



BCA Performance Solution

Project –

Freshwater Surf Life Saving Club
Kooloora Avenue, Freshwater NSW

Alterations and Additions to mezzanine / Level 3

Matters Addressed –



1. Nil provision of continuous accessible path of travel between Ground and Level 1 (D3.1)

Date - 3 June 2020
For - Northern Beaches Council
Ref - 20094 – R1.0

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Amendment Schedule

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		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #333; color: white;">Version</th> <th style="background-color: #333; color: white;">Date</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">R1.0</td> <td style="text-align: center;">3.6.2020</td> </tr> </tbody> </table>	Version	Date	R1.0	3.6.2020
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1 EXECUTIVE SUMMARY

1.1 General Summary

Code Performance has been engaged by Northern Beaches Council to prepare a BCA Performance Solution to demonstrate the suitability of nil continuous accessible path of travel to proposed minor works on the mezzanine / level 3 of the subject Freshwater Surf Life Saving Club.

This report details the BCA Performance Solution assessment and reporting to verify compliance with the relevant Performance Requirements of the National Construction Code Series Volume 1, Building Code of Australia for Class 2 to 9 Buildings, and abbreviated to be referred to as the BCA¹ in this report.

This performance based assessment provides a Performance Solution, as defined by the BCA to permit performance based variations to the Deemed-to-Satisfy (DTS) provisions of the BCA. This report has assessed the subject compliance matter(s) and proposes suitable solutions considered appropriate for the building. The assessment verifies that the relevant BCA Performance Requirements have been addressed, specifically, the following DTS compliance departure(s) as detailed below have been addressed with a Performance Solution –

Sol. No.	Performance Solution	DTS Clause	Performance Requirement Determined in accordance with BCA Clause A0.7	Methodology
PS1	<p>General building access requirements</p> <p>The Disability (Access to Premises) Standards 'affected part' provisions require upgrade of the existing building including the principal pedestrian entrance (PPE) and the path of travel from the PPE to the new works to comply with the Access Code and BCA 2019.</p> <p>Subsequently, the PPE and path of travel from the PPE to the new works is required to accord with BCA Clause D3.1. BCA Clause D3.1 requires access to accord with AS 1428.1-2009.</p> <p>Works are proposed to the Mezzanine at Level 3 and are limited to a new office of ~40m².</p> <p>This work triggers the need for a continuous accessible path of travel to this level (3) via a passenger lift.</p> <p>Nil passenger lift is proposed. This causes a compliance departure with BCA Clause D3.1.</p> <p>See Figure 1 for compliance departure illustration.</p> <p>The BCA Performance Solution will demonstrate compliance with the relevant Performance Requirement of the BCA being DP1.</p>	Clause D3.1	DP1	<p>BCA Clause A2.2 (1)(a)</p> <p>A2.2 (2) (b) (ii) & (d)</p> <p><u>Method of Approach</u></p> <p>Comparative & Qualitative.</p>

This report seeks to demonstrate BCA compliance for the DTS compliance departure via a Performance Solution to comply with the relevant Performance Requirements of the BCA.

¹ Australian Building Codes Board. National construction Code 2019, Volume 1, Building Code of Australia for Class 2 to 9 Buildings.

2 INTRODUCTION

2.1 General

Compliance with the performance provisions of the National Construction Code Series Volume 1, Building Code of Australia for Class 2 to 9 Buildings, referred to as the BCA² in this report, is a statutory obligation of building developments. The relevant Performance Requirements of the BCA can be satisfied by a:

- Deemed-to-satisfy (DTS) solution; or
- Performance Solution; or
- A combination of these.

2.2 Report Basis

This report is based on:

1. Architectural plans prepared by Priestleys Architects, as follows –

Drawing No.	Revision	Date	Drawing Title
22002.11	C	9.4.2020	Level 1 – Basement Floor Plan
22002.12	C	9.4.2020	Level 2 – Ground Floor Plan
22002.13	C	9.4.2020	Level 3 – Mezzanine Floor Plan

2. The Disability (Access to Premises – Building) Standards 2010 (*Premises Standards*).
3. National Construction Code Series 2019, Volume 1, Building Code of Australia or Class 2 to 9 Buildings, published by the Australian Building Codes Board (ABCB).
4. The Guide to the National Construction Code Series 2019, Volume 1, Building Code of Australia or Class 2 to 9 Buildings, published by the Australian Building Codes Board (ABCB).

2.3 Limitations

The content of this report relates only to the BCA compliance matters and circumstances nominated at Section 1.1.

This BCA Performance Solution is based on the information made available by the stakeholders (see section 2.5). No liability is accepted on the accuracy of the information provided.

Any change in the above information to suit future re-organisation or planning will require further assessment to confirm compliance with the intent of the design objectives.

2.4 Assumptions

All remaining work, with exception of the DTS compliance departures identified at Section 1.1 of this report, shall comply with the BCA.

2.5 Stakeholders

Role	Organisation
Client	Northern Beaches Cancer Care Centre Pty Ltd
Architect	Priestleys Architects
Certifier	TBC
Author of this BCA Performance Solution Report	Code Performance

² Australian Building Codes Board. National construction Code 2016, Volume 1, Building Code of Australia for Class 2 to 9 Buildings.

PERFORMANCE SOLUTIONS

4 PERFORMANCE SOLUTION 1 (PS1) – Clause D3.1

4.1 Compliance Departure Particulars

Relevant DTS Provision	<p>The Disability (Access to Premises) Standards 'affected part' provisions require upgrade of the existing building including the principal pedestrian entrance (PPE) and the path of travel from the PPE to the new works to comply with the Access Code and BCA 2019.</p> <p>Subsequently, the PPE and path of travel from the PPE to the new works is required to accord with BCA Clause D3.1. BCA Clause D3.1 requires access to accord with AS 1428.1-2009.</p>
DTS Compliance Departure(s)	<p>Works are proposed to the Mezzanine at Level 3 and are limited to a new office of ~40m².</p> <p>This work triggers the need for a continuous accessible path of travel to this level (3) via a passenger lift.</p> <p>Nil passenger lift is proposed. This causes a compliance departure with BCA Clause D3.1.</p> <p>See Figure 1 for compliance departure illustration.</p>
Relevant Performance Requirement(s)	<p><u>DP1</u></p> <p>Access must be provided, to the degree necessary, to enable –</p> <p>(a) People to –</p> <ol style="list-style-type: none"> i. approach the building from the road boundary and from any accessible carparking spaces associated with the building; and ii. approach the building from any accessible associated building; and iii. access work and public spaces, accommodation and facilities for personal hygiene; and <p>(b) identification of accessways at appropriate locations which are easy to find.</p>
Indirectly Relevant Performance Requirement	No indirectly relevant performance requirements were identified.

4.2 Assessment Methodology

To show compliance with the relevant Performance Requirements of the BCA the assessment methodology that has been used is shown in the table below.

Compliance Solution (A0.3)	Assessment Method (A0.5)	Approach
A2.2 (1) (a)	A2.2 (2) (b) (ii) & (d)	Qualitative discussion using a comparative assessment in conjunction with other verification methods

4.3 Acceptance Criteria

It will be demonstrated that access for people with disabilities to the new works on Level 3 is provided 'to the degree necessary' and 'as far as reasonable' under the specific circumstances of this project.

4.4 Assessment

The Disability (Access to Premises) Standards 'affected part' provisions require upgrade of the existing building including the principal pedestrian entrance (PPE) and the path of travel from the PPE to the new works to comply with the Access Code and BCA 2019.

Subsequently, the PPE and path of travel from the PPE to the new works is required to accord with BCA Clause D3.1.

BCA Clause D3.1 requires access to accord with AS 1428.1-2009.

Works are proposed to the Mezzanine at Level 3 and are limited to a new office of ~40m². This work triggers the need for a continuous accessible path of travel to this level (3) via a passenger lift.

Nil passenger lift is proposed. This causes a compliance departure with BCA Clause D3.1.

See **Figure 1** for compliance departure illustration.

This office is assessing the suitability of nil upgrade of the 'affected part' to the new works on Level 3 based on the circumstances of this project. Our report and opinions shall be offered to the client / certifier for their review, concurrence and approval via this *BCA Performance Solution*.

We shall review the situation in the context of the applicable BCA Performance Requirements:

The relevant Performance Requirement is DP1 which requires access be provided to the degree necessary to enable people to access work and public spaces, accommodation and facilities for personal hygiene.

Clause A1.0 (3)(c) of the BCA states that the term "to the degree necessary" means that consideration of all criteria referred to in the Performance Requirement will determine the outcome appropriate to the circumstances. In certain situations, **it may not be necessary to incorporate any specific measures to meet the Performance Requirements**.

As stated in the Guide to the BCA, Objective D01, Section D of the BCA provides, as far as reasonable, people with safe, equitable and dignified access to a building and the services and facilities within. The Guide to the BCA goes on to explain these terms, as reproduced below:

"As far as is reasonable" – **there may be occasions when the application of a rule is "unreasonable"**. Use of the phrase "as far as is reasonable" indicates that the BCA provisions are not absolute. This is consistent with the intent of the DDA.

"Equitable" – one of the primary intentions of the DDA is to provide people with disabilities with the same rights as the rest of the community. The word "equitable" combines concepts of fairness and equality. It does not mean that all people must be able to do precisely the same thing in the same way. However, if some people can use a building for a particular purpose, then most people should be able to use the building for that purpose. The concept of "equitable" does not necessarily mean that everybody should be able to access all parts of a building.

"Dignified" – a person with a disability should be able to gain access to and within a building, and to the services and facilities of buildings, in a manner which is not devaluing or demeaning.

In certain situations, it may not be necessary to incorporate any specific measures to meet the *Performance* requirements. The Guide to the BCA goes further to explain that the expression provides flexibility by allowing appropriate authorities to determine the degree of compliance necessary in a particular case.

We examine the scenario in the context of the applicable BCA Objective D01, as indicates the objective of this BCA Part is to *'provide, as far as is reasonable, people with safe, equitable and dignified access.....'*

From the above, the following commentary is offered –

- i. This is an existing building and an existing building constraint.
- ii. The building is used by a single tenant and is a managed building use.
- iii. The proposed internal refurbishment works do not cause a reduction to the existing extent of access to / within the building. In-fact the proposed work results in a significant increase in building access, with a replaced building entry door & existing stair upgrade.

- iv. The extent of new work to the existing Mezzanine / Level 3 is nominal and essentially incorporates a refurbishment with nominal additional floor area, being ~40m² for a new office. This new work and level, is not designed for general public access (access for general public will be for organised meeting and the like), as it contains only –
 - a. Club office.
 - b. Club meeting room.
 - c. Caretakers unit.
- v. Staff in the Surf Club building will be made up significantly by people involved with surf club activities, including nippers / lifesaving / club beach/water activities. Such people are generally physically capable to perform their role within the surf club and would generally not be expected to have a physical disability that requires the use of a wheelchair or causes concern with traversing a flight of stairs. It is fair to surmise that the physical capabilities of people in this building will far exceed that of a typical building type covered by the BCA prescriptive provisions.
- vi. Staff / occupants shall typically not be transient and their needs (including access needs), shall generally be known. Hence, the access scenario between floors shall not constitute an unexpected access barrier to staff / occupants who are familiar with the building.
- vii. Club staff are generally required to be physically capable in order to carry out functions associated with their employment roles. Hence, 1st floor building access will not cause an access barrier for general hotel staff, who would typically be expected to be capable of traversing a single flight of stairs.
- viii. Staff will be present at all times of business operation and are able to assist / manage visitors.
- ix. All building functions are primarily available on the ground (main) level); hence, a visitor can carry out all required functions on the accessible (main) level, without need to access Level 3. The Level 3 office / meeting spaces are extra-over to what is available at the ground / main level of the building.
- x. As a requirement of this report, the stairway leading to the mezzanine / Level 3 must be provided with access features to accord with Clause 11 & 12 of AS 1428.1-2009.
This offers a scenario having safer / compliant access for stair users to an extent not previously enjoyed in this existing building.
- xi. The extent of new work is nominal. The work is inconsequential and does not intensify the need for access to the mezzanine / level 3.
- xii. The Guide to the Premises Standards offers a Note on class 2 units on the first floor of a 2-3 storey mixed-use building, as follows –

'In some situations, the ground floor of a building may not contain SOUs at all, for example, if the ground floor consists of retail shops

The Premises Standards require an accessway from the pedestrian entrance required to be accessible to at least one floor containing SOUs where a common pathway is provided as the means of access to the SOUs.
This means that if the first group of SOUs are on an upper floor and there is a common pathway to the SOUs, access must be provided to that upper floor by way of a lift or ramp in accordance with AS 1428.1.

While this can be easily achieved in relation to buildings of multiple storeys where a lift is provided, there may be difficulty in achieving this in smaller developments that may only have 2 or 3 storeys and a small number of SOUs.
In this situation the developer may consider the range of lifts permissible and, in some situations, consider grounds for a defence of **Unjustifiable Hardship. (Emphasis Added in bold).**

The above example within the Guide, although relating to a BCA Class 2 scenario, resonates with this small building scenario and acknowledges the difficulty in providing a passenger lift in a small building scenario and suggests / offers alternative compliance considerations, such as Unjustifiable Hardship.
- xiii. As a Work Health and Safety (WHS) requirement, staff with special needs must be appropriately accommodated in their workplace, hence, should a staff member be in a situation where access becomes a concern (temporary or permanent), then suitable workplace adjustment / arrangements must be made as a matter of course. This requirement extends beyond that of the building code.

Meeting room is leased to public

Disagree

Comparison to Class 2 is not relevant

This does definitely not constitute unjustifiable hardship

- xiv. Provision of a passenger lift for access between floors would cause a significant extent of work, cost and loss of floor space. It is not considered 'reasonable' under the circumstances of this project to warrant the installation of a passenger lift within this building.

In this instance, on the basis of points (i) – (xiv) above, "equitable" and "dignified" access is considered to be achieved.

From the above points, it is clear that due to specific function/use of the proposed works to mezzanine / level 3, upgrade of the 'affected part' to these areas with a passenger lift would not be *reasonable* in this instance.

Under the circumstances of this project, access is considered to be provided 'to the degree necessary' and 'as far as reasonable'.

4.5 Summary / Conclusion

No loss of floor space would occur

The assessment undertaken above demonstrates that access for people with disabilities to the new works on Level 1 is provided 'to the degree necessary' and 'as far as reasonable' under the specific circumstances of this project.

It is therefore considered that the acceptance criteria nominated for this assessment in Section 4.3 is satisfied.

6 CONCLUSION

This Performance Solution has been formulated to demonstrate compliance with the Performance Requirements by comparison with the DfS provisions and such other Verification Methods as the appropriate authority accepts for determining compliance with the Performance Requirements, which is an acceptable method of determination in accordance with BCA Clause A2.2.

Accordingly, based on the above, it is considered that the directly related Performance Requirements have been met, considering –

- The Performance Solution requirements listed within this report; and
- Performance Requirement DP1; and
- The intent as stated in the Guide to the BCA 2019.

APPENDIX 1



CURRICULUM VITAE FOR

MICHAEL EISENHUTH





PROFILE

Michael holds over 18 years' experience in the Building Regulations industry, with early experience as an Accredited Certifier / Building Regulations Consultant and over the past 8-years, specialising as an Access Consultant.


Michael possesses a comprehensive knowledge of the Building Code, Premises Standards & related standards and prides himself on his ability to work collaboratively with certifiers and clients to deliver pragmatic access compliance outcomes.

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QUALIFICATIONS

- **CERTIFICATE IV IN ACCESS CONSULTING – INSTITUTE OF ACCESS TRAINING AUSTRALIA**
2012
- **NATIONAL FIRE PROTECTION ASSOCIATION – LIFE SAFETY CODE TRAINING USA**
2008
- **GRADUATE DIPLOMA – BUILDING SURVEYING – UNIVERSITY OF WESTERN SYDNEY**
2003-2005
- **DIPLOMA – ENVIRON. HEALTH & BUILT. SURV. – SYD. INSTITUTE OF TECHNOLOGY**
1998-2000

MEMBERSHIPS

- **ASSOCIATION OF CONSULTANTS IN ACCESS AUSTRALIA (ACAA)**
Associate member
- **ASSOCIATION OF ACCREDITED CERTIFIERS (AAC)**
Member / past board member
- **BUILDING PROFESSIONALS BOARD – ACCESS COMMITTEE**
Member

EMPLOYMENT HISTORY

- **DIRECTOR & FOUNDING PARTNER @ CODE PERFORMANCE PTY LTD**
2016-Present
- **DIRECTOR @ AED ACCESS PTY LTD**
2013-2016
- **DIRECTOR & FOUNDING PARTNER @ DESIGN CONFIDENCE (SYDNEY) PTY LTD**
2009-2013
- **MANAGER @ IMPACT BUILDING COMPLIANCE SERVICES PTY LTD**
2008-2009
- **SENIOR BUILDING SURVEYOR @ TREVOR R. HOWSE & ASSOCIATES PTY LTD**
2007-2008
- **TECHNICAL DIRECTOR @ NSW DEPARTMENT OF HOUSING**
2005-2007
- **VARIOUS COUNCIL'S AS AN ACCREDITED BUILDING CERTIFIER / BUILDING SURVEYOR @ CIVIC APPROVALS, ASHFIELD & BURWOOD COUNCIL**
1999-2005

PROJECTS

- **A TAILORED LIST OF PROJECT EXPERIENCE IS READILY AVAILABLE UPON REQUEST**