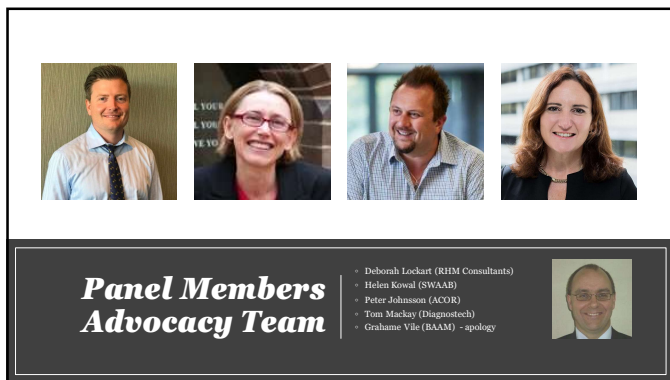
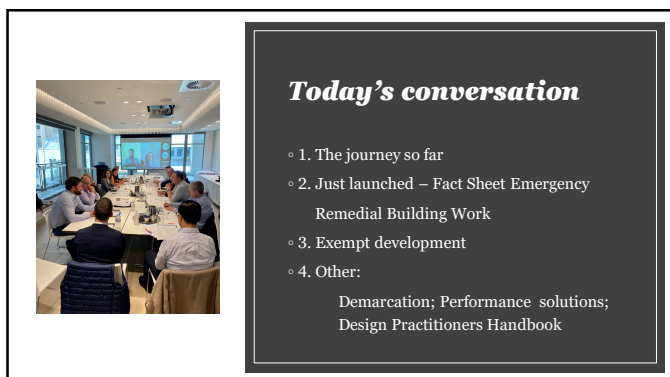





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Acknowledgement:
Caroline McConnachie
(formerly Max Build)

The journey so far

- 2019 - 2022 ACRA Board member
- 2020 Networking with the Office of the Building Commissioner (OBC)
- 2021 Advocacy team established , continued networking and meetings with OBC
- 2022 Remedial consultation begins in earnest
- 2023 Strata-remedial Government consultation gains momentum


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REMEDIAL MEETS MATT PRESS, MAY 2022

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Fact Sheet Emergency Remedial Building work




What is emergency remedial building work?

Building Practitioners role

Owners Corporation responsibility

Portal requirements

Consolidated form



FACT SHEET:
Emergency Remedial Building Work

<https://www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/working-on-class-2-buildings/forms>

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Work that is emergency remedial building work

Helen Kowal

- Remedial building work is only 'emergency remedial building work' if the following apply:

 1. immediate action is necessary to remedy an issue; and
 2. the issue is causing, or is likely to cause, damage to the building and:
 - a. the inability to inhabit or use the building (or part of the building) for its intended purpose, or
 - b. a risk to health or safety, or
 - c. a risk of further damage to the building (or part of the building); and
 3. these impacts, or likely impacts, are serious in nature; and
 4. the work undertaken is limited to what is necessary to mitigate these impacts or likely impacts until further remedial building work can be undertaken.

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Emergency work – example

Peter Johnsson

- 'Case study 1':
- The **waterproofing membrane** on the roof of a residential apartment building is damaged. Upon investigation, the remedial building works require the installation of a new waterproofing membrane for the whole rooftop (spanning multiple apartments), as the membrane is at "end of life". Following inclement weather, **water leakage** into one apartment has caused damage to a bedroom and mould has formed in the carpet underlay, deeming the room **uninhabitable** for the occupants.
- Temporary localised repairs can be carried out to patch the existing membrane and stop water leaking into the one apartment below in an attempt to prevent any further damage and allow the occupants to use the bedroom. In these circumstances, the temporary localised repair work would be considered emergency remedial building work.

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Work that is NOT emergency remedial building work

Helen Kowal

- Remedial building work is not emergency remedial building work if the following conditions apply:

 1. the work undertaken is designed to address the fundamental or underlying cause of the issue; and
 2. immediate action is not necessary to remedy an existing issue before it causes serious damage or further serious damage, or poses a serious impact relating to habitability, health and safety; and
 3. it is possible for statutory obligations to be met prior to any serious damage or further serious damage being caused to the building and there is no serious impact relating to habitability, health and safety.

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NOT Emergency work


Peter Johnsson

***Case study 4*:**

- The **waterproofing membrane** on the roof of a residential apartment building **is damaged**. Upon investigation, it is determined that a **new waterproofing membrane is required for the whole rooftop** (spanning multiple apartments), as the current membrane is at "end of life". The owners corporation have undertaken investigations to consider the nature of remedial works required to repair the roof and are in the process of obtaining of scopes of work and quotations from contractors. **Only minor water leakage has occurred** into the garage and into the corner of a tiled laundry.
- As the **water leakage is not serious in nature**, is not preventing usage of the garage or laundry and is not causing further damage through the apartment building, these planned remedial works to replace the waterproofing membrane are not considered emergency remedial work.

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Portal and interim consolidated form



Deb Lockart

- Building Practitioner submits the following to the Secretary:
 - i. Emergency remedial building work form; and
 - ii. Building compliance declaration; and
 - iii. Contractor document.
- Submit within 7 days of completing the emergency remedial building work, to the Secretary by email to dbpaudits@customerservice.nsw.gov.au.
- Portal upgrade July 2023, then online

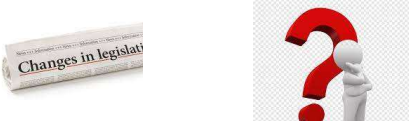
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EMERGENCY REMEDIATION BUILDING WORK

***We do not
provide legal or
planning
advice.***


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EXEMPT DEVELOPMENT

TOM MACKAY

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Remedial approach

ACRA's position

- Remedial work is largely considered as normal **repair and maintenance** that reinstates the serviceability and durability of building elements.
- Generally **'like-for-like'**, but may also be an improvement to original, like a new window or balustrade, or replacing a deteriorated part,
- Fundamentally does not change the original architecture or adversely affect the structural capacity of the element.

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Exempt development – Codes SEPP extract (1)

Subdivision 27 Minor building alterations (external)

2.53 Specified development

A **minor** external **non-structural** building alteration, **such as** the following—

- (a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,
- (b) the replacement of an external window, glazing areas or a door (other than those on bush fire prone land),
- (c) the repair to or replacement of a **non-structural** wall or roof cladding,
- (d) the installation of a security screen or grill to a door or window or a security door,
- (e) the repair to or replacement of a **balustrade**,
- (f) restumping or **repairing structure foundations** without increasing the height of the structure,

is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area.

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Design and Building Practitioners Act

INCLUDED WORK

- **4 Building work**
- (1) For the purposes of this Act, **building work** means work involved in, or involved in coordinating
- or supervising work involved in, one or more of the following—
- (a) the construction of a building of a class or type prescribed by the regulations for the
- purposes of this definition,
- (b) the making of alterations or additions to a building of that class or type,
- **(c) the repair, renovation or protective treatment of a building of that class or type.**

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Design and Building Practitioners (DBP) Act - INCLUDED WORK

6 Building elements

- (1) For the purposes of this Act, building element means any of the following—
- (a) the fire safety systems for a building within the meaning of the Building Code of Australia,
 - (b) waterproofing,**
 - (c) an internal or external load-bearing component of a building that is essential to the stability of the building, or a part of it (including but not limited to in-ground and other foundations and footings, floors, walls, roofs, columns and beams),**
 - (d) a component of a building that is part of the building enclosure,**
 - (e) those aspects of the mechanical, plumbing and electrical services for a building that are required to achieve compliance with the Building Code of Australia,
 - (f) other things prescribed by the regulations for the purposes of this section.

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13 Certain work excluded from being building work

(1) For the purposes of section 4(1) and (2)(b) of the Act, the following work is excluded from being building work—

- (a) work that is carried out as exempt development, other than waterproofing,**
- (b) work that is waterproofing, but only if—
 - (i) the work is carried out as a result of alterations to a bathroom, kitchen, laundry or toilet, and
 - (ii) the alterations are carried out as exempt development, and
 - (iii) the work, including the agreement to carry out the work, relates only to a single dwelling,
- (c) work that is carried out in compliance with an order given by a council for the purposes of the Local Government Act 1993, section 174.

DBP – CLAUSE 13 EXCLUDED WORK

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Remedial Matrix – Tool developed summarising the list of “typical” remedial works that ACRA advocated as “Exempt” including

Balcony re-waterproofing	Roof re-waterproofing	Planter box re-waterproofing	Balustrade Repairs and Replacement
Lintel Replacement	Brick Tie Replacement	Brick Repointing	Joints
Concrete Repairs	Facade Coatings	Cavity Flashingsand more

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Our position.

**An example:
Concrete repair**

To demonstrate that the typical method of concrete repair for remedial projects is the remediation of ‘durability’ related issues and the repair and maintenance (*‘like-for-like’*) of defects/deterioration.

These repairs are generally NOT undertaken to address ‘structural’ defects or structural capacity deficiencies in the building.

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****UPDATE****

*Government's
shift in
thinking*

- **Acknowledged** that running all remedial works through the current planning approval pathways would be burdensome on all parties.
- **The Government** has made a commitment to resolving our current issues.
- A **Fact Sheet** will be developed by the Department of Planning and Environment, in clarifying exempt development (June 2023)
- **Caretaker mode** - March 2023 election.
- Future thoughts - Government is planning to regulate remedial work under the DBP.

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IMPORTANT, IN THE MEANTIME

Helen Kowal

- Practitioners apply due diligence to current/upcoming remedial works.
- Be across your legal responsibilities and proactively engaging with consultants, certifiers and customers to make sure everyone is on the same page.
- You should always be in a position to substantiate the basis of your compliance with the regulatory requirements.

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Codes **HOTLINE**

Codes Hotline [1300 420 596](tel:1300420596)

codes@planning.nsw.gov.au

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Deb Lockart

Next Steps – 2023 Government consultation

- Design Practitioner Handbook
- Demarcation
- Performance Solutions
- Regulated Design
- Portal training
- Continued Strata engagement

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CONSULTATION



***WE LOOK FORWARD TO SHARING OUR
PROGRESS THROUGHOUT THE YEAR.***

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