

# QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Jeffrey Knuth v Queensland Building and Construction Commission* [2024] QCAT 159

PARTIES: **JEFFREY KNUTH T/AS ROOFGUARD ROOF PAINTING**  
(applicant)  
  
v  
  
**QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION**  
(respondent)

APPLICATION NO/S: GAR368-19

MATTER TYPE: Building matters

DELIVERED ON: 20 March 2024

HEARING DATE: 22 June 2023

HEARD AT: Townsville

DECISION OF: Member Pearce

ORDERS: **1. The decision of the QBCC dated 5 August 2019 is confirmed.**  
  
**2. Each party bears their own costs of and incidental to the proceeding.**

CATCHWORDS: PROFESSIONS AND TRADES – BUILDERS – STATUTORY POWER TO REQUIRE RECTIFICATION OF DEFECTIVE OR INCOMPLETE BUILDING WORK – where owner claims defective building work – where Queensland Building and Construction Commission makes decision to issue a direction to rectify to the contractor – where contractor accepts he is responsible for work but says unfair to issue notice – where contractor says work is not defective because either it is not within contract and severe weather event – whether decision to issue a notice to rectify defects was unreasonable

*The Building Industry Fairness (Security of Payment) Act 2017* (Qld)

*Queensland Civil and Administrative Tribunal Act 2009* (Qld)

*Queensland Building and Construction Commission Act 1991* (Qld)

**APPEARANCES &  
REPRESENTATION:**

Applicant: Jeffrey Knuth – Self Represented  
Respondent: Queensland Building and Construction Commission  
represented by Holding Redlich, Solicitors

**REASONS FOR DECISION**

- [1] On 5 August 2019, the Commission notified Jeffrey Knuth t/as Roofguard Roof Painting (*‘Applicant’*) of its decision that building work undertaken at the direction of the Commission is not of a satisfactory standard (*‘Internal Review Decision’*).
- [2] In this proceeding, the Applicant has applied for a review of the Internal Review Decision by an Application to review a decision filed in the Tribunal (*‘External Review Application’*), pursuant to sections 86(1)(f) and 87 of the *Queensland Building and Construction Commission Act 1991* (Qld) (*‘QBCC Act’*).

**STATUTORY FRAMEWORK**

**Tribunal's jurisdiction to review decision**

- [3] Section 9 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) (*‘QCAT Act’*) provides that the Tribunal has jurisdiction to deal with matters it is empowered to deal with under this Act or an enabling Act. The QBCC Act is the enabling Act in this matter.
- [4] Section 87 of the QBCC Act provides that a person affected by a reviewable decision may apply to the Tribunal for a review of the decision.
- [5] Section 86(1) of the QBCC Act provides a list of reviewable decisions, which includes, relevantly at (f), a decision that *‘building work undertaken at the direction of the commission is or is not of a satisfactory standard’*.
- [6] The QBCC Act does not provide any further guidance on the process required for making such a decision, or factors to be taken into account when making the decision.
- [7] By section 20 of the QCAT Act, the Tribunal is required to hear and decide a review of a reviewable decision by way of a fresh hearing on the merits for the purpose of producing the correct and preferable decision.
- [8] In this administrative review proceeding, the Tribunal exercises the functions of the Commission in accordance with the enabling Act under which the reviewable decision was made.<sup>1</sup>
- [9] The final orders that can be made by the Tribunal, in exercising its review jurisdiction, are outlined in section 24(1) of the QCAT Act and are as follows:

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<sup>1</sup> QCAT Act, s 19.

- (a) the decision is confirmed;<sup>2</sup> or
- (b) the decision is set aside and substituted with the Tribunal's own decision;<sup>3</sup> or
- (c) the decision is set aside and the matter returned to the Commission to reconsider the decision with directions the Tribunal considers appropriate.<sup>4</sup>

### **Defective building work**

[10] Section 3(b) of the QBCC Act states that one of the objects of the QBCC Act is to provide remedies for defective building work.

[11] Part 6 of the QBCC Act is entitled “Rectification of building work” and comprises sections 71H to 74 (inclusive).

[12] Section 71J(1) of the QBCC Act provides:

Requests for rectification of building work or remediation of consequential damage

- (1) A consumer may ask the commission to give a direction to rectify building work the consumer considers is defective or incomplete.

...

- (4) Also, a request under subsection (1) or (2) must be made within 12 months after the person becomes aware of-

- (a) for a request under subsection (1) — the building work the person considers is defective or incomplete; or ...

[13] The term “consumer” is defined in Schedule 2 of the QBCC Act to mean “a person for whom building work is carried out ...”.

[14] The term “building contractor” is defined in Schedule 2 to mean “a person who carries on a business that consists of or includes carrying out building work ...”.

[15] Section 72 of the QBCC Act is entitled “Power to require rectification of building work and remediation of consequential damage” and provides:

- (1) This section applies if the commission is of the opinion that—

- (a) building work is defective or incomplete; or
- (b) consequential damage has been caused by, or as a consequence of, carrying out building work.

- (2) The commission may direct the person who carried out the building work to do the following within the period stated in the direction -

- (a) for building work that is defective or incomplete - rectify the building work;
- (b) for consequential damage - remedy the damage.

[16] In Schedule 2 of the QBCC Act, the term:

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<sup>2</sup> QCAT Act, s 24(1)(a).

<sup>3</sup> QCAT Act, s 24(1)(b).

<sup>4</sup> QCAT Act, s 24(1)(c).

- (a) “building” is defined for Part 6 as including “any fixed structure” (with an example of a fixed structure provided as “a fence other than a temporary fence”), and
- (b) “defective” is defined as including “faulty or unsatisfactory” building work.

[17] Section 72(3) of the QBCC Act provides:

In deciding whether to give the direction, the commission may take into consideration all the circumstances it considers are reasonably relevant and, in particular, is not limited to a consideration of the terms of the contract for carrying out the building work (including the terms of any warranties included in the contract).

[18] Section 72(5) of the QBCC Act provides:

The commission is not required to give the direction if the commission is satisfied that, in the circumstances, it would be unfair to the person to give the direction.

[19] Section 71I(2)(a) of the QBCC Act provides that for the purposes of subsection (1)(h), a person carries out building work whether the person carries it out personally, or directly or indirectly causes it to be carried out.

[20] Section 72A of the QBCC Act provides:

Powers and limitations of directions to rectify or remedy

- (1) A direction to rectify or remedy may be given to more than 1 person for the same building work.
- (2) A direction to rectify or remedy may require that a building, or part of a building, be demolished and building work be recommenced if, in order to rectify building work, it is necessary to do so.
- (3) If a direction to rectify or remedy is given to a person who is not currently licensed to carry out the required work, the person must have the work carried out by a licensed contractor.
- (4) A direction to rectify or remedy cannot be given more than 6 years and 6 months after the building work to which the direction relates was completed or left in an incomplete state unless the tribunal is satisfied, on application by the commission, that there is in the circumstances of a particular case sufficient reason for extending the time for giving the direction and extends the time accordingly.
- (5) The fact that a direction is given under section 72(2) does not prevent the commission from taking additional action against a person under this Act for the building work to which the direction relates.

### **Rectification Policy**

- [21] The Queensland Building and Construction Commission Board (*‘Board’*) is established by section 10 of the QBCC Act.
- [22] *The Building Industry Fairness (Security of Payment) Act 2017* (Qld) (*‘BIF Act’*) was assented to on 10 November 2017. The BIF Act amended the QBCC Act in some respects, including amending the functions of the Board.

- [23] Prior to the BIF Act amendments, section 11 of the QBCC Act provided that it was a function of the Board to make and review policies governing the administration of the QBCC Act.
- [24] Section 19 of the QBCC Act was repealed by the BIF Act. Prior to its repeal, section 19 of the QBCC Act provided that Board's policies did not take effect until approved by regulation.
- [25] One of the policies made by the Board was the "Rectification of Building Work Policy" (*'Rectification Policy'*), which was approved by Schedule 1A of the *Queensland Building and Construction Commission Regulation 2003* (Qld) and took effect on 10 October 2014.<sup>5</sup>
- [26] Schedule 1, Part 15, Section 76 of the QBCC Act is a transitional and validating provision for the BIF Act and states:
- (1) A policy, made by the board under repealed section 19 and approved by regulation, in force immediately before the commencement continues in force
    - (a) despite the repeal of section 19; and
    - (b) until the matters provided for under the policy are prescribed by regulation.

Note-

The policies in force were the Rectification of Building Work made by the board on 16 May 2014 and the Minimum Financial Requirements made by the board on 28 August 2015.

A regulation may declare the day a policy mentioned in subsection (1) expires under that subsection.

- [27] The matters provided for under the Rectification Policy have not yet been prescribed by regulation. Accordingly, by the operation of Schedule 1, Part 15, Section 76 of the QBCC Act, the Rectification Policy remained in force at the date of the Decision and is currently in force.
- [28] Under sections 7 and 9 of the *Statutory Instruments Act 1992* (Qld), the Rectification Policy is a statutory instrument that is subordinate legislation.

### **Internal Review**

- [29] Section 86A of the QBCC Act enables, relevantly, a person given notice of a reviewable decision to apply to an internal reviewer to have the decision reviewed. The application for internal review must (relevantly) be made within 28 days after the Applicant is given notice of the reviewable decision.<sup>6</sup>
- [30] Sections 86C and 86D of the QBCC Act provide for the process of internal review:

#### **86C Internal review decision**

- (1) If an internal review application is made under section 86B, the internal reviewer must, as soon as practicable but within the required period, make a

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<sup>5</sup> Subordinate Legislation 2014 No. 233.

<sup>6</sup> QBCC Act, s 86B.

new decision (the internal review decision) as if the reviewable decision the subject of the application had not been made.

- (2) For subsection (1), the required period is—
  - (a) 28 days after the internal review application is made; or
  - (b) a longer period agreed to by the applicant.
- (3) However, if the internal reviewer does not decide the application within the required period, the internal reviewer is taken to have made an internal review decision at the end of the required period that is the same as the reviewable decision.
- (4) If the internal reviewer is the commission, the application must not be dealt with by—
  - (a) the person who made the reviewable decision; or
  - (b) a person in a less senior office than the person who made the reviewable decision.
- (5) Subsection (4)—
  - (a) applies despite the Acts Interpretation Act 1954, section 27A; and
  - (b) does not apply to a reviewable decision made by the commissioner personally.

#### **86D notice of internal review decision**

- (1) As soon as practicable after an internal review decision is made, or is taken to have been made, under section 86C, the internal reviewer must give the applicant and any other person affected by the decision written notice (the review notice) of the decision.
- (2) The review notice must state—
  - (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) that the person may, if dissatisfied with the internal review decision, within 28 days after the person is given the notice apply to the tribunal for external review of the decision under subdivision 2; and
  - (d) how to apply for review of the decision.

### **BACKGROUND AND DOCUMENTS**

#### **Quote for the work**

- [31] Daryl Turner (*Owner*) is the owner of the subject property at 5 Norman Street, West End in the State of Queensland (*Property*).
- [32] On or about 19 September 2018, the Applicant issued a Quote to the Owner and Janelle Turner for roof restoration at the Property in the amount of \$12,800.00 (*Quote*).
- [33] On about November 2018, the work was completed at the Property.

### **Relevant entity**

- [34] At all material times, the Applicant held a licence with the Commission, licence number 52055 in the class of "Painting and Decorating".
- [35] At all material times, the Applicant operated under the trading name "Roofguard Roof Painting".

### **Early Dispute Resolution**

- [36] On or about 8 February 2019, the Commission received a request for Early Dispute Resolution ('EDR') from the Owner in relation to the work carried out by the Applicant and contractual issues.
- [37] On 12 February 2019, the Commission received a bundle of documents from the Applicant.
- [38] On 26 February 2019, Kevin Cameron ('Mr Cameron'), a Building Inspector employed by the Commission, carried out an inspection at the Property, and subsequently completed an Early Dispute Resolution Inspection Report outlining his observations and findings from the inspection ('EDR Inspection Report').
- [39] On or about 1 March 2019, the Commission sent correspondence to the Applicant and the Owner advising that the parties had reached an agreement under the EDR process, and attaching a copy of the EDR Inspection Report. As part of the agreement, the parties were to sign a written contract and the Applicant was to carry out further work at the Property.
- [40] Despite the work having been completed, on or about 18 March 2019, the Owner, Janelle Turner and the Applicant signed a written contract for roof restoration at the Property in the amount of \$12,800.00 ('Contract').

### **Complaint, Direction and Original Decision**

- [41] On 27 March 2019, the Commission received a complaint form from the Owner relating to alleged defective work carried out by the Applicant at the Property ('Complaint').
- [42] The Complaint included 5 items:

Item	Date Noticed	Location	Description
1	30/01/2019	Bedroom	Ceiling. Bedroom 4 — water leaked through ceiling — light and fan.  Ceiling was severely wet tripping earth leakage and severe buckling to VJ ceiling.
2	30/01/2019	Bedroom	Ceiling. Bedroom 3. Water leaked into ceiling buckling the VJ ceiling.
3	30/01/2019		Ceiling. Hallway — water leak.

4	03/10/2018	Roof and related structures	Numerous screws identified to be fitted incorrectly and missing / loose causing water ingress. All gutters fitted incorrectly retaining water.
5	03/10/2018		Roof is not compliant.

- [43] On or about 3 April 2019, Michelle Hasteed, Assessment Officer employed by the Commission, conducted a preliminary assessment of the Complaint and outlined her initial findings in a Complaint Assessment File Note.
- [44] On 3 April 2019 and 4 April 2019, the Commission exchanged email correspondence with the Owner and the Applicant in relation to the Complaint.
- [45] On 8 April 2019, Mr Cameron carried out an inspection at the Property in relation to the item included in the Complaint, and subsequently completed an Initial Inspection Report dated 18 April 2019 outlining his observations and findings from the inspection (*'Initial Inspection Report'*).
- [46] On 23 April 2019, the Commission sent correspondence to:
- (a) the Applicant, advising that Work by a Licensed Contractor is Required - Direction to Rectify and/or Complete Work No. 0104636 (*'Direction'*) was issued in respect of Items 1 to 5 on the Complaint.
  - (b) the Owner, advising that that the Direction had been issued to the Applicant (for all items on the Complaint).
- [47] On 30 April 2019, the Commission received an email from the Owner raising concerns with respect to the rectification work undertaken at the Property.
- [48] On 13 June 2019, Mr Cameron carried out a reinspection at the Property to assess the status of any rectification work carried out by the Applicant as required by the Direction, and subsequently completed a Reinspection Report dated 14 June 2019 outlining his observations and findings from the reinspection (*'Reinspection Report'*).
- [49] AE Smith, plumbers engaged by the Commission, were also in attendance at the reinspection to provide safe access for the reinspection of the roof.
- [50] On 17 June 2019, the Commission sent correspondence to:
- (a) the Applicant, advising that the rectification work carried out under the Direction had not been completed satisfactorily (*'Original Decision'*); and
  - (b) the Owner, advising that the rectification work carried out under the Direction had not been completed satisfactorily, and the Commission would assess the Owner's entitlement to a claim under the Queensland Home Warranty Scheme (*'Scheme'*).
- [51] On 28 June 2019, the Commission sent correspondence to the Applicant and the Owner advising that the Owner's claim under the Scheme had been accepted, and providing a Scope of Works for the rectification of defective work at the Property.

### **Internal Review Application and Internal Review Decision**

- [52] On 9 July 2019, the Commission received an internal review application from the Applicant requesting an internal review of the Original Decision (*'Internal Review Application'*).
- [53] Also on 9 July 2019, the Commission sent email correspondence to the Applicant and the Owner in relation to the Internal Review Application.
- [54] On 12 July 2019, the Commission sent an email to the Applicant in relation to the Internal Review Application, seeking clarification as to the decision sought to be internally reviewed.
- [55] On 16 July 2019, the Commission received an email from the Applicant in relation to the Internal Review Application, confirming that he wishes to internally review the Original Decision.
- [56] On 5 August 2019, Leean Tyler, Principal Review Officer employed by the Commission, made the Internal Review Decision, and notified the Applicant and the Owner of same.

### **Post-Internal Review Decision**

- [57] On 27 August 2019, the Commission sent correspondence to the Applicant and the Owner advising that the Owner's claim under the Scheme had been approved in the amount of \$21,419.50.
- [58] On 13 September 2019, the Applicant filed the External Review Application in the Tribunal seeking to review the Internal Review Decision.
- [59] In about June 2020, the rectification work was completed by a third-party contractor under the Scheme.

### **ISSUES FOR DETERMINATION BY THE TRIBUNAL**

- [60] The issues for determination in relation to a review under section 86(1)(f) of the QBCC Act were set out by Acting Senior Member Browne and presiding Member Howe in the matter of *Queensland Building and Construction Commission v Whalley* [2018] QCATA 38. As stated by the Members at paragraph 15 of that decision, the Tribunal only has the power to review the decision that has been identified by the Applicant in the decision under review, it does not have the power to make orders with respect to any other decision:

The tribunal in exercising its review power under the QCAT Act, must only review the decision that has been identified by the applicant in the application to review. In reviewing a decision and exercising its powers under s 24, the tribunal would not, for example, ordinarily make final orders about other decisions made by the decision-maker and would only make final orders about the reviewable decision the subject of the review. This is because the tribunal only has the power as prescribed under s 17 and 18 of the QCAT Act to review certain decisions upon application being made to the tribunal to exercise its review jurisdiction for a 'reviewable decision'.

- [61] Crucially, in matters concerning whether work undertaken at the direction of the Commission is satisfactorily rectified, the Tribunal is limited to considering whether the Direction to Rectify has been complied with, not whether the Direction to Rectify itself ought to have been made.

[16] The Tribunal on review in arriving at the correct and preferable decision was required to consider whether Mr Whalley had satisfactorily rectified work identified in DTR no. 40913. In particular, the Tribunal was required to consider whether Mr Whalley as the licensee had provided compliant flashings to opening in external wall.

...

[33] We also accept the QBCC's submission that the Tribunal did not have any power to deal with the decision of 8 April 2016 (also referred to as the decision of 5 April 2016 in the Tribunal's reasons) in relation to the DTR no. 42267.

[34] Mr Whalley's application clearly identified the decision of Stephen Ferguson dated 5 April 2016 as the reviewable decision and this was also identified by the learned Member in his reasons.[33] That was a decision made pursuant to s 86(1)(f) of the QBCC Act, namely that building work undertaken at the direction of the QBCC was not of a satisfactory standard.

[35] There was no request to review the decision to issue DTR no. 42267 sought by Mr Whalley in his application. DTR no. 42267 was issued on 8 April 2016 and was not a decision about the satisfactory standard of work undertaken at the direction of the QBCC pursuant to s 86(1)(f) but a decision pursuant to s 86(1)(e) that building work be rectified.

[36] The Tribunal's review jurisdiction was only enlivened in respect of the decision of 5 April 2016 for DTR no. 40913. There was no inherent or other power of the Tribunal to make final orders about the decision made by the QBCC on 8 April 2018 even if that decision was, for the purposes of the QBCC Act, a reviewable decision.

- [62] Accordingly, the relevant question before the Tribunal is whether, as a matter of fact, the Applicant satisfactorily rectified the work which is the subject of the Directions to Rectify issued by the Commission.

### **FINDINGS OF FACT**

- [63] On or about 19 September 2018, the Applicant issued the Quote to the Owner and Janelle Turner for roof restoration at the Property.
- [64] On or about 8 February 2019, the Commission received a request for an EDR from the Owner in relation to the work carried out by the Applicant and contractual issues.
- [65] On 26 February 2019, Mr Cameron carried out an inspection at the Property.
- [66] On or about 1 March 2019, the EDR case was closed as the parties had reached an agreement.
- [67] Despite the work having been completed, on or about 18 March 2019, the Owner, Janelle Turner and the Applicant signed the Contract for roof restoration at the Property.

- [68] On 27 March 2019, the Commission received the Complaint from the Owner.
- [69] On 8 April 2019, Mr Cameron carried out an initial inspection at the Property.
- [70] On 23 April 2019, the Commission issued the Direction to the Applicant.
- [71] On 13 June 2019, Mr Cameron carried out a reinspection at the Property.
- [72] On 17 June 2019, the Commission sent the Original Decision to the Applicant.
- [73] On 9 July 2019, the Commission received the Internal Review Application from the Applicant seeking an internal review of the Original Decision.
- [74] On 5 August 2019, the Commission notified the Applicant and the Owner of the Internal Review Decision.

### **REASONS FOR THE DECISION**

- [75] In this regard, the Commission is required to be satisfied of the following prior to making a decision about whether the work is satisfactory:
- (a) the subject work is "building work",
  - (b) the "building work" was undertaken at the direction of the Commission; and
  - (c) the "building work" undertaken is or is not of a satisfactory standard.

#### **The work is "building work"**

- [76] "Building work" is defined in Schedule 2 of the QBCC Act to include "(b) the renovation, alteration, extension, improvement or repair of a building".
- [77] The Tribunal is satisfied that the restoration of a roof (being a "building", which generally includes any fixed structure) is "building work".

#### **The "building work" was undertaken at the direction of the Commission**

- [78] On 23 April 2019, the Commission issued the Direction to the Applicant for the following:
1. Rectify the consequential damage to the timber painted bedroom 4 ceiling resulting from water ingress from the roof above as the installed works are defective where fixings are installed incorrectly, lapps of sheets and flashings have been gapped sealed being Item 1 on the owners complaint form.
  2. Rectify the consequential damage to the timber painted bedroom 3 ceiling resulting from water ingress from the roof above as the installed works are defective where fixings are installed incorrectly, lapps of sheets and flashings have been gapped sealed being Item 2 on the owners complaint form.
  3. Rectify the consequential damage to the timber painted hallway ceiling resulting from water ingress from the roof above as the installed works are defective where fixings are installed incorrectly, lapps of sheets and flashings have been gapped sealed being Item 3 on the owners complaint form.

4. Rectify the defective installed roof fixing, sheets joints, flashing joints and gutters over the entire front and rear roofs resulting in water ingress and consequential damage to the ceilings below being Item 4 on the owners complaint form.
5. Rectify the defective installed roof fixings, sheets joints, flashing joints, gutters on the main roof, applied paint coating to all 3 roof areas, paint runs, spreaders on the main roof including installation of the missing two spreaders on the main roof, saw toothed sheeting on the skillion roof beside the rear roof – these defects being evident over the entire front and rear roofs resulting in water ingress and consequential damage to the ceiling linings below being item 5 on the owners complaint from.

[79] The Direction was required to be complied with by 26 May 2019.

[80] In reliance upon an email from the Owner on 30 April 2019 and as observed at the reinspection, it was confirmed that some rectification work had been carried out by, or on behalf of, the Applicant during the period of compliance for the Direction.

**The “building work” undertaken is or is not of a satisfactory standard**

[81] The Commission determined that the building work undertaken by the Applicant was not of a satisfactory standard in reliance upon re-inspection carried out by Mr Cameron on 13 June 2019, and the Reinspection Report dated 14 June 2019 outlining his observations and findings from the re-inspection.

[82] Relevantly, the Reinspection Report provides:

- (a) The Owner confirmed at the reinspection that no works had been commenced for Items 1, 2 and 3 on the Direction, and Mr Cameron took photographs to confirm same (which are included in the Reinspection Report);
- (b) Items 4 and 5 were inspected by the Applicant's representative (John Knight), representatives of AE Smith, the Owner and Mr Cameron, and it was observed that some rectification work had been carried out;
- (c) Items 4 and 5 — Despite the rectification work, the roof fixings remained non-compliant with the manufacturer's installation guidelines in that:
  - (i) they are built up with extra washers;
  - (ii) they are not installed at 90 degrees to the roof pitch leaving gaps;
  - (iii) holes from old fixings are filled with sealant;
  - (iv) old lead head nails are still evident;
  - (v) spring head nails are still evident;
  - (vi) sheet joints still have sealant between laps, resulting in gaps to the laps;
  - (vii) over-tightened screw fixings;
  - (viii) under-tightened screw fixings;
  - (ix) screw fixings wedged between other nail fixings, swarf from fixings on new paint works;

- (x) flashings with insufficient fixings;
- (xi) new sheeting damaged with dents;
- (xii) overlaps into gutter more than 65mm;
- (xiii) gutters that still pond water;
- (xiv) leaking gutter;
- (xv) new roofing with over-span battens at gutter side;
- (xvi) paint runs on the roof sheeting;
- (xvii) poor installation of the gutters;
- (xviii) strapping in place to raise height of gutter; and
- (xix) ponding of water in gutters.

[83] The Tribunal accepted the evidence of Mr Kevin Cameron provided by both sworn statement and sworn testimony given in the hearing. The state of each item as at the date of the reinspection is not disputed by the Applicant and Mr Cameron provided comprehensive photographic records.

[84] The Applicant provided evidence through evidence-in-chief and in doing so advised the Tribunal of the severe rain event that had occurred in the area on or about 31 January 2019. He also advised the works he had completed. Under cross-examination the Applicant did concede that he had not otherwise rectified the items which were the subject of review and which were revealed at the inspection to not have been dealt with.

[85] As the necessary rectification work was not completed by 26 May 2019 to ensure compliance with the Direction, and as this was confirmed by Mr Cameron at the reinspection on 13 June 2019, the Tribunal determines that the building work undertaken at the direction of the Commission was not of a satisfactory standard.

## **DECISION**

[86] The Tribunal is of the opinion that the Internal Review Decision is the correct and preferable decision and should be confirmed by the Tribunal.

## **Order**

[87] The decision of the QBCC dated 5 August 2019 is confirmed.

[88] Each party bears their own costs of and incidental to the proceeding.