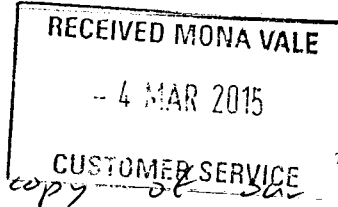


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Attn: Wal Dover



Wal, Here is another copy of SA
Objection to the Building Certificate
Application for 1186 Burrenjoey Rd Palm Beach, plus
a report from BCA Logic.
Could you please let me know where you are
up to with this application.

Stephen Jere



5 December 2014
Our Ref: 8761A.2RP

planning consultants

Wal Dover
Senior Building Surveyor
Pittwater Council
PO Box 882
MONA VALE NSW 1660

By Email: wal_dover@pittwater.nsw.gov.au

Dear Sir,

**Objection Submission in respect to Building Certificate Application No. BC0092/14
Cranky Fins premises at 1186 Barrenjoey Road, Palm Beach**

1.0 Introduction

We refer to DFP Planning's letter to Council dated 24 November 2014 in respect to the Building Certificate Application No. BC0092/14 (BC Application) seeking Council's approval to unauthorised building alterations and additions to the existing restaurant at 1186 Barrenjoey Road, Palm Beach known as Cranky Fins (premises).

As Council is aware, DFP Planning act for Stephen Jones and his wife, Susan Jones, the owner of 3 Waratah Road, Palm Beach which is directly opposite the Cranky Fins premises on the western side of Barrenjoey Road. Our clients reside at that address with their family and have done so for many years.

DFP Planning has been instructed by our clients to undertake a planning assessment of the BC Application having regard to the following issues:

- Whether the Crank Fins premises is a permissible development under the land use zonings of the site and planning provisions of Pittwater Local Environmental Plan 2014 (PLEP 2014) or otherwise under the Existing Use Rights provisions of the *Environmental Planning & Assessment Act 1979* (EPA Act 1979) and the *Environmental Planning & Assessment Regulations 2000* (EPA Regulations 2000);
- Whether the existing Cranky Fins premises at the site and its current business operations as a restaurant and a licensed bar complies with the conditions of Development Consent No. 332/05 for "alterations and additions to the existing Beach Road restaurant" (Development Consent No. 332/05) issued by Council on 14 September 2005; and
- Whether the BC Application seeking Council's approval retrospectively to unauthorised building alterations and additions to the Cranky Fins premises should be approved or refused by Council.



2.0 Permissibility of Cranky Fins Restaurant and Bar and Unauthorised Building Works

Attachment A to this objection submission is a letter prepared by Norton Rose Fulbright Lawyers dated 18 November 2014 to Council in respect to the BC Application which considers the question as to whether this application can cure the unauthorised use of the Cranky Fins premises as both a restaurant and a licensed bar which states as follows:

"1 Background

1.1 *Without repeating the detailed history of this matter, the relevant background is as follows:*

- (1) Our clients made numerous complaints to Council in the period since the Cranky Fins venue commenced operating in November 2013.*
- (2) On 15 April 2014, Council issued an Order NOT0015/14 under Section 121B of the Environmental Planning and Assessment Act 1979 (Order) to the owner of the premises at 1186 Barrenjoey Road, Palm Beach, being Crank Fins, requiring compliance with the requirements of Development Consent no. 332/05 (Consent) by undertaking specified works.*
- (3) That Order was reportedly stayed by Council pending the determination of a modification application No. NO332/05/S96/1 to modify the Consent (Modification Application).*
- (4) The Modification Application sought retrospective approval to regularise certain unauthorised works previously undertaken at the premises as referred to in the Order, but did not address all of the non-compliance with the Consent.*
- (5) Council's letter to us dated 9 September 2014 confirms that the Modification Application has been withdrawn.*
- (6) On or about 9 October 2014, Council issued a further Notice to comply with the Order. To date, we are instructed that the operators of Cranky Fins have not undertaken works to comply with this order.*

1.2 *On 29 October 2014, Building certificate application No. BC0092/14 was lodged with Council (Application).*

2 Building Certificates cannot cure unauthorised use

2.1 *Sections 149A-s149E of the EP&A Act establish a regime under which Councils may issue a certificate in respect of a building or part of a building (Certificate). The effect of such a Certificate is to protect the relevant building from an order requiring its demolition or remedial works.*

2.2 *Due to the inadequacy of the documents provided with the Application, it is unclear which "building" is the subject of the Application. A separate submission has been prepared by DFP Planning which addresses these deficiencies in the Application, and provides further arguments as to why a Certificate should not be issued.*

2.3 *Whatever view Council forms in relation to the "building" the subject of the Application, Council should be aware that the unauthorised use of the Premises cannot, as a matter of law, be cured by the issue of a Certificate.*



- 2.4 *This is because, to the extent that any Certificate is issued under s149D, it cannot cure unauthorised use of land. This is abundantly clear from the terms of s149E of the EP&A Act which relevantly:*
- (1) Confines the effect of such a certificate to preventing Council from issuing orders requiring the building to be repaired, demolished, altered, added to or rebuilt (s149E(1)(a)); and*
 - (2) Expressly preserves Council's power to take enforcement proceedings in relation to a person's failure to obtain a development consent with respect to the erection or use of the building (s149E(3)(b)).*
- 2.5 *As set out in our letter to Council dated 3 June 2014, the current use of the Premises constitutes an impermissible expansion and intensification of the existing use. Further, as set out by DFP Planning Consultants in their letter to Council dated 9 May 2014, the current use of the Premises also constitutes an unauthorised change of an existing use from solely a "restaurant" to that of a "bar" and "restaurant".*
- 2.6 *In these two respects, therefore, the current use of the Premises is unauthorised and cannot be cured by the issue of a Certificate.*
- 3 Conclusion**
- 3.1 *The unauthorised use of the Premises, which is continuing, is causing significant adverse amenity impacts to our clients and to others in the locality.*
- 3.2 *These impacts result from the unauthorised use of the Premises which cannot be regularised or "cured" through the issue of a Certificate under s149B of the EP&A Act.*
- 3.3 *It continues to be open to Council to take enforcement action requiring the unauthorised use of the Premises to cease, and we urge Council to take that action."*

DFP Planning agree with the legal opinion provided by Norton Rose Fulbright Lawyers in their letter dated 18 November, 2014 referred to above (see **Attachment A**) in relation to unauthorised change and intensification of the use of the Cranky Fins premises as a "bar" in addition to the existing use as a licensed "restaurant".

It is further noted that the site of the Cranky Fins premises is zoned E4 Environmental Living with a small part of the site zoned SP2 Infrastructure-Classified Road (i.e. proposed road widening to Barrenjoey Road) under PLEP 2014.

The Cranky Fins premises is described in Development Consent DA No. 332/05 issued by Council on 14 September 2005 as "alterations and additions to the existing Beach Road restaurant" and this consent was granted subject to a number of conditions. A "restaurant" is defined as a type of "food and drink premises" which falls within the land use type category of "retail premises" and the broad use type category of "commercial premise" under the Dictionary to PLEP 2014. The use of the Cranky Fins premises and the site as a whole for the purposes of "food and drink premises", "retail premises" and "commercial premises" is prohibited within both the E4 Environmental Living zone and the SP2 Infrastructure zone under PLEP 2014.

It is the opinion of DFP Planning that the Cranky Fins premises at the site enjoys lawful existing use rights to the extent that it is fully compliant with the Development Consent 332/05 for "alterations and additions to the existing Beach Road restaurant" for the specific purpose of a



"restaurant". However, the Cranky Fins premises do not enjoy lawful existing use to operate as a "small bar" serving drinks to customers who are not dining at the restaurant.

The Existing Use Rights provisions under Division 10 of the EP&A Act 1979 and Part 5 of the EP&A Regulation 2000 would enable the lodgement of a development application for the following in respect to the Cranky Fins premises at the site:

- The carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use (except for unauthorised building works at the premises);
- The change of an existing use to another use;
- The enlargement or expansion or intensification of an existing use

but only if certain specific provisions relating to existing use rights are satisfied under the relevant legislation.

Notwithstanding, as the building alterations and extensions at the Cranky Fins premises have already been undertaken without the development consent of Council, it is not possible to now lodge a Development Application to seek Council's approval retrospectively to these unauthorised building works. Accordingly, the current BC Application is only capable of obtaining Council's approval to those unauthorised building alterations and additions at the Cranky Fins premises as described in this Application and the accompanying BC Application plans.

It is the opinion of DFP Planning that the unauthorised building alterations and additions to the Cranky Fins premises as well as the use of the existing premises and the site as a licensed restaurant and also for the purpose of a licensed bar is not capable of satisfying clause 41(1)(e), (2) and (3) of the EP&A Regulation 2000 for the following reasons:

- The unauthorised building alterations and additions to the Cranky Fins premises are not of a minor nature;
- It has not been established that the increase in the floor space of the Cranky Fins premises associated with the existing use are not more than 10% from that approved by the Council under Development Consent 332/05;
- The building alterations and additions to the Cranky Fins premises and the change of use from being solely a restaurant with a minor ancillary bar area to having a large central bar area where customers can purchase and consume alcoholic and non-alcoholic drinks without dining at the Cranky Fins restaurant (i.e. a licensed small bar) is a significant additional change of use and intensification of use of the premises which is unlawful and cannot be regularised or "cured" through the issue of a Certificate under Section 149B of the EP&A Act.

3.0 Assessment of the BC Application

Council is advised that our clients have commissioned BCA Logic to undertake a peer review under the Building Code of Australia (BCA) and other relevant legislation and Australian Standards of the BC Application submission for the unauthorised building alterations and additions to the Cranky Fins premises which will be completed by 12 December 2014. Accordingly, we respectfully request that Council permit our clients to submit a supplementary objection submission in respect to the BC Application should the BCA Logic peer review identify any issues of concern in relation to this Application for approval to "as built" works at the Cranky Fins premises.



Notwithstanding, DFP Planning have identified the following deficiencies and issues with the BC Application for the unauthorised building works at the Cranky Fins premises:

- The detailed site survey plan submitted with the BC Application is not accurate in respect to the existing Cranky Fins premises having been prepared on 29 February 2012 prior to the unauthorised building works being constructed at the site. The site survey plan does not show accurately all of the existing building and other structures at the site; buildings and structures on adjoining properties, nor any details of site levels and floor levels of buildings and structures;
- The BC Application does not include a certification by an appropriately qualified structural engineer that the building structures and/or works comply with the BCA and appropriate Australian Standards;
- The ground floor/site plan is inconsistent with the Council approved DA plans referred to in Development Consent DA No. 332/05 for the Cranky Fins premises. In particular, the car parking layout and internal driveway access is unsatisfactory in that motor vehicles will not be able to enter and leave the site in a forward direction on to Barrenjoey Road which is essential given the poor sight distances for motorists and pedestrians as the site is located on a steep, corner intersection. This potentially will create a significant traffic and pedestrian accident risk.
- Furthermore, the car parking layout as shown on the ground floor/site plan does not comply with Australian Standard 2890.1 – Parking Facilities Off-street Car parking. It will be impractical to manoeuvre a motor vehicle in and out of some of the car spaces as they overlap and the driveway is too narrow. The rear car parking area also does not include details of the delivery service area and garbage enclosure area which will take up additional area in the rear car parking area;
- The BC Application does not address Conditions B1, B2, B3 and B4 of Development Consent DA No. 332/05 relating to the stormwater management system for the site and the requirement for the installation of a 2,000 litre rain water tank with overflow to a 2,000 litre on site detention tank within the site;
- The BC Application does not address B7 of Development Consent DA No. 332/05 relating to the construction of a garbage enclosure area with an impervious floor and hose tap;
- The storage shed and coolroom which were constructed without Council's approval in the rear yard of the site do not qualify as "exempt development" under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The categories of possible "sheds" provided for in the Codes SEPP being "cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses" relate to development which is either residential in nature or for a "garden" associated with another use. As the storage shed and coolroom are being used for ancillary purposes to the Cranky Fins restaurant and bar it is our opinion that it does not fit within the categories of residential or garden "sheds" provided for in the Codes SEPP;
- There is no certificate from a structural engineer and/or builder confirming that the existing building and in particular the unauthorised building alterations and additions are structurally adequate for the intended purpose;
- There are no details provided in relation to the fire rating and adequacy of the existing premises particularly the fabric ceiling over the north-western enclosed portion of the



restaurant. This is not only a significant safety concern for patrons at the Cranky Fins premises but also it is a concern in respect to the excessive noise levels generated from activities in this part of the premises which impacts on the residential amenity of our clients and other neighbouring residents from activities undertaken in this part of the premises;

- The BC Application provides no assessment of accessibility requirements under the BCA, Disability Discrimination Act and Premises Standard as well as Council's accessibility requirements;
- The Cranky Fins restaurant and bar remains in breach of conditions of Development Consent No. 332/05 in respect to the unauthorised building alterations and additions as well as the change of use and intensification of use of the premises as both a restaurant and a licensed small bar which is a prohibited use within the E4 Living zone and SP2 Infrastructure zone which apply to the site under PLEP 2014.

4.0 Amenity Impacts of Cranky Fins Restaurant and Bar on our clients' neighbouring residential property and the locality

Our clients have lodged several letters of objection with Council to the unauthorised building works and the business operations of the Cranky Fins restaurant and bar over the past 18 months which can be summarised as raising the following concerns with the development at the site:

- Breaches of current DA conditions and non-complying building works;
- Excessive noise radiating from the premises;
- Excessive noise from patrons leaving the venue;
- Offensive noise from patrons leaving the venue;
- Anti-social behaviour of patrons after they leave the venue;
- Unpleasant smells and odours radiating from the venue;
- Increased traffic congestion and car parking problems;
- Noise of patrons' children screaming;
- The change in activities and intensification of use conducted on the premises over a period of time as it is now operating as a bar in addition to a restaurant;
- Operators not operating in a responsible manner – serving alcohol to underage patrons;
- Increased risk of injury and accidents;
- Visual amenity;
- Operating the business after closing time;
- Alcohol related crime and offenses; and
- Other related matters.



5.0 Conclusion

The unauthorised use of the Cranky Fins premises as a "restaurant" and licensed "small bar" is a change of use and intensification of use which is prohibited under PLEP 2014 and it does not have lawful existing use rights. This issue cannot be regularised or "cured" by Council approving a Certificate under Section 149B of the EP&A Act 1979. This BC Application is only capable of addressing some of the unauthorised building alterations and additions at the Cranky Fins premises.

The unauthorised use of the Cranky Fins premises as a "restaurant" and a "small bar" in breach of the conditions of Development Consent DA No. 332/05 is continuing to cause significant adverse amenity impacts on our clients and other residents in the Palm Beach locality.

In the circumstances, it is the opinion of DFP Planning that Council should refuse the BC Application and take appropriate enforcement action to require the unauthorised use of the Cranky Fins premises to cease and to require full compliance with the Conditions of Development Consent DA No. 332/05 for the use of premises as solely a licensed restaurant with ancillary small bar facility and not for the change of use and intensification of use of the premises for the purpose of a licensed small bar.

Please do not hesitate to contact Rob Player or Daniel West of DFP Planning should you require further assistance with this matter.

Yours faithfully

DFP PLANNING PTY LTD

A handwritten signature in black ink, appearing to read 'R. Player', written over the printed name of Robert Player.

**ROBERT PLAYER
MANAGING DIRECTOR**

rplayer@dfpplanning.com.au



planning consultants

ATTACHMENT A

18 November 2014

Attention: Harry Konsti

The General Manager
Pittwater Council
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MONA VALE NSW 1660

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Our reference:
2813435

Dear Sir

Building certificate application No. BC0092/14
Premises: 1186 Barrenjoey Road, Palm Beach, venue known as 'Cranky Fins'

We refer to our letter dated 22 September 2014.

As Council is aware, we act for Mr Stephen Jones and his wife Mrs Susan Jones the owners of 3 Waratah Road, Palm Beach. Our clients reside at that address with their family.

Our clients have been corresponding with Council concerning non-compliances by the operators of the venue known as Cranky Fins, and have complained to Council about the significant impact that these non-compliances were having on them and on the amenity of the locality.

1 Background

1.1 Without repeating the detailed history of this matter, the relevant background is as follows:

- (1) Our clients made numerous complaints to Council in the period since the Cranky Fins venue commenced operating in November 2013.
- (2) On 15 April 2014, Council issued an Order NOT0015/14 under Section 121B of the *Environmental Planning and Assessment Act 1979* (**Order**) to the owner of the premises at 1186 Barrenjoey Road, Palm Beach, being Cranky Fins, requiring compliance with the requirements of Development Consent no. 332/05 (**Consent**) by undertaking specified works.
- (3) That Order was reportedly stayed by Council pending the determination of a modification application No. NO332/05/S96/1 to modify the Consent (**Modification Application**).
- (4) The Modification Application sought retrospective approval to regularise certain unauthorised works previously undertaken at the premises as referred to in the Order, but did not address all of the non-compliances with the Consent.
- (5) Council's letter to us dated 9 September 2014 confirms that the Modification Application has been withdrawn.
- (6) On or about 9 October 2014, Council issued a further Notice to comply with the Order. To date, we are instructed that the operators of Cranky Fins have not undertaken works to comply with this order.

APAC-#24866917-v1

18 November 2014

- 1.2 On 29 October 2014, Building certificate application No. BC0092/14 was lodged with Council (Application).

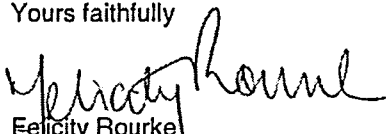
2 Building Certificates cannot cure unauthorised use

- 2.1 Sections 149A-s149E of the EP&A Act establish a regime under which Councils may issue a certificate in respect of a building or part of a building (**Certificate**). The effect of such a Certificate is to protect the relevant building from an order requiring its demolition or remedial works.
- 2.2 Due to the inadequacy of the documents provided with the Application, it is unclear which "building" is the subject of the Application. A separate submission has been prepared by DFP Planning which addresses these deficiencies in the Application, and provides further arguments as to why a Certificate should not be issued..
- 2.3 Whatever view Council forms in relation to the "**building**" the subject of the Application, Council should be aware that the unauthorised **use** of the Premises cannot, as a matter of law, be cured by the issue of a Certificate.
- 2.4 This is because, to the extent that any Certificate is issued under s149D, it cannot cure unauthorised use of land. This is abundantly clear from the terms of s149E of the EP&A Act which relevantly:
- (1) confines the effect of such a certificate to preventing Council from issuing orders requiring the building to be repaired, demolished, altered, added to or rebuilt (s149E(1)(a)); and
 - (2) expressly preserves Council's power to take enforcement proceedings in relation to a person's failure to obtain a development consent with respect to the erection or use of the building (s149E(3)(b)).
- 2.5 As set out in our letter to Council dated 13 June 2014, the current use of the Premises constitutes an impermissible expansion and intensification of the existing use. Further, as set out by DFP Planning Consultants in their letter to Council dated 9 May 2014, the current use of the Premises also constitutes an unauthorised change of an existing use from solely a "restaurant" to that of a "bar" and "restaurant".
- 2.6 In these two respects, therefore, the current use of the Premises is unauthorised and cannot be cured by the issue of a Certificate.

3 Conclusion

- 3.1 The unauthorised use of the Premises, which is continuing, is causing significant adverse amenity impacts to our clients and to others in the locality.
- 3.2 These impacts result from the unauthorised use of the Premises which cannot be regularised or "cured" through the issue of a Certificate under s149B of the EP&A Act.
- 3.3 It continues to be open to Council to take enforcement action requiring the unauthorised use of the Premises to cease, and we urge Council to take that action.

Yours faithfully


Felicity Rourke
Partner and Head of Office
Norton Rose Fulbright Australia
Contact: Rosemary Bullmore

4th March 2015

Wal Dover
Senior Building Surveyor
Pittwater Council
P.O. Box 882,
MONA VALE NSW 1660

Email: Wal_dover@pittwater.nsw.gov.au

Dear Sir,

**Re: Cranky Fins Premises - 1186 Barrenjoey Road, Palm Beach
Objection Submission in respect to Building Certificate Application No. BC0092/14**

Reference is made to the Building Certificate Application Number BC0092/14 seeking Council's approval for the unauthorised building alterations and additions to the existing restaurant at 1186 Barrenjoey Road, Palm Beach known as Cranky Fins (premises). Reference is also made to the Planning Objection Report dated 5th December 2014 issued by DFP Planning Consultants that makes reference to our firm (BCA Logic Pty Ltd) to undertake a Peer Review of the unauthorised works under the relevant provisions of the BCA and other applicable legislative criteria as considered appropriate as part of this Building Certificate Application Assessment process by Council.

Accordingly we have now had an opportunity to review the following documentation:

- Building Certificate Application No BC0092/14 lodged at Council dated 29th October 2014.
- Building Certificate Application Covering Letter dated 23rd October 2014 prepared by Vaughan Milligan Development Consulting Pty Ltd.
- Site Survey Prepared by Souter & Associates Pty Ltd dated 29th February 2012.
- Floor Plans and Elevations prepared by Studio-gram Pty Ltd dated 24th October 2014.
- BCA Assessment Report prepared by GRS Building Reports Pty Ltd.
- Objection Submission dated 5th December 2014 issued by DFP Planning Consultants.
- Council Order dated 16th January 2014.

Firstly we note that in the covering letter issued by Vaughan Milligan Development Consulting Pty Ltd that reference is made to the recommended works as detailed in the BCA Report to be undertaken prior to the issue of the Building Certificate. It is our view that there is no formal approval to undertake any further works upon the property as such works identified in the GRS Building Reports Pty Ltd BCA Assessment and Upgrade Report will alter the base buildings Fire Safety Schedule which can only occur as a result of some form of approval process such as a DA/CC or CDC approval process or via a S121b Fire Order process under the provisions of the Environmental Planning & Assessment Act and Regulation 2000.

At this stage we are unaware that Council has issued any form of formal approval or Fire Order to undertake any such fire upgrade works thus no further works should proceed on site until a formal approval process is established. From our experience in previous dealings with Pittwater Council, where upgrade works to existing buildings are carried out – such works are the subject of either a Development Application submission process or via a S121b Fire Order process. As such we would request the Council direct the applicant at this stage to cease any further works on site until a formal approval process can be established, a formal scope of upgrade works agreed and defined and then subsequently implemented on site in accordance with the statutory approval process.

Affected Part Upgrade Works – Disability (Access to Premises – Buildings) Standards 2010

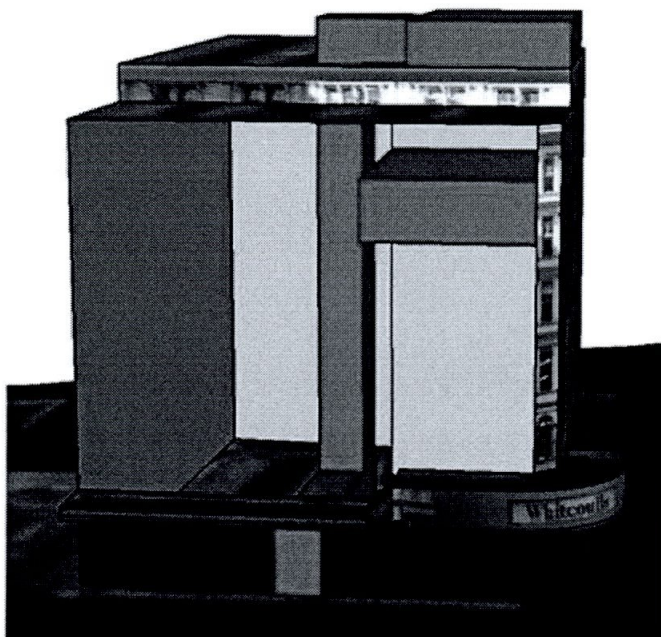
In reviewing the GRS Building Reports Pty Ltd BCA Assessment Report it is noted that such report only address issues pertaining to BCA Compliance only and makes limited reference to any Accessibility upgrade provisions.

Even though the assessment currently being undertaken by Council relates to the unauthorised works contained within the Building Certificate such works should have been the subject of a Development Consent / Construction Certificate application or a Complying Development Certificate application (if applicable).

If such application were to be lodged to Council, then the relevant Affected Part Upgrade Provisions under the Disability (Access to Premises – Buildings) Standards 2010 would be applicable.

Under this legislation, when new building work takes place in an existing building and a building approval is required for that new work (Construction Certificate or Complying Development Certificate in NSW), the requirements for upgrading access are limited to the area of new work and the 'affected part'. Access requirements are not imposed outside the area of the new work. For example, a building owner undertakes renovations on one level of their building. The application for building approval triggers the application of the Disability (Access to Premises – Building) Standards 2010 (known as the "Premises Standards"). While the Premises Standards will apply to the area of new work and the 'affected part' of the building they will not apply to the other levels not being upgraded. These areas of the building outside the area of the new work will continue to be subject to the existing DDA complaints provisions.

The "Affected Part" in existing buildings relates to providing an accessible path of travel from the principal public entrance to the new or modified part of an existing building. An example of this is shown in the sketch below. This shows works to two upper floors only within an existing building – the result is the upgrade of the Affected Part being the entrance and lift to access the floors being refurbished.



The upgrade only occurs if the applicant for the works is the "Building owner" or the building is leased to one entity. If the applicant is a tenant / lessee in a multi tenanted / leased premises, no upgrade to the based building is required. As the building modification works have been done to the entire building being either by the owner or the lessee with one single lease over the entire premises, under a Development Consent (and subsequent Construction Certificate) approval process, the relevant Affected Part upgrade provisions of the Disability (Access to Premises – Buildings) Standards 2010 would have been applicable.

Even though strictly the Building Certificate does not trigger any application of the Affected Part Upgrade works under the Disability (Access to Premises – Buildings) Standards 2010 the issues of accessibility to the building should still be addressed as part of the Building Certificate Application consideration. Such accessibility upgrade works would have been required if the works were the subject of a DA/CC or CDC approval process, thus accessibility should be a significant consideration by Council in this instance – particularly considering the public use and classification (Class 6) of the subject premises. A detailed Accessibility Audit of the building should be undertaken as part of the Building Certificate Assessment Process to assess exactly where the current building does not satisfy the relevant provisions of AS1428.1-2009 and the Disability (Access to Premises – Buildings) Standards 2010. Where such deficiencies are identified – relevant upgrade works should be incorporated into the existing building. Currently there is no compliant form of disabled access from the footpath to the main entrance of the building or from a compliant accessible parking facility.

GRS Building Reports Pty Ltd – BCA Assessment Report

A review of the content and recommendations made within the GRS Building Reports Pty Ltd BCA Assessment Report has been undertaken. Based on the issues raised within the report the following comments are provided:

Item 5 – Door Thresholds – It is our view that a door threshold that exceeds the BCA maximum of 190mm be adhered to as a threshold greater than 190mm would be a contributing factor to the potential for occupants to trip or fall as a result of such increased threshold height. As such the door thresholds to all external doors should strictly comply with D2.15 of BCA2014.

Item 7 – Door Thresholds and Stair Configuration – As per Item 5 above it is our view that strictly compliant stair dimensions and door thresholds should be achieved on site as per D2.13 and D2.15 of BCA2014 to prevent a possible hazard for occupants using the stairway.

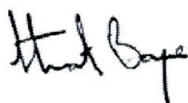
It is noted within the report that the distance of the building from the eastern boundary is less than 3.0m. In accordance with Table 5 of Specification C1.1 of BCA2014 this would require the external walls to possess a 90/90/90 FRL from an external fire source to the building and any openings in such wall to be protected as per C3.2 and C3.4 of BCA2014. The BCA assessment Report makes no specific reference to such upgrade items.

The following fire safety measures need to be installed / and or altered within the subject development to ensure strict compliance with the current BCA standards:

Item	Essential Fire Safety Measure	Minimum Standard of Performance
1.	Emergency lighting	BCA2014 Clauses E4.2 & E4.4, AS2293.1-2005
2.	Exit signs	BCA2014 Clauses E4.5, E4.6 & E4.8, AS2293.1-2005
3.	Paths of travel, stairways, passageways or ramps	BCA2014 Section D
4.	Portable fire extinguishers	BCA2014 Clause E1.6, AS2444-2001
5.	Wall wetting sprinkler and drencher system over fixed windows where within 3.0m of eastern side boundary	BCA2014 Clause C3.4

If you require any further information or clarification of the above, please do not hesitate to contact me.

Yours faithfully,



Stuart Boyce
Director
BCA Logic Pty Ltd