (Note 1) as described in the Schedule.

You **MUST** rectify the plumbing work in the manner set out in the Schedule within 28 days of the date of this Notice (Note 2).

### NOTES

- "Plumbing laws" means any provision in any of the following legislation that regulates the carrying out of plumbing work -
  - Part 12A of the Building Act 1993
  - The Gas Safety Act 1997
  - The Water Act 1989 and the Water Industry Act 1994; and
  - Any Regulations made under Part 12A of the Building Act 1993 or any Act listed in (b) or (c) hereof.
- (1) Section 221ZW(5) of the Building Act 1993 states a person -
  - must comply with any requirement made by an Inspector or Auditor in a rectification notice; and
  - must not ask for, or receive, from the person for whom the work was originally carried out (or any agent of that person) any money in respect of any cost arising from anything the person does in complying with a rectification notice.  
Penalty: 50 penalty units.Section 221ZX of the Building Act 1993 allows a person who has been given a rectification notice to apply to the Victorian Civil & Administrative Tribunal to have the decision to issue the notice reviewed. The application to appeal must be made within 5 business days of the date the rectification notice is received by the person.
- This requirement is made under Section 221ZW (3) and (4) of the *Building Act 1993* and in addition to the obligations under Section 221ZH of

SCHEDULE

Item No.	Class and Description of Plumbing Work	Description of Breach	Relevant Plumbing Law (see Note 1)	Rectification Work Required
1	DRAINAGE (Below Ground Sewer)	Incorrect provision for sewerage surcharge	Building Act 1993, Section 221 FA: Plumbing Regulations 2008 Part 3 r 15 (1) (a) and (b); AS/NZS 3500.2:2003 Cl 4.6.6.6	To provide 150mm separation, between the outlet of the lowest fixture (shower) and the top of the overflow relief gully riser, at the lowest point at Unit 1 No 1 Yunki Court Ashwood.
2	DRAINAGE (Below Ground Sewer)	Incorrect gradient	Building Act 1993, Section 221 FA: Plumbing Regulations 2008 Part 3 r 15 (1) (a) and (b); AS/NZS 3500.2:2003 Cl 3.4.1	To reconstruct the property sewerage drain, with approved grade, at the sewer drain below laundry 1 meter from Overflow Relief Gully at Unit 3 No 1 Yunki Court Ashwood.
3	DRAINAGE (Below Ground, sewer)	Incorrect gradient	Building Act 1993, Section 221 FA: Plumbing Regulations 2008 Part 3 r 15 (1) (a) and (b); AS/NZS 3500.2:2003 Cl 3.4.1	To reconstruct the property sewerage drain, with approved grade, at the sewer branch drain from the toilet bend under the toilet in the ensuite to the main branch drain Unit 2 No 1 Yunki Court Ashwood.
4	SANITARY PLUMBING	Incorrect installation	Building Act 1993, Section 221 FA: Plumbing Regulations 2008 Part 3 r 14	To re-install the toilet, in the acceptable manner in the ensuite Unit 2 No 1 Yunki Court Ashwood with the appropriate fittings connecting the toilet to the below ground sanitary drain.

DATED: 25 May 2016

Should you have any queries about this Notice please contact the Plumbing Inspector named on this notice

NAME: Michael Mijic



Plumbing Inspector.

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