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London Lakes Partnership

Station Beach Boat House

**Performance Solution Report
Upper Level Access 1**

10 February 2021

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Executive Summary

The Performance Solution Access Report is an appropriate response to the performance solution criteria of the Building Code of Australia (BCA).

The performance solution within the report adopts expert opinion to justify the departure from the deemed-to-satisfy provisions of the BCA, which is an acceptable assessment method under A2.2(2) of the BCA.

Morris Goding Access Consulting has provided recommendations in section 5.1 that will need to be implemented to satisfy the performance solution.

2. Introduction

2.1 General

Morris Goding Access Consulting has been engaged to prepare a performance solution report with regards the provision of accessibility to the upper level of the Station Boat Beach House, located at Palm Beach, Sydney, NSW.

The requirements of the investigation are to:

- Review supplied drawings & documentation.
- Provide written advice as to "Performance Solution" to provide safe, equitable and dignified access, given the intended use of the building.
- The advice will be based on Building Code of Australia (BCA part D3) and the Australian Standards (AS) 1428 series.

2.2 Building Characteristics

The subject works achieve a Class 6 classification, as the use of this area relates to a building used for entertainment purposes. The upper level relates to a class 5 office area.

2.3 Occupant Characteristics

Occupant characteristics are considered to be a representative of the general population, with no specific or unusual distributions in gender, age and physical or mental attributes.

2.4 Limitations of Report

The content of this report relates only to the non-compliance and subject building identified.

No liability is accepted on the accuracy of the information provided.

Any change in the above information to suit future design modifications will require further assessment to confirm compliance with the intent of the design objectives.

2.5 Report Exclusions

It is conveyed that this report should not be construed to infer that an assessment for compliance with the following has been undertaken –

- Building Code of Australia (BCA), with exception of the direct assessment made relating to the subject access
- Occupational Health & Safety Act and Regulations;
- Work Cover Authority requirements



2.6 Statutory and Regulatory Standards

The following standards are to be used to implement the Report:

- AS 1428.1-2009: General Requirements for Access
- BCA 2019: Building Code of Australia
- DDA Premises Standards 2010



3. Regulatory Framework

3.1 DDA Access to Premises Standards 2010

The Premises Standards has been developed to

(a) to ensure that dignified, equitable, cost-effective and reasonably achievable access to buildings, and facilities and services within buildings, is provided for people with a disability; and

(b) to give certainty to building certifiers, building developers and building managers that, if access to buildings is provided in accordance with these Standards, the provision of that access, to the extent covered by these Standards, will not be unlawful under the Act.

Section 23 of the Disability Discrimination Act 1992 (Cth) (DDA) makes it unlawful to discriminate against a person with a disability in relation to access to, or use of, premises. Whilst this section stipulates that it is unlawful it does not provide information or references to people responsible for buildings to assist them to design, construct or manage buildings in a way that do not discriminate.

Within the DDA Premises Standards is the Access Code for Buildings, which is written in the same style as the BCA in that it has a number of Performance Requirements that are expressed in broad terms and references to a number of technical Deemed-to-Satisfy Provisions.

3.2. Building Code of Australia

A2.0 Compliance

Compliance with the NCC is achieved by complying with—

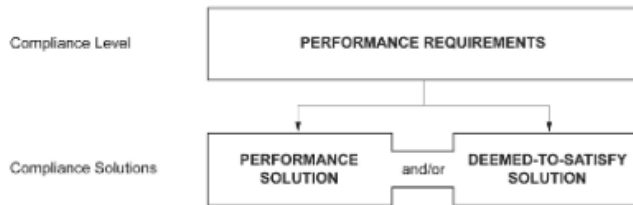
- (1) the Governing Requirements of the NCC; and
- (2) the Performance Requirements.

A2.1 Compliance with the Performance Requirements

Performance Requirements are satisfied by one of the following, as shown in Figure 1:

- (1) A Performance Solution.
- (2) A Deemed-to-Satisfy Solution.
- (3) A combination of (1) and (2).

Figure 1: NCC compliance option structure



A2.2 Performance Solution

(1) A Performance Solution is achieved by demonstrating—

- (a) compliance with all relevant Performance Requirements; or
- (b) the solution is at least equivalent to the Deemed-to-Satisfy Provisions.

(2) A Performance Solution must be shown to comply with the relevant Performance Requirements through one or a combination of the following Assessment Methods:

- (a) Evidence of suitability in accordance with Part A5 that shows the use of a material, product, plumbing and drainage product, form of construction or design meets the relevant Performance Requirements.
- (b) A Verification Method including the following:
 - (i) The Verification Methods provided in the NCC.
 - (ii) Other Verification Methods, accepted by the appropriate authority that show compliance with the relevant Performance Requirements.
- (c) Expert Judgement.
- (d) Comparison with the Deemed-to-Satisfy Provisions.

(3) Where a Performance Requirement is satisfied entirely by a Performance Solution, in order to comply with (1) the following method must be used to determine the Performance Requirement or Performance Requirements relevant to the Performance Solution:

- (a) Identify the relevant Performance Requirements from the Section or Part to which the Performance Solution applies.
- (b) Identify Performance Requirements from other Sections or Parts that are relevant to any aspects of the Performance Solution proposed or that are affected by the application of the Performance Solution.

A2.3 Deemed-to-Satisfy Solution

(1) A solution that complies with the Deemed-to-Satisfy Provisions is deemed to have met the Performance Requirements.

(2) A Deemed-to-Satisfy Solution can show compliance with the Deemed-to-Satisfy Provisions through one or more of the following Assessment Methods:



(a) Evidence of suitability in accordance with Part A5 that shows the use of a material, product, plumbing and drainage product, form of construction or design meets a Deemed-to-Satisfy Provision.

(b) Expert Judgement.

(3) For Volume Two:

(a) Where an acceptable construction manual and an acceptable construction practice contained in the same Part are considered to satisfy the same component of a Performance Requirement, in order to comply with the Deemed-to-Satisfy Provisions it is only necessary to satisfy—

(i) the appropriate acceptable construction manual; or

(ii) the appropriate acceptable construction practice.

(b) Where an acceptable construction manual and an acceptable construction practice contained in the same Part are deemed to satisfy different components of a Performance Requirement, compliance with the Deemed-to Satisfy Provisions may require satisfying both the listed acceptable construction manual and the acceptable construction practice for their specific components unless otherwise stated.

A2.4 A combination of solutions

(1) Performance Requirements may be satisfied by using a combination of Performance Solutions and Deemed-to Satisfy Solutions.

(2) When using a combination of solutions, compliance can be shown through the following, as appropriate:

(a) A2.2 for assessment against the relevant Performance Requirements.

(b) A2.3 for assessment against the relevant Deemed-to-Satisfy Provisions.

(3) Where a Performance Requirement is satisfied by a Performance Solution in combination with a Deemed-to-Satisfy Solution, in order to comply with (1), the following method must be used to determine the Performance Requirement or Performance Requirements relevant to the Performance Solution:

(a) Identify the relevant Deemed-to-Satisfy Provisions of each Section or Part that are to be the subject of the Performance Solution.

(b) Identify the Performance Requirements from the same Sections or Parts that are relevant to the identified Deemed-to-Satisfy Provisions.

(c) Identify Performance Requirements from other Sections or Parts that are relevant to any aspects of the Performance Solution proposed or that are affected by the application of the Deemed-to-Satisfy Provisions that are the subject of the Performance Solution.



4. BCA Non-Compliance Assessment

4.1 Summary

The applicant does not wish to provide lift access to the existing upper level office area. This is a departure from BCA Part D3.

A performance solution is required confirming that the access arrangement will meet the relevant Performance Requirement of the Building Code of Australia.

4.2 Relevant Deemed to Satisfy Provisions

The DTS provisions for the present project are set out in:

Class of building	Access requirements
Class 5 & 6	The Building Code of Australia, 2019 D3.1 General building access requirements (a) Buildings must be accessible as required by Table D3.1 (requirements for access for people with disabilities) to and within all areas normally used by the occupants.

4.3 Relevant Performance Requirements

Under clause A2.1 of the BCA, the Performance Requirements of the BCA can be met either via compliance with the DTS provisions, or via use of a suitable Performance Solution.

Under DP1 of the BCA:

Access must be provided, to the degree necessary, to enable:

(a) people to:

(i) approach the building from the road boundary and from any accessible car parking 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

(b) identification of access ways at appropriate locations which are easy to find.

4.4. Assessment Method

This performance solution report adopts expert opinion to justify the above departure from the deemed-to-satisfy provisions of the BCA, which is an acceptable assessment method under A2.2(2)(c) of the BCA.



5. Upper Level Access Variation

5.1 Variation Proposed

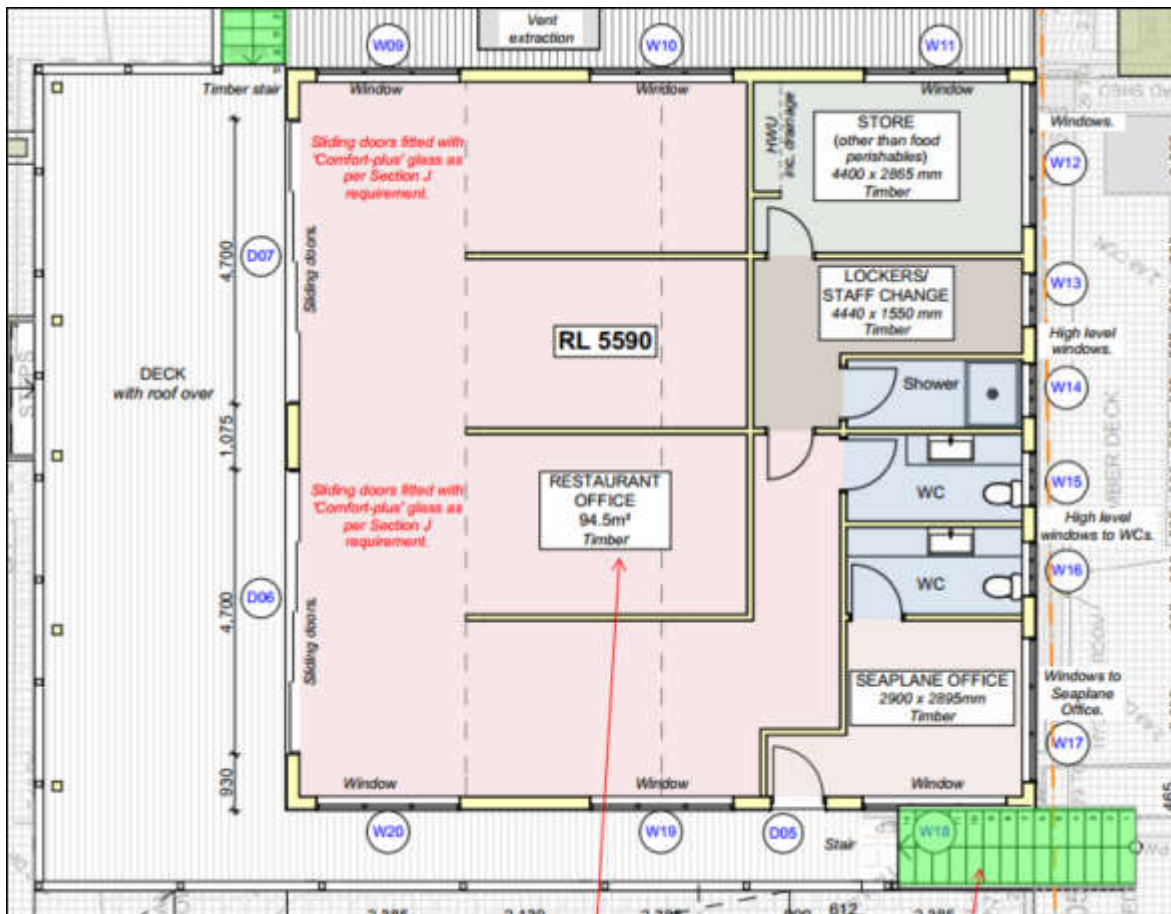
The applicant has proposed a performance solution to the Deemed-to-Satisfy provisions in the BCA. Where the BCA Deemed to be Satisfy provisions has not been satisfied by the current design; reasonable provision of access will be satisfied by an appropriate performance solution.

It is proposed that lift access is not provided to the upper level.

The stair to the upper level will require full application of AS1428.1 with regards closed risers, handrails, step nosings and TGS1.

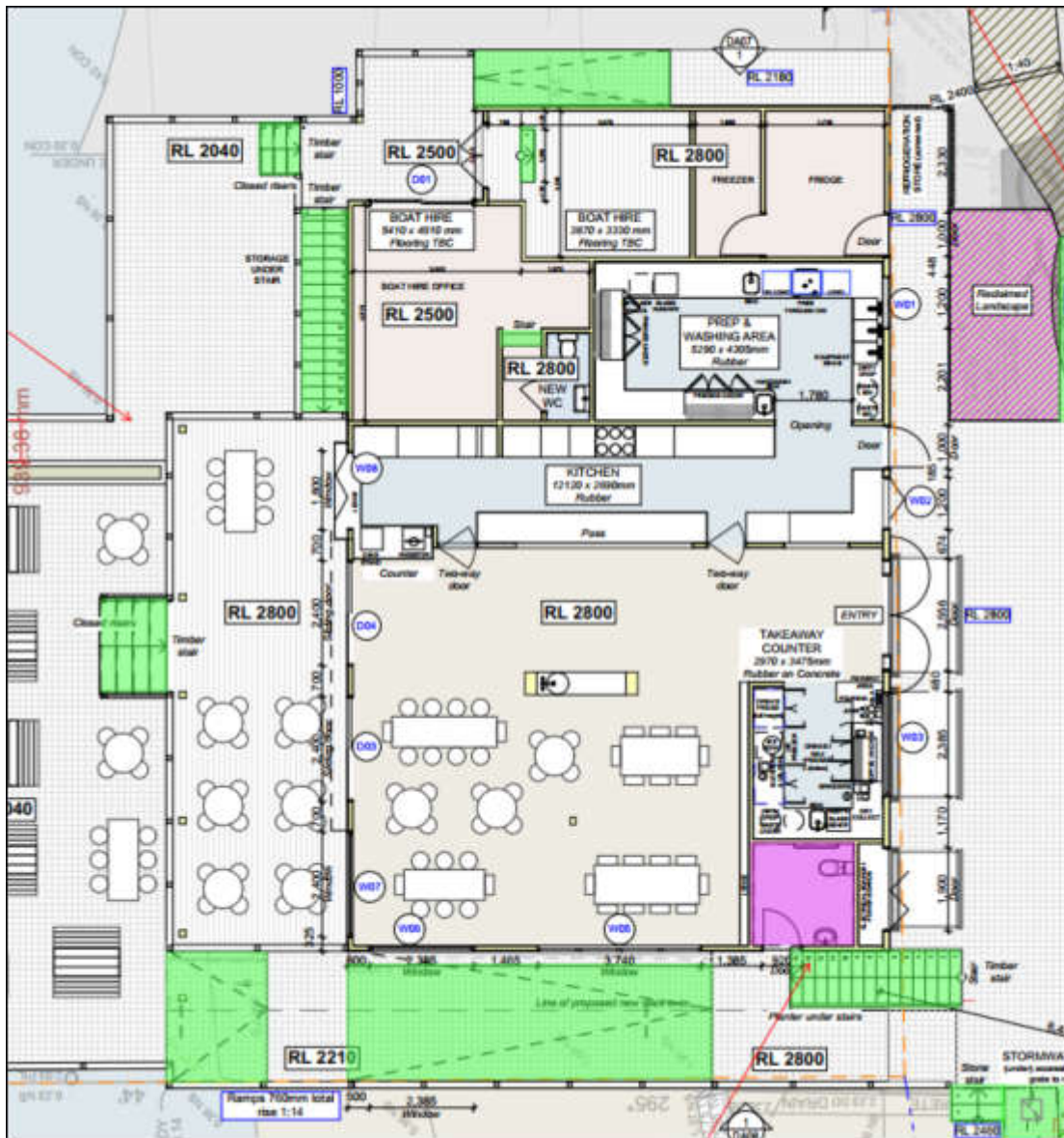
5.2 Areas Where this Variation Occurs

Upper Level Office Area





Ground Floor Entertainment Area





6. Comments as to how it is proposed to meet the Performance Requirements

6.1. General

Performance Requirement DP1 requires the provision of suitable accessible paths of travel 'to the degree necessary'. In this context, access 'to the degree necessary' would entail facilities that are functional for a person with a mobility impairment.

The ground floor of the restaurant area has suitable access throughout. The entrance approach has suitable circulation area around the entry door in accordance with AS1428.1. The ground floor has appropriate circulation areas in accordance with DDA Premises Standards. There is a common use unisex accessible toilet, which will be designed in accordance with AS1428.1.

Upon analysis of the intent and function of the upper floor, it is noted.

- There is no access for members of the public, only staff
- The upper level is a secured area
- The upper level has the following facility:
 - o Office/ store, for sea plane pilot and goods
 - o Storage of files and other items
 - o Staff locker room

The stair connection to the upper level allows for access to the degree necessary for staff whom have the physical skills to be able to perform work related duties that would preclude people in wheelchairs. During daily activities, the office area will have a temporary usage, as the majority of operations for staff will be focused on physical activities to and around the ground floor amenities and facilities.

The provision of a passenger lift to provide access for people in wheelchairs to the upper level would be a costly exercise and would achieve no functional benefit due to the work-related duties of staff. For this reason, the provision of a lift would be redundant.

In addition, the stair will have (i) contrast strips on the step nosing of the stair compliant with AS1428.1 and (ii) provision of handrails on both sides of the stair in accordance with AS1428.1. The provision of the stair handrails in particular will provide support and guidance for a person with ambulant disability to be able to access the upper level from the ground floor.

The solution is a safe solution and does not present a hazard for people with mobility impairments.



6.2. Equivalence

BCA Clause D3.3 (f)(ii)

'a ramp complying with AS 1428.1 or a passenger lift need not be provided to serve a storey or level other than the entrance storey in a Class 5, 6, 7b or 8 building that (i) does not more than 3 storeys; and (ii) has a floor area for each storey, excluding the entrance storey, of not more than 200 sqm.'

It is my contention that the use of 220 sqm upper level area is equivalent to the use of an area that satisfies the criteria found in BCA Clause D3.3 (f)(ii).

The equivalence argument of functional use can be employed. Clause D3.3 (f) relates to a concession on the basis of an area of 200sqm or less that would have a functional accessible use for people with mobility impairments. As the upper level has a percentage of area used for storage, the area of functional use would be less than 200 sqm. Ergo, the concession of Clause D3.3 (f) would be appropriate to enact in this case.

6.3. Reasonableness

The BCA recognises that in exceptional situations full application of the BCA might be unreasonable - the BCA Guide states '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.

This methodology is supported by the Human Rights and Equal Opportunities Commission (HREOC) advisory notes. Due to mitigating circumstance, the Advisory Notes state that it may still be possible to address access issues in some way by providing a performance or equivalent access to the actual service operating out of premises.

Due to the provision of (i) accessible ground floor area, and (ii) the nature of use of the upper level area; it is my opinion that DP1 of the BCA is satisfied.



7. Conclusion

The intent of the Building Code of Australia is to ensure that sufficient provision is made for people with disabilities under AS1428.1.

This solution demonstrates that access has been provided to the degree necessary to enable the satisfaction of DP1.

Report Prepared By:

A handwritten signature in black ink, appearing to read 'David Goding', is positioned above the typed name.

Signed David Goding
Date 10 February 2021
Company Morris Goding Access Consulting