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NAR: 1106834.
PAR: 1003881
PCA: 1115453

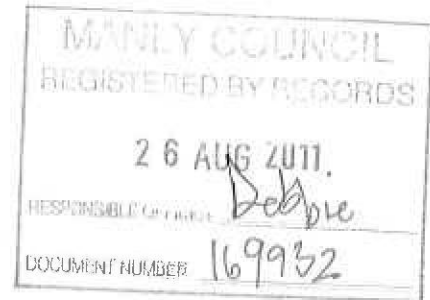
Address: Suite 1a / 226 Condamine Street PO Box 907
Balgowlah
Manly Vale NSW 2093
Tel: 02 9907 6300
Fax: 02 9907 6344
Email: grant@pcaservices.com.au
Web: www.pcaservices.com.au

CD 49/11

17 August 2011

Our ref.: 110189

The General Manager
Manly Council
PO Box 82,
Manly NSW 1655



Dear Sir/Madam,

**Re: Shop 1b/40 East Esplanade Manly
Complying Development Certificate No. 110189**

Decision Made Under: State Environmental Planning Policy (Exempt & Complying Development Code) 2008

Private Certifiers Australia has issued a Complying Development Certificate under Part 4A of the Environmental Planning and Assessment Act 1979 for the above premises.

Please find enclosed the following documentation:

- Complying Development Certificate No. 110189
- Copy of application for Complying Development Certificate.
- Documentation used to determine the application for the Complying Development Certificate as detailed in Schedule 1 of the Certificate.
- Cheque for Council's registration fee.

Our client has been advised of the necessity to submit to Council the Notice of Commencement of building works 48 hours prior to the commencement of works.

Should you need to discuss any issues, please do not hesitate to contact the Accredited Building Surveyor Grant Harrington.

Yours faithfully,

Grant Harrington
Accredited Building Surveyor
Private Certifiers Australia

CERTIFIER

\$36

R 801539

26.8.11



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17 August 2011

Our ref.: 110189

Barefoot Coffee Traders
11 Scenic drive
Manly NSW 2095

Dear Sir/Madam,

**Re: Shop 1b/40 East Esplanade Manly
Complying Development Certificate No. 110189**

Enclosed are two (2) copies of the approved **Complying Development Certificate** for the subject development and two (2) copies of the stamped plans. One copy of each has been forwarded directly to Manly Council for their records.

The Notice of Appointment of Principal Certifying Authority and Commencement of Building Work form is required to be submitted to the Consent Authority (Council) 48 hours prior to commencement of building work. Private Certifiers Australia will *attach this information to your project file, you must also forward a copy of "Notice of Commencement" to Council and if the project is "residential" attach the "home owners warranty or Owner builder certificate"*. The lodgement of the notice of commencement form is the responsibility of the owner or applicant to fulfil.

The PCA role to be undertaken by Private Certifiers Australia will require inspections and certification. Please have the Owner/Builder liaise with our Accredited Building Surveyor Grant Harrington prior to commencement of the work.

Should you need to discuss any issues, please do not hesitate to contact the undersigned on the above numbers.

Yours faithfully,

Grant Harrington
Accredited Building Surveyor
Private Certifiers Australia



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COMPLYING DEVELOPMENT CERTIFICATE 110189 (COMMERCIAL)

Issued under Part 4A of the Environmental Planning and Assessment Act 1979 Sections 109C and 81A(5)

APPLICANT DETAILS

Applicant: Barefoot Coffee Traders
Address: 11 Scenic drive Manly NSW 2095
Contact Details: Phone: Fax: 8084 8169

OWNER DETAILS

Name of person having benefit of the development consent: Steve Edan & Michael Jordan
Address: 11 Scenic drive Manly NSW 2095
Contact Details: Phone: 0447777567 Fax:

COMPLYING DEVELOPMENT CONSENTS

Consent Authority/Local Government Area: Manly Council
Decision Made Under: State Environmental Planning Policy (Exempt & Complying Development Code) 2008
CDC Number: 110189 Date Issued: 17/08/2011
Lapse date: 86a of the EPA Act 1979 stipulates that this certificate will lapse within 5 years if not physically commenced on the stated land to which this certificate applies. 81a of the Act is applicable.

PROPOSAL

Address of Development: Shop 1b/40 East Esplanade Manly NSW 2095
Lot 1 DP 1063680
Building Classification: 6
Type of Construction: n/a
Scope of building works covered by this Notice: Change of use of shop 1b to a cafe.
Value of Construction Certificate (Incl GST):
Plans and Specifications approved: Schedule 1
Fire Safety Schedule: Schedule 2
Conditions: See Conditions attached to this certificate
Exclusions:
Critical stage inspections: See attached Notice
Conditions (Cis 187 or 188 of EPA Regs 2000):

CERTIFYING AUTHORITY

Certifying Authority: Grant Harrington
Accreditation Body: Building Professionals Board
Registration No. BPB0170

I, Grant Harrington as the certifying authority, certify that the work if completed in accordance with the plans and specifications identified in Schedule 1 (with such modifications verified by the certifying authority as may be shown on that documentation) will comply with the requirements of the Environmental Planning & Assessment Regulation 2000 as referred to in section 84A of the Environmental Planning and Assessment Act 1979.

Dated: 17/08/2011

Grant Harrington
Accredited Building Surveyor

NB: Prior to the commencement of work S81A (2) (b) and (c) of the Environment Planning and Assessment Act 1979 must be satisfied.



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SCHEDULE 1: APPROVED PLANS AND SPECIFICATIONS

1. Endorsed Engineering plans

PREPARED BY	DOCUMENT	DRAWING NO	REV	DATE
Stutchbury Jaques P/L	Survey Plan			12/05/2010

2. Endorsed Other documents

PREPARED BY	DOCUMENT	DRAWING NO	REV	DATE
PCA	129B Pre-Approval Inspection			10/08/2011
Steve Eden & Michael Jordan	Complying Development Application			28/06/2011
BCA Logic	Fire Audit & Upgrading Report			12/11/2010
Manly Council	Building Certificate			22/06/2011



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PART 5 GENERAL COMMERCIAL AND INDUSTRIAL CODE CONDITIONS

DIVISION 2 CONDITIONS APPLYING TO COMPLYING DEVELOPMENT CERTIFICATE UNDER THIS CODE

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Part.

Note 2. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an accredited certifier must, under section 94EC of the Act, impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with that plan. Contributions may be imposed in respect of development on certain land under section 61 the *City of Sydney Act 1988*.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 NO 203 - CONDITIONS

94EC CONTRIBUTIONS PLANS—COMPLYING DEVELOPMENT

(1) In relation to an application made to an accredited certifier for a complying development certificate, a contributions plan:

- (a) is to specify whether or not the accredited certifier must, if a complying development certificate is issued, impose a condition under section 94 or 94A, and
- (b) can only authorise the imposition by an accredited certifier of a condition under section 94 that requires the payment of a monetary contribution, and
- (c) must specify the amount of the monetary contribution or levy that an accredited certifier must so impose or the precise method by which the amount is to be determined.

(1A) The imposition of a condition by an accredited certifier as authorised by a contributions plan is subject to compliance with any directions given under section 94E (1) (a), (b) or (d) with which a council would be required to comply if issuing the complying development certificate concerned.

(2) This section does not limit anything for which a contributions plan may make provision in relation to a consent authority.

Condition; The Section 94EC fee applicable to this project is

\$ _____

The owner / applicant is required to pay this amount prior to the "notice of commencement" being issued to Council two days before physical commencement is to occur on site. A copy of the receipt of the applicable S94 EC payment is required to be submitted to the Accredited Certifying Authorities office as evidence two days prior to the commencement on site. Failure to undertake this step will result in the complying development being *invalid*.

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000-CONDITIONS

136A COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989

(cf clauses 78 and 78A of EP&A Regulation 1994)

(1) A complying development certificate for development that involves any building work must be issued subject to the following conditions:

- (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
- (b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance must be entered into and be in force before any building work authorised to be carried out by the certificate commences.

(1A) A complying development certificate for a temporary structure that is used as an entertainment venue must be issued subject to the condition that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia* (as in force on the date the application for the relevant complying development certificate is made).

(2) This clause does not limit any other conditions to which a complying development certificate may be subject, as referred to in section 85A (6) (a) of the Act.

(3) This clause does not apply:

- (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- (b) to the erection of a temporary building, other than a temporary structure that is used as an entertainment venue.

(4) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant complying development certificate is made.

Note. There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

136B ERECTION OF SIGNS

(1) A complying development certificate for development that involves any building work, subdivision work or demolition work must be issued subject to a condition that the requirements of subclauses (2) and (3) are complied with.

(2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:



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- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building, that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a complying development certificate issued before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.
- Note.** Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

136E DEVELOPMENT INVOLVING BONDED ASBESTOS MATERIAL AND FRIABLE ASBESTOS MATERIAL

- (1) A complying development certificate for development that involves building work or demolition work must be issued subject to the following conditions:
- (a) work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the *Occupational Health and Safety Regulation 2001*,
 - (b) the person having the benefit of the complying development certificate must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the complying development certificate commences,
 - (c) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered.
- (2) This clause applies only to a complying development certificate issued after the commencement of this clause.
- (3) In this clause, **bonded asbestos material**, **bonded asbestos removal work**, **friable asbestos material** and **friable asbestos removal work** have the same meanings as in clause 317 of the *Occupational Health and Safety Regulation 2001*.
- Note 1.** Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.
- Note 2.** The effect of subclause (1) (a) is that the development will be a workplace to which the *Occupational Health and Safety Regulation 2001* applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.
- Note 3.** Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Department of Environment, Climate Change and Water.
- Note 4.** Demolition undertaken in relation to complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* must be carried out in accordance with Australian Standard AS 2601—2001, Demolition of structures.

136H CONDITION RELATING TO SHORING AND ADEQUACY OF ADJOINING PROPERTY

- (1) A complying development certificate for development must be issued subject to a condition that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the certificate must at the person's own expense:
- (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the complying development certificate owns the adjoining land or the

SUBDIVISION 1 CONDITIONS APPLYING BEFORE WORKS COMMENCE

5.13 Protection of adjoining areas

A hoarding or a temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Note. See the entry in the General Exempt Development Code for scaffolding, hoardings and temporary construction site fences.

5.14 Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.



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(2) Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

5.15 Garbage receptacle

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

SUBDIVISION 2 CONDITIONS APPLYING DURING THE WORKS

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

5.16 Hours for construction or demolition

Construction or demolition that is audible in any dwelling on an adjoining lot may only be carried out between 7.00 am and 8.00 pm on Monday to Saturday.

5.17 Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

5.18 Maintenance of site

- (1) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Demolition materials and waste materials must be disposed of at a waste management facility.
- (3) The work site must be left clear of waste and debris at the completion of the works.

SUBDIVISION 3 CONSTRUCTION REQUIREMENTS

5.19 Utility services

If the complying development requires alteration to, or the relocation of, utility services on the lot on which the complying development is carried out, the complying development is not complete until all such works are carried out.

5.20 MECHANICAL VENTILATION SYSTEMS

If the complying development is a mechanical ventilation system that is a **regulated system** in **regulated premises** within the meaning of the *Public Health Act 1991*, the system must be notified as required by the *Public Health (Microbial Control) Regulation 2000*, before an occupation certificate (whether interim or final) for the complying development is issued.

5.21 Food businesses

If the complying development is a **food business** within the meaning of the *Food Act 2003*, the food business must be notified as required by that Act or licensed as required by the *Food Regulation 2004*, before an occupation certificate (whether interim or final) for the complying development is issued.

5.22 Premises where skin penetration procedures are carried out

If the complying development involves premises at which a **skin penetration procedure** within the meaning of the *Public Health Act 1991* will be carried out, the premises must be notified as required under the *Public Health (Skin Penetration) Regulation 2000* before an occupation certificate (whether interim or final) for the complying development is issued.



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NOTICE TO APPLICANT OF MANDATORY CRITICAL STAGE INSPECTIONS

Made under Part 4 of the Environmental Planning and Assessment Act 1979 Sections 86(a2)(i) (ii) (iii) b

OWNER DETAILS

Name of person having benefit of the development consent: Steve Edan & Michael Jordan
Address: 11 Scenic drive Manly NSW 2095
Contact Details: Phone: 0447777567

COMPLYING DEVELOPMENT CONSENTS

Consent Authority/Local Government Area: Manly Council
Decision Made Under: State Environmental Planning Policy (Exempt & Complying Development Code) 2008
CDC Number: 110189 Date Issued: 17/08/2011

PROPOSAL

Address of Development: Shop 1b/40 East Esplanade Manly NSW 2095
Scope of building works covered by this Notice: Change of use of shop 1b to a cafe.

CERTIFICATION DETAILS

Principal Certifying Authority: Grant Harrington
Accreditation Body: Building Professionals Board
Registration No. BPB0170

Please telephone 9907-6300 to book a critical stage inspection. A minimum period of 48 hours is to be provided.

I, Grant Harrington, Private Certifiers Australia located at Suite 1a / 226 Condamine Street PO Box 907 Balgowlah Manly Vale NSW 2093 acting as the principal certifying authority hereby give notice in accordance with Section 81A(2)(b1)(ii) of the Environmental Planning and Assessment Act 1979 to the person having the benefit of the development consent that the mandatory critical stage inspections identified in Schedule 1 & Schedule 2 are to be carried out in respect of the building work.

The applicant, being the person having benefit of the development consent is required under Section 81A(2)(b2)(ii) of the Environmental Planning and Assessment Act 1979 to notify the principal contractor (if not an owner-builder) of the applicable mandatory critical stage inspections specified under this notice.

To allow a principal certifying authority or another certifying authority time to carry out mandatory critical stage inspections, the principal contractor for the building site, or the owner builder, must notify the principal certifying authority at least 48 hours before building work is commenced at the site if a mandatory critical stage inspection is required before the commencement of the work in accordance with Clause 163 of the Environmental Planning & Assessment Regulation 2000.

Failure to request a mandatory critical stage inspections will prohibit the principal certifying authority under with Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979 to issue an occupation certificate.

Dated: 17/08/2011

Grant Harrington
Principal Certifying Authority



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**SCHEDULE 1:
MANDATORY CRITICAL STAGE INSPECTIONS**

NO	CRITICAL STAGE INSPECTION	INSPECTOR
1	129B Pre-Approval Inspection	Certifying Authority



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NOTICE OF COMMENCEMENT OF BUILDING WORK

Made under Part 4 of the Environmental Planning and Assessment Act 1979 Sections 81A(2)(b)(i) & (b2)(i) & (ii) & (iii) & 86(1)(a)(i) & (a2)(i) & (ii) & (iii) & (1)(b)

OWNER DETAILS

Name of person having benefit of the development consent: Steve Edan & Michael Jordan
Address: 11 Scenic drive Manly NSW 2095
Contact Details: Phone: 0447777567

COMPLYING DEVELOPMENT CONSENTS

Consent Authority/Local Government Area: Manly Council
Decision Made Under: State Environmental Planning Policy (Exempt & Complying Development Code) 2008
CDC Number: 110189 Date issued: 17/08/2011

PROPOSAL

Address of Development: Shop 1b/40 East Esplanade Manly NSW 2095
Scope of building works covered by this Notice: Change of use of shop 1b to a cafe.

DECLARATION OF OWNER

As the person having the benefit of the development consent for the building works identified in this Notice, I/we hereby certify:

1. That the residential building works shall be carried out by the applicant as an owner-builder (**residential only**) , if that is the case OR by the appointment of a principal contractor.
 - 1a. Owner-builder Permit No (Please attach a copy of the permit.
N/A for Commercial work):
 - 1b. Name of principal contractor for residential work:
Contractor License No:
Address:
Contact Details:
2. All development consent conditions that are required to be satisfied prior to the commencement of building work and as listed here below will be satisfied prior to the request for a commencement stage inspection (A commencement stage inspection shall be booked 48hrs prior to commencement of building works).
Relevant development consent conditions to be complied with:
3. That building work is intended to commence on or about the date specified below.
Date work is to commence (Allow 2 full days notice):
4. That the principal contractor has been notified of any critical stage inspections or other inspections that are to be carried out in respect of the building work.

SIGNATURE OF OWNER

Signature:

Name:

Date:

IMPORTANT MESSAGE:

1. Return this original completed notice to **Council & Private Certifiers Australia** and allow 2 full days from the date of return, prior to your intended commencement date.
2. DO NOT commence building work prior to the initial (commencement) critical stage inspection.
3. Failure to request any critical stage inspection will prohibit the issue of an Occupation Certificate.



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NOTICE OF APPOINTMENT OF PRINCIPAL CERTIFYING AUTHORITY

Made under Part 4 of the Environmental Planning and Assessment Act 1979 Sections 81A(2)(b1)(i) & 86(1)(a1)(i)

OWNER DETAILS

Name of person having benefit of the development consent: Steve Edan & Michael Jordan
Address: 11 Scenic drive Manly NSW 2095
Contact Details: **Phone:** 0447777567

COMPLYING DEVELOPMENT CONSENTS

Consent Authority/Local Government Area: Manly Council
Decision Made Under: State Environmental Planning Policy (Exempt & Complying Development Code) 2008
CDC Number: 110189 **Date issued:** 17/08/2011

PROPOSAL

Address of Development: Shop 1b/40 East Esplanade Manly NSW 2095
Scope of building works covered by this Notice: Change of use of shop 1b to a cafe.

PRINCIPAL CERTIFYING AUTHORITY

Certifying Authority: Grant Harrington
Accreditation Body: Building Professionals Board
Registration No. BPB0170

The owner has appointed Grant Harrington as the Principal Certifying Authority as stated in the Complying Development Certificate Application lodged with Private Certifiers Australia for the building works identified in this Notice.

I, Grant Harrington, Accredited Building Surveyor of Private Certifiers Australia located at Suite 1a / 226 Condamine Street PO Box 907 Balgowlah Manly Vale NSW 2093 accept the appointment as the Principal Certifying Authority for the building works identified and covered under the relevant Complying Development Certificate as stated in this Notice.

Dated: 17/08/2011

Grant Harrington
Principal Certifying Authority



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SCHEDULE 2 FIRE SAFETY SCHEDULE

FIRE SAFETY MEASURES	EXISTING STANDARD OF PERFORMANCE	PROPOSED STANDARD OF PERFORMANCE
Automatic fire detection and alarm system - BCA logic report.	BCA E2.2 & Spec E2.2a, & AS 3786-1993 and BCA logic report 102672-r-1	
Emergency lighting	BCA E4.2, E4.4 & AS/NZS 2293.1-2005	BCA E4.2, E4.4 & AS/NZS 2293.1-2005 shop 1b
Exit signs	BCA E4.5, E4.6. & E4.8, AS/NZS 2293.1-2005	BCA E4.5, E4.6. & E4.8, AS/NZS 2293.1-2005 shop 1b
Fire seals protecting openings in fire resisting components of the building	BCA C3.15, manufactures specifications BCA logic report (check if installed yet)	
Fire shutters	BCA C3.4 & Spec C3.4 (option to protect opening) check if installed yet ?	
Lightweight construction	BCA C1.8 & Spec C1.8	BCA C1.8 & Spec C1.8
Portable fire extinguishers shop 1b only		BCA E1.6 & AS2444-2001 shop 1b
Wall wetting sprinkler and drencher systems	C3.4	
Paths of travel stairways and ramps	Section D	
Heat attenuation screens (option to protect window openings)	BCA logic fire audit report, reference 100672-r1	
Notes for this fire safety schedule. These fire safety matters have been listed in the BCA logic report. It has been presented as supporting evidence as to the level of fire safety in the building.	We are not sure if all of these items have been installed.	The items in the column have been installed in shop 1b only.



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MANDATORY AND CRITICAL STAGE INSPECTION REPORT - 129B PRE-APPROVAL INSPECTION

OWNER DETAILS

Name of person having benefit of the development consent: Steve Edan & Michael Jordan
Address: 11 Scenic drive Manly NSW 2095
Contact Details: 0447777567

COMPLYING DEVELOPMENT CONSENTS

Consent Authority/Local Government Area: Manly Council
Decision Made Under: State Environmental Planning Policy (Exempt & Complying Development Code) 2008
CDC Number: 110189 Date issued: 17/08/2011

PROPOSAL

Address of Development: Shop 1b/40 East Esplanade Manly NSW 2095
Building Classification: 6
Type of Construction: n/a
Scope of building works covered by this Notice: Change of use of shop 1b to a cafe.

INSPECTION DETAILS

Principal Certifying Authority: Grant Harrington No.: BPB0170
Inspector: Grant Harrington No.: BPB0170
Inspection date and time: 10/08/2011 Inspection time: 1:00 PM

INSPECTION RESULTS

We have attended the above properly and completed an inspection. Each area inspection and the inspection result is listed below.

- Inspection area: ✓ 129B Pre-Approval Inspection - Satisfactory

ADDITIONAL COMMENTS

Grant Harrington
Inspector

Building Regulations Consultant

Principle Certifying Authority

Construction Certification

Fire Upgrade Surveys

Planning

Private Certifiers Australia

COMPLYING DEVELOPMENT CERTIFICATE APPLICATION

Made under the *Environmental Planning and Assessment Act 1979*

Sections 85, 85A

IDENTIFICATION OF BUILDING

Lot, DP/MPS etc LOT 1 DP 1063680

Address 1B/40 East Esplanade Manly

Suburb NSW

Post Code 2095

DESCRIPTION OF DEVELOPMENT

Detailed Description:

USE: Shop 1B as a
Cafe.

APPLICANT

Name Steve Edon & Michael Jordan

Company Barefoot Coffee Trade s

Address 11 SCENIC DRIVE MANLY

Suburb NSW

Post Code 2095

Phone B/H _____ Fax No 8084 8169

Mobile 044 77 77 567

Email shop@barefootcoffee.com.au

As the owner, I/we hereby;

1. Submit this Complying Development Certificate Application under the *Environmental Planning & Assessment Act 1979*, with Private Certifiers Australia.
2. Appoint Grant Harrington of Private Certifiers Australia as the Principal Certifying Authority for the building work identified in this application.

Signature of Applicant/Owner:

Sign [Signature]

Date 28/6/11

Decided
28-6-2011

UNIT 8 - V. BENSDORA *[Signature]* (DIRECTOR)
Unit 2 - Jan LEVENSTON *[Signature]* (DIRECTOR)
Unit 1 - Steve Eden *[Signature]* (DIRECTOR)

CONSENT TO ALL OWNER(S)

Name Steve Eden (Director)
Company _____
Address 40 East Esplanade Manly
Suburb Manly Post Code 2085
Phone B/H _____ Fax No _____
Mobile 041777567
Email shapp@barefootcoffee.com.au

1. I/We as the owner of the above building/property, consent to the Appointment of Grant Harrington as the PCA (Principal Certifying Authority) and approve of the PCA or their representative to lodge the Notice of Commencement on our behalf with council to authorize the commencement of works on site. I am duly authorized under 109E of the EPA Act to appoint the PCA for the project.
2. I understand that the application for a OC must be separately applied for at completion of the project.
3. I also duly authorize and consent to the applicant if non-owner of the property to applying for OC on my behalf as the owner/s of the property.

Signature of Owner(s)

Sign _____

Date 28/6/11

VALUE OF WORK

Estimated Cost of work:

\$ 0

GST:

\$ _____

For developments over \$5 million, a Quantity Surveyors Certificate verifying the cost must be submitted on lodgement of the application.

BUILDING CODE OF AUSTRALIA
BUILDING CLASSIFICATION

Nominated on the Development Consent

Class 6

COMMERCIAL BUILDING WORK

Principal Contractor:

Name NO WORKS

Address _____

Telephone _____ Fax _____

License No. _____

REQUIRED ATTACHMENTS

- Note 1 details the information that must be submitted with an application for a complying Development certificate for proposed building works
- Note 2 details the additional information that may be submitted with an application for a complying Development certificate for proposed residential building work.

Schedule 1 information to be
Collected for ABS Particulars of the proposal

DESCRIPTION

What is the area of the land (m²)

unknown

Gross floor area of existing building (m²)

What are the current uses of all or parts of the building(s)/land?

cafe

(If vacant state vacant)

Location

Use

Does the site contain a dual occupancy?

NO

What is the gross floor area of the proposed addition or new building (m²)

Nil

What are the proposed uses of all parts of the building(s)/land?

Location

Use

Number of pre-existing dwellings

20

Number of dwellings to be demolished

0

How many dwellings are proposed?

0

How many storeys will the building consist of?

5

MATERIALS TO BE USED

Walls	Code	Roof	Code
Brick veneer	12	Aluminium	70
Full brick	11	Concrete	20
Single brick	11	Concrete tile	10
Concrete block	11	Fibrous cement	30
Concrete/ masonry	20	fibreglass	80
Concrete	20	Masonry/terracott a shingle tiles	10
Steel	60	Slate	20
Fibrous cement	30	Steel	60
Hardiplank	30	Terracotta tile	10
Timber/weatherboard	40	Other	80
Cladding aluminium	70	Unknown	90
Curtain glass	50		
Other			
Unknown	90		
Floor	Code	Frame	Code
Concrete	20	Timber	40
Timber	10	Steel	60
Other	80	Other	80
Unknown	90	Unknown	90

Schedule 2 – Existing Essential Fire Safety Measures
Part 1 of 2

Item No.	Existing Measure	Is this measure installed in the Building? Yes / No	If yes, enter the current standard of performance (eg: ORD 70 Clause 19.2 or BCA Clause E1.5 & AS 2118.1-1999)
1	Access Panels, doors and hoppers to fire resisting shaft		
2	Automatic fail safe devices		
3	Automatic fire detection and alarm system		
4	Automatic fire suppression system (sprinkler)		
5	Automatic fire suppression system (others – specify)		
6	Emergency lighting		
7	Emergency lifts		
8	Emergency warning and intercommunication system		
9	Exit signs		
10	Fire control centres and rooms		
11	Fire dampers		
12	Fire doors		
13	Fire hydrant systems		
14	Fire seals (protecting openings in fire resisting components of the building)		
15	Fire shutters		
16	Fire windows		
17	Hose reel system		
18	Light weight construction		
19	Mechanical air handling systems		
20	Paths of travel stairways passageways or ramps		
21	Perimeter vehicle access for emergency vehicles		
22	Portable fire extinguishers		
23	Pressurising system		
24	Required (automatic) exit doors		
25	Safety curtains in proscenium openings		
26	Smoke and Heat Vents		
27	Smoke Control System		
28	Smoke dampers		
29	Smoke detectors and heat detectors		
30	Smoke doors		
31	Solid-Core doors		
32	Stand-By Power Systems		
33	Wall wetting sprinkler and drencher systems		
34	Warning and operational signs		
35	OTHERS - Specify		

See Attached sheet

This is an accurate statement of all existing Fire Safety Measures implemented in the whole building.

Signed (Owner/ Agent) Name Date

Schedule 3 – Proposed Essential Fire Safety Measures
Part 2 of 2

Item No.	Proposed New Measure	Is this measure Installed in the Building? Yes or No	If yes, enter the current standard of performance (eg: BCA Clause E1.5 & AS2118.1-1999)
1	Access Panels, doors and hoppers to fire resisting shaft		
2	Automatic fail safe devices		
3	Automatic fire detection and alarm system		
4	Automatic fire suppression system (sprinkler)		
5	Automatic fire suppression system (others – specify)		
6	Emergency lighting		
7	Emergency lifts		
8	Emergency warning and intercommunication system		
9	Exit signs		
10	Fire control centres and rooms		
11	Fire dampers		
12	Fire doors		
13	Fire hydrant systems		
14	Fire seals (protecting openings in fire resisting components of the building)		
15	Fire shutters		
16	Fire windows		
17	Hose reel system		
18	Light weight construction		
19	Mechanical air handling systems		
20	Paths of travel stairways passageways or ramps		
21	Perimeter vehicle access for emergency vehicles		
22	Portable fire extinguishers		
23	Pressurising system		
24	Required (automatic) exit doors		
25	Safety curtains in proscenium openings		
26	Smoke and Heat Vents		
27	Smoke Control System		
28	Smoke dampers		
29	Smoke detectors and heat detectors		
30	Smoke doors		
31	Solid-Core doors		
32	Stand-By Power Systems		
33	Wall wetting sprinkler and drencher systems		
34	Warning and operational signs		
35	OTHERS - Specify		

This is an accurate statement of all proposed Fire Safety Measures to be installed/ modified in the whole building.

Signed (Owner/ Agent) Name Date

Notes for completing Complying Development Certificate Application

Note 1 In the case of Crown land within the meaning of the *Crown Lands Act 1989* the owner's consent must be signed by an officer of the Department of Land and Water Conservation, authorised for these purposes by the Governor-in-Council from time to time.

Note 2 A description of the land to be developed can be given in the form of a map which contains details of the lot number, DP/MPS, vol/foi etc.

Note 3 A plan of the land must indicate:

- a) Location, boundary dimensions, site area and north point of the land;
- b) Existing vegetation and trees on the land;
- c) Location and uses of existing buildings on the land;
- d) Existing levels of the land in relation to buildings and roads; and
- e) Location and uses of buildings on sites adjoining the land.

Note 4 Plans or drawings describing the proposed development must indicate (where relevant):

- a) The location of proposed new buildings or works (including extensions or additions to existing buildings or works) in relation to the land's boundaries and adjoining development;
- b) Floor plans of proposed buildings showing layout, partitioning, room sizes and intended uses of each part of the building;
- c) Elevations and sections showing proposed external finishes and heights;
- d) Proposed finished levels of the land in relation to buildings and roads;
- e) Building perspectives, where necessary to illustrate the proposed building;
- f) Proposed parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site, (including dimensions where appropriate);
- g) Proposed landscaping and treatment of the land, (indicating plant types and their height and maturity; and
- h) Proposed methods of draining the land.

Note 5 The following information must also accompany a Complying Development Certificate Application for building or subdivision work and change of building use:

Building Work

In the case of an Application for a Complying Development Certificate for **building work**:

- a) Copies of compliance certificates relied upon.
- b) Four (4) copies of detailed plans and specifications

The plan for the building must be drawn to a suitable scale and consist of a general plan and a block plan.

The general plan of the building is to:

- show a plan of each floor section;
- show a plan of each elevation of the building;
- show the levels of the lowest floor and of any yard or unbuilt on area belonging to that floor and the levels of the adjacent ground; and
- indicate the height, design, construction and provision for fire safety and fire resistance (if any).

Where the proposed building work involves any alteration or addition to, or rebuilding of, an existing building the general plan is to be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the proposed alteration, addition or rebuilding.

Where the proposed building work involves a modification to previously approved plans and specifications the general plans must be coloured or otherwise marked to the satisfaction of the certifying authority to adequately distinguish the modification.

The specification is:

- to describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply; and
 - state whether the materials proposed to be used are new or second hand and give particulars of any second-hand and give particulars of any second-hand materials to be used.
- c) Where the application involves an alternative solution to meet the performance requirements of the BCA, the application must also be accompanied by:
- details of the performance requirements that the alternative solution is intended to meet; and

- details of the assessment methods used to establish compliance with those performance requirements.

d) If relevant, evidence of any accredited component, process or design sought to be relied upon.

NB: If an EPI provides that complying development must comply with the deemed-to-satisfy provisions of the BCA a CDC cannot authorise compliance with alternative solutions to the performance requirements corresponding to those deemed-to-satisfy provisions.

- e) Except in the case of a class 1a or class 10 building:
- a list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated; and
 - if the application relates to a proposal to carry out any alteration or rebuilding of, or addition to, an existing building, a separate list of such of those measures as are currently implemented in the building or on the land on which the building is situated.

The list must describe the extent, capability and basis of design of each of the measures concerned.

Change of Building Use

In the case of an application for a Complying Development Certificate for a **change of building use** (except for an application that, if granted, would authorise the building concerned being used as a class 1a or class 10 building):

- A list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated in connection with the proposed change of building use; and
- A separate list of such of those measures as are currently implemented in the building or on the land on which the building is situated.

The list must describe the extent, capability and basis of design of each of those measures concerned.

Note 6

Other information must indicate (where relevant):

- a) In the case of shops, offices, commercial or industrial development:
- Details of hours of operation;
 - Plant and machinery to be installed; and
 - Type, size and quantity of goods to be made, stored or transported, loading and unloading facilities.
- b) In the case of demolition:
- Details of age and condition of buildings or works to be demolished.
- c) In the case of advertisements:
- Details of the size, type, colour, materials and position of the sign board or structure on which the proposed advertisement is to be displayed.
- d) In the case of development relating to an existing use:
- Details of the existing use.
- e) In the case of a development involving the erection of a building, work or demolition:
- Details of the methods of securing the site during the course of construction.

Note 7

Home Building Act Requirements

In the case of an application for a complying development certificate for residential building work (within the meaning of the *Home Building Act 1989*) attach the following:

- (a) in the case of work by a licensee under that Act:
- a statement detailing the licensee's name and contractor licence number; and
 - documentary evidence that the licensee has complied with the applicable requirements of that Act*, or
- (b) in the case of work done by any other person:
- a statement detailing the person's name and owner-builder permit number; or
 - a declaration signed by the owner of the land, to the effect that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of **owner-builder work** in section 29 of that Act.

- A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* to the effect that a person is the holder of an insurance contract issued for the purposes of that Part, is sufficient evidence that the person has complied with the requirements of that Part.

Note 3

Long Service Levy

Under s85A (10A) of the *Environmental Planning and Assessment Act 1979* a complying development certificate cannot be issued until any long service levy payable under section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such a levy is payable by instalments, the first instalment of the levy) has been paid. The local council may be authorised to accept payment.



SUPERVISOR & SUBCONTRACTORS TO CHECK ALL SET OUT DIMENSIONS AGAINST FINAL APPROVED PLANS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
ANY DISCREPANCIES REVEALED IN SET OUT DIMENSIONS TO BE REPORTED IMMEDIATELY TO SURVEYORS PRIOR TO WORK PROCEEDING.

PRIVATE CERTIFIERS AUSTRALIA

Complying Development Cert No. Approval Date

110189

16 AUG 2011

Certifying Authority: Grant Harrington
Accreditation No: BPB 0170

D.P. 1063680

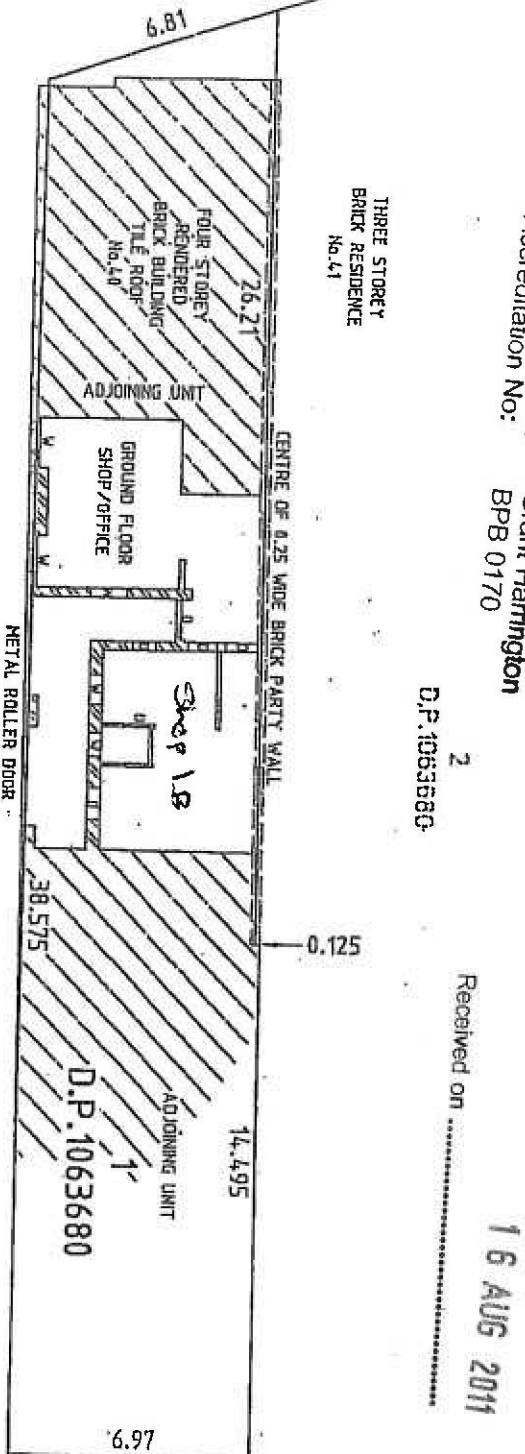
2

"These plans form part of and are to be read in conjunction with the conditions of complying development approval. Please make yourself aware of your legal position. Mandatory inspections are applicable."

Received on

16 AUG 2011

EAST ESPLANADE



WENTWORTH

STREET

D - DOOR
W - WINDOW

SKECH SHOWING GROUND FLOOR UNIT

LOT 1 D.P. 1063680

No. 40 EAST ESPLANADE, MANLY
FOR STEVE EDEN

LEVELS SHOWN ARE TO ... N/A

DATUM, CLIENT REF. No. N/A

DATE: 12/05/10

REF: 7441/10

D. Stebbins
REGISTERED SURVEYOR

STUTCHBURY JACOBS P/L
Land Surveying Consultants

P.O. Box 7249
BROOKVALE NSW 2100

TEL: (02) 8976 1500
FAX: (02) 8976 1555

Manly Council



Reference: 150811 BC24/11/2011 MJG: Admin HS
Enquiries: Environmental Services

Mr Steve Eden & Mr Michael Jordan
Shop 1B, 40 East Esplanade
MANLY NSW 2095

Dear Sirs

RE: **Building Certificate No. BC24/11/2011**
Issued under the
Environmental Planning and Assessment Act 1979, Section 149D

Council Offices
1 Belgrave Street
Manly NSW 2095

Correspondence to
General Manager
PO Box 82
Manly NSW 1655

DX 9205 Manly

Telephone 02 9976 1500
Facsimile 02 9976 1400

www.manly.nsw.gov.au
records@manly.nsw.gov.au

ABN 43 662 888 065

Manly Council certifies that, in relation to the building or part of the building identified below:

- (a) there is no matter discernible by the exercise of reasonable care and skill that would entitle the Council, under the *Environmental Planning and Assessment Act 1979* or the *Local Government Act 1993*;
- (i) to order the building to be demolished, altered, added to or rebuilt, or
 - (ii) to take proceedings for an order or injunction requiring the building to be demolished, altered, added to or rebuilt, or
 - (iii) to take proceedings in relation to any encroachment by the building onto land vested in or under the control of the Council, or
- (b) there is such a matter but, in the circumstances, the Council does not propose to make any such order or take any such proceedings.

IDENTIFICATION OF BUILDING

Location

Street: East Esplanade
Side of street: North-Eastern
Nearest cross street: Wentworth Street Manly
House No: Shop 1B/40

Particulars

Classification of building: 6
Description of part (where applicable): Part -Shop 1B on ground floor of a mixed use building.

Notes

This Certificate operates to prevent the Council:

- (a) from making an order (or taking proceedings for the making of an order or injunction) under the *Environmental Planning and Assessment Act 1979* or the *Local Government Act 1993* requiring the building to be repaired, demolished, altered, added to or rebuilt, and
- (b) from taking proceedings in relation to any encroachment by the building onto land vested in or under the control of the Council.

in relation to matters existing before the date of issue of this Certificate.

This Certificate operates to prevent the Council, for a period of 7 years from the date of issue of this Certificate:

- (a) from making an order (or taking proceedings for the making of an order or injunction) under the *Environmental Planning and Assessment Act 1979* or the *Local Government Act 1993* requiring the building to be repaired, demolished, altered, added to or rebuilt, and
- (b) from taking proceedings in relation to any encroachment by the building onto land vested in or under the control of the Council.

in relation to matters arising only from the deterioration of the building as a result solely of fair wear and tear.

However, this Certificate does not operate to prevent the Council:

- (a) from making order No. 6 in the Table to Section 121B of the *Environmental Planning and Assessment Act 1979*, or
 - (b) from taking proceedings against any person under Section 125 of the *Environmental Planning and Assessment Act 1979* with respect to that person's failure:
 - (i) to obtain a development consent with respect to the erection or use of the building, or
 - (ii) to comply with the conditions of a development consent.
-

Date of inspection of building or part: 9th August 2011

Subject Land

Lot No.: 1
Section: Not applicable
Deposited Plan: 1063680
Lease No. and type of holding (if Crown land): Not applicable
District, town or village: Manly
County: Cumberland Parish: Manly Cove

SCHEDULE

The following written information was used by the Council in deciding to issue this certificate:

Documentation provided with the application (various)

Dated this 15th August 2011

With reference to your application dated 22/06/11 for Unauthorised Works Building Certificate, this Certificate has been determined under delegations granted by the General Manager pursuant to the Local Government Act.

Yours faithfully

Date: 15/8/11


Stephen Clements
Executive Manager
Environmental Services Division

Fee: \$610.40 Receipt No.: 788650

Date: 22/06/11

Applicant's name & address: Mr S Eden
11 Scenic Driveway
MANLY NSW 2095

Mr M Jordan
2/39 Lauderdale Avenue
FAIRLIGHT NSW



BUILDING REGULATION & FIRE SAFETY ENGINEERING CONSULTANTS

Project: **40 EAST ESPLANADE, MANLY**

Report: **FIRE AUDIT AND UPGRADING REPORT**

Date: 12th November 2010

To: **Bengray Court Pty Ltd**
C/- Strata Real Estate Services
PO Box 7069
BROOKVALE NSW 2100

Contact: Lauren Shaw
admin@stratares.com.au

DOCUMENT CONTROL

Document No.	Issue Date	Report Details		
102672-r1/jd	12 th November 2010	Description:	Fire Audit and Upgrading Report 40 East Esplanade, Manly	
		Prepared by:	James Deters Accredited Certifier Grade A1, No BPB0089	Signature  Digitally signed by James Deters DN: cn=James Deters, o=BCA Logic Pty Ltd, ou, email=jdeters@bcalogic. com.au, c=AU Date: 2010.11.30 09:16:50 +11'00'

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PART 1 BASIS OF ASSESSMENT

1.1 Location and Description

The building, the subject of this report, is the existing residential flat building located at 40 East Esplanade, Manly.

The property consists of a four storey residential flat building containing a total of 6 residential units and three commercial/retail tenancies on the ground floor.



1.2 Audit Objectives

The purpose of this report is to assess the existing building against the Deemed-to-Satisfy (DTS) provisions of Sections of C, D and E of the BCA2010, and to clearly outline those areas where compliance is not achieved in relation to fire and life safety.

1.3 Audit Scope and Criteria

The scope and criteria of the audit is limited to:

- a visual (non-destructive) inspection of the building, with no inspection of ceiling cavities, shafts, and the like unless specifically mentioned; and
- the requirements of Sections of C, D and E of the BCA unless specifically noted.

1.4 Limitations of the Audit

This report does not include nor imply any detailed or assessment for design, compliance or upgrading for:

- (a) BCA Sections B, F, H, G, I and J for the existing building;

- (b) external areas of the buildings (unless specifically referred to);
- (c) the structural adequacy or design of the buildings;
- (d) the inherent derived fire-resistance ratings of any existing structural elements of the buildings (unless specifically referred to); and
- (e) the design basis and/or operating capabilities of any existing or proposed electrical, mechanical or hydraulic fire protection services.

This report does not include, or imply compliance with:

- (a) the Disability Discrimination Act;
- (b) Demolition Standards not referred to by the BCA;
- (c) Occupational Health and Safety Act;
- (d) Construction Safety Act;
- (e) Requirements of other Regulatory Authorities including, but not limited to, Telstra, Sydney Water, Electricity Supply Authority, WorkCover, RTA, Council and the like; and
- (f) Any conditions of a Development Consent.

1.5 Date of Audit

The audit was carried out on the 25th October 2010.

1.6 Audit Client

The audit was carried out on behalf of Bengray Court Pty Limited.

1.7 Access

Access was provided to the common lobby areas, the ground floor doctor's surgery, retail surf shop and the Cafe, which was under renovations, and a sample of residential units being Units 5 and 8.

PART 2 BUILDING DESCRIPTION

For the purposes of the Building Code of Australia (BCA) the development may be described as follows.

2.1 Rise in Storeys (Clause C1.2)

The building has a rise in storeys of four (4).

2.2 Classification (Clause A3.2)

The building has been classified as follows.

Class	Detail	Description
2	Part Ground, Level 1 and above	Residential Flats and associated areas.
5	Part Ground Level	Medical Suite
6	Part Ground Level	Retail – Shop and Cafe

2.3 Effective Height (Clause A1.1)

The building has an effective height of less than 25.0 metres.

2.4 Type of Construction Required (Table C1.1)

The building if constructed today would be required to be of Type A Construction.

2.5 Floor Area and Volume Limitations (Table C2.2)

The building is subject to maximum floor area and volume limits of:-

- Class 2 - The Class 2 portions of the buildings are not subject to floor area and volume limitations of C2.2 of the Table 2 of Specification C1.1 as C3.11 of the BCA regulates the compartmentation and separation provisions applicable to Class 2 buildings or building portions.
- Class 5 - Maximum Floor Area 8,000m²
Maximum Volume 48,000m³
- Class 6 - Maximum Floor Area 5,000m²
Maximum Volume 30,000m³

PART 3 ESSENTIAL FIRE SAFETY MEASURES

The following fire safety measures are installed, or are required to be installed, in the building. Where already installed the existing systems are to be certified as being capable of complying with the minimum standard of performance indicated below unless otherwise specified in Part 4 of this report.

Item No.	Essential Fire Safety Measure	Minimum Standard of Performance
1.	Automatic fire detection and alarm system	BCA2010 Clause E2.2a, AS3786-1993 & BCA Logic Pty Ltd Fire Audit Report, reference 102672-r1, dated 12 th November 2010
2.	Emergency lighting	BCA2010 Clauses E4.2 & E4.4, AS2293.1-2005
3.	Exit signs	BCA2010 Clauses E4.5, E4.6 & E4.8, AS2293.1-2005
4.	Fire doors	BCA2010 Spec C3.4, AS1905.1-2005
5.	Fire seals protecting openings in fire resisting components of the building	BCA2010 Clause C3.15, Manufacturer's Specification
6.	Fire shutters (option to protect window openings)	BCA2010 Spec C3.4, AS1905.2-2005
7.	Fire windows (option to protect window openings)	BCA2010 Spec C3.4
8.	Lightweight construction	Manufacturer's Specification
9.	Paths of travel, stairways, passageways or ramps	BCA2010 Section D
10.	Portable fire extinguishers	BCA2010 Clause E1.6, AS2444-2001
11.	Wall wetting sprinkler and drencher system (option to protect window openings)	BCA2010 Clause C3.4
12.	Heat attenuation screens (option to protect window openings)	BCA Logic Pty Ltd Fire Audit Report, reference 102672-r1, dated 12 th November 2010

PART 4 ASSESSMENT OF THE FIRE SAFETY MATTERS

4.1 Council Discretion

With respect to the existing building, the Council has discretion under Sections 93 and 94 of the Environmental Planning and Assessment Act, 1979 as to the level of upgrading required, if any, at the Development Consent Stage, or discretion is available under a Council Fire Order. With this in mind, and given the physical and practical constraints and limitations that are present within the existing buildings, this strategy will outline areas where it is considered appropriate for Council to apply its discretion.

4.2 General

For the purposes of this assessment, the existing buildings have been considered under the following headings:

- Fire Resistance (Part C1)
- Fire Compartmentation and Separation (Part C2)
- Protection of Openings (Part C3)
- Occupant Access & Egress (Section D)
- Fire Fighting Equipment (Part E1)
- Smoke Hazard Management (Part E2)
- Lift Installations (Part E3)
- Emergency Lighting, Exits Signs and Warning Systems (Part E4)

4.3 Fire Resistance and Stability – Part C1

As existing, the buildings are constructed of:

- Masonry external and internal bounding walls;
- Part concrete and part timber floors;
- Timber stairs and landings to the internal stairways with carpet floor coverings;
- Plasterboard ceilings;
- Tiled, timber framed roof;

It is expected that the external and internal bounding walls will be capable of achieving a satisfactory level of fire resistance. Concern however is raised over fire separation between the units where the floors between levels are timber. The floors between the ground floor and the upper units and possibly the floors to the second and third floors are a mixture of concrete in parts and timber in parts. This was evidenced by the first floor which was visible from within the ground floor Cafe which was under renovations at the time of the inspection. It is noted that the Cafe was providing fire rated plasterboard to the underside of the floor within this tenancy to provide fire separation between the levels.

Due to not all the floors being accessible/open during the inspection, and due to the inspection being a non-destructive visual inspection, confirmation of the fire separation

between the levels is required. This will require a suitably qualified contractor to access all units and will require the contractor to carry out destructive testing, such as cutting access panels into a number of areas in each of the units to allow for an inspection of the floor construction. The contractor will be required to certify that the fire separation between the level of the building is in accordance with BCA Specification C1.1 Clause 3.1 which requires that the internal walls separating the units from one another and separating the units from the common areas to the top floor extend to either:

1. the underside of the roof covering, with only roof battens with a maximum dimension of 75 x 50mm and sarking crossing between the walls and the roof covering; or
2. a concrete floor slab; or
3. a ceiling that has a resistance to the incipient spread of fire to the roof space of not less than 60 minutes (this is achievable with two layers of 16mm fire rated plasterboard or with intumescent paint).

Should it be found that there is insufficient fire separation between the levels the separation between the levels is to be upgraded to achieve the required fire separation as noted above.

In either of the options above any service penetration, including where downlights are provided through a fire resistance ceiling, are to be appropriately fire stopped in accordance with a tested and certifiable system.

The provision of the fire separation discussed above is to restrict a fire spreading from one unit to another.

It is important to note that any new materials or floor, wall or ceiling linings must comply with BCA Specification C1.10a for spread of flame and smoke developed fire hazard indices.

4.4 Compartmentation and Separation – Part C2

There is a lack of vertical separation between the levels as to some windows in the southern facade as there is not the 600mm minimum spandrel above the floor level. There is approximately 900mm between the window openings in the southern facade, however the required portion of the spandrel above the intervening floor, 600mm, is not provided. It would not be unreasonable for Council to apply its discretion to permit the vertical separation to remain as existing as this is an existing building, spandrels of approximately 900mm are provided and the non-compliance relates to only the portion of the spandrel above the intervening floor. Further, as discussed later in this report, it is proposed that an interlinked fire detection and alarm system is to be provided within the building which will increase the provision of fire detection and alarm within the building allowing for occupants to have earlier warning for evacuation of the building.

There is no fire separation between the commercial suite (doctor's surgery) and the residential ground floor entryway as the doors to both areas open off the same entry alcove. The BCA provides for two options to provide separation between the classification, the first being a 120/120/120 fire wall to separate the classifications or the second being that the entire fire compartment be constructed to the highest FRL required. Currently no fire wall separates the classifications as between the two areas there are glass doorways which will afford not fire separate. With the current construction of the building being consistent throughout the building, being masonry walls, it is considered that the existing fire resistance levels are satisfactory with it noted that as discussed later in this report it is proposed that an interlinked fire detection and alarm system is to be provided within the building which will increase the provision of fire detection and alarm within the building allowing for occupants to have earlier warning for evacuation of the building.

4.5 Protection of Openings – Part C3

The location of the subject existing building in relation to the adjacent fire source features (allotment boundaries) is such that had the building been constructed to today's requirements protection of the openings in a portion of the northern external wall that is within 3m of the northern boundary would be required. All other facades are located on boundary lines shared with public roads not less than 6m in width.

The openings located within 3m of the northern boundary include window openings to the top floor units.

Regarding the openings in the northern facade identified as being within 3m of the northern boundary due to the close proximity of the openings to the boundary protection against a fire spreading from the neighbouring property to the subject property is required to be provided. The following options exist to provide the required protection:

1. External wall wetting sprinklers over fixed or automatically closing windows;
2. External -/60/- automatic closing fire shutters;
3. Upgrade the existing windows to be automatic closing or fixed closed -/60/- fire windows; or
4. External wall wetting sprinklers over the windows which are to be provided with heat attenuation screens that have been tested to AS1530.4 to achieve a radiant heat attenuation of not less than 42% (such as Centra Security "Fire Tuff" Radiant Heat Attenuation Screens).

The doors to the residential units are not fire doors. The 6 doorways from the common area to the residential units are to be upgraded to be self-closing -/60/30 fire doors and any highlight windows over the doorways are to be replaced to be either part of the door, ie a tall door, or are to be upgraded to have a FRL of not less than -/60/60 measured in both directions.

As a part of the destructive testing of the construction of the floors the existing building is to be inspected in detail to determine the existence of any unprotected service penetration through building elements required to be fire rated such as the bounding walls and floors, and where such are discovered, they are to be fire sealed/stopped, all in accordance with BCA Clause C3.15, and Specification C3.15. This will involve an appropriately qualified contractor inspecting the existing fire rated construction of the building for service penetrations and where not already any penetrations are to be sealed with a compliant system of fire stopping. This may require a destructive investigation where existing building elements are opened to identify levels of fire stopping.

Further, where new works are carried out to achieve the required fire ratings any service penetrations are to be sealed as a part of these works.

4.6 Occupant Access and Egress – Section D

Egress from the residential areas is via the non-fire-isolated stairway serving each level and discharging to the ground floor. Each unit entry door is within 6m of the stairway which is satisfactory.

Egress from each of the ground floor commercial/retail tenancies is directly out their entry doors with each of the tenancies having a maximum travel distance of less than 30m which is also satisfactory.

The following deficiencies were identified in the required exits and egress paths from the residential building which are required to be in accordance with Parts D1 and D2 of the BCA:

1. The non-fire-isolated stairway connecting the residential areas serves for access and egress from Levels 1, 2 and 3 and also due to the configuration of the ground floor entry alcove which permits access to the residential lobby and the commercial suite the stair also technically connects the ground level. As such the stair is considered to connect four storeys, three levels of Class 2 and one level of Class 5 and therefore under the requirements of BCA Clause D1.2 would be required if the building was constructed today to be a fire-isolated stairway.

Due to the layout of the building it is impractical to upgrade the existing stairway to be a fire-isolated stairway, also as the main entry to the commercial suite, and the layout of the suite, it is not practicable to relocate the entry such that the access to the commercial suite could be removed from the entry alcove. As such it would not be unreasonable for Council to apply its discretion to permit the stairway to remain as existing subject to the following works being undertaken:

- a) A hardwired thermal detector is to be located within each residential unit within 1.5m of the unit entry door, or where the unit entry door from the stairway opens to a balcony area (top floor) the detector is to be located within the living area of these units. The thermal detector is to be interlinked with the common area building occupant warning system, such that should the thermal detector be activated the common area building fire alarm will be activated.
- b) Each of the retail and commercial tenancies to the ground floor are to be provided with a hardwired smoke detection and alarm set out in accordance with AS1670.1 and connected to the residential common area fire alarm system, such that any activation of the detectors to the retail or commercial suites will activate the residential common area alarm.
- c) Smoke seals to all four sides of the doors are to be provided to the unit entry doors, which are being upgraded to fire doors.

Council discretion is requested to be applied as above for the following reasons:

- i) The building is an existing building with the existing layout such that the upgrading of the stairway to a fire-isolated stairway would require extremely significant building alterations to provide alter the stairway to be fire-isolated.
- ii) The non-compliance is caused by the connection of the stairway to the ground floor commercial suite via the open sided entry alcove off the street, rather than a direct connection into the stairway at the ground floor.
- iii) The provision of fire doors, as required in Part 4.5 of this report increases the fire separation of the units from the stairway.
- iv) The inclusion of smoke seals to the new fire rated doorways will reduce the opportunity for smoke to enter the stairway from a unit.
- v) The provision of an interlinked thermal detection system within the residential units and interlinked smoke detection system to the retail/commercial tenancies provides for fire detection and alarm at a reduced time than that required of the BCA, which in a building such as this would not require the retail/commercial tenancies to have any smoke detection, nor does it require the provision of the thermal interlinked detectors to the residential units.

2. The balustrade to the Unit 8 balcony was measured to have a concrete hob at 300mm above the floor level, causing a non-compliance with regards to the climbability of the balustrade, and the balustrade has gaps exceeding 125mm (135mm), further the balcony balustrade to Unit 5 was measured to have a height of 910mm in lieu of the required 1000mm and it also had gaps in the balustrade exceeding 125mm. As such all balustrades to all unit balconies are to be inspected by an appropriately qualified contractor and where not already compliant with BCA Clause D2.16 the balustrades are to be upgraded to comply with BCA Clause D2.16. This will involve the contractor checking such things as that the balustrades are a minimum of 1m in height, that there are no gaps in the balustrades that will allow a sphere with a diameter of 125mm to pass through and that where the balustrade protects a fall of 4m or more that there are no climbable elements between 150 and 760mm and rectifying any non-compliances identified.
3. Within Unit 5 it was noted that the bottom panel of the low height windows were openable. As the fall from windows exceeds 4m a balustrade/barrier compliant with BCA Clause D2.16 is required to be provided. As the balustrade protects from a fall from a window the balustrade height is required to be a minimum of 865mm above the floor level and any gaps in the balustrade are to be less than 125mm. The balustrade to the window was measured to be 880mm in height which is satisfactory; however the gaps in the balustrade were measured to be 135mm in width. As such all balustrades/barriers to all unit windows where the fall is 4m or more from the floor level to the ground below are to be inspected by an appropriately qualified contractor and where not already compliant with BCA Clause D2.16 the balustrades are to be upgraded to comply with BCA Clause D2.16. This will involve the contractor checking such things as that the balustrades are a minimum of 865mm in height, that there are no gaps in the balustrades that will allow a sphere with a diameter of 125mm to pass through and that where the balustrade protects a fall of 4m or more that there are no climbable elements between 150 and 760mm and rectifying any non-compliances identified. Alternatively the bottom panels of the windows may be permanently fixed shut or fixed such that they may only open a maximum of 125mm.
4. The balustrades/handrails to the internal stairways were measured to be approximately 900mm at the landings in lieu of the required 1m in height, also the balustrade/handrail to the stairways were measured to be 770mm in height from the nosing of the stairs in lieu of the required 865mm. The balustrades/handrails to the internal stairways are to be upgraded or replaced to comply with BCA Clause D2.16 which will at a minimum require the balustrades to be increased in height to be not less than 1m at the landings, and 865mm in the stair flights, and the balustrades are to have no gaps that would allow a sphere with a diameter of 125mm to pass through them.
5. The stairway serving the residential levels was measured to be 800mm in clear width in lieu of the required 1000mm. It would not be unreasonable for Council to apply its discretion to permit the existing stairway to remain as existing as the stairway serves only a small population with each level having only 2 units, with a total of 6 residential units served, the reduced exit width, with consideration given to the increased fire detection and alarm system within the building, will have a minimal impact on egress in the building.
6. The lowest stairway to the residential common area is not provided with a handrail, a handrail compliant with BCA Clause D2.17 is to be provided to one side of the stairway, with the handrail not to reduce the exit width at this point to less than 800mm consistent with the upper levels.
7. The garbage enclosure located under the stairway at the ground floor is to be upgraded to have a minimum FRL from within the enclosure of 60/60/60. This will

required the inside of the enclosure to be lined with fire rated materials and the door to the enclosure is to be provided with a self-closing -/60/30 fire door.

8. The meter cupboard on the ground floor of the residential common area is to be cleared of all materials not forming part of the metering system and the cupboard is to be upgraded to be lined with non-combustible materials and smoke sealed from the remainder of the building. It is noted that as existing the cupboard has a - /120/30 fire door, which may remain but is to be provided with smoke seals as a part of these upgrading works.
9. The door to the ground floor residential lobby swings into the building against the direction of egress. It would not be unreasonable for Council to apply their discretion to this matter, subject to the doorway being provided with hold open devices such as parrot hooks and loops, due to the existing nature of the building and the low population load to the residential area.
10. The latching to the door to the ground residential lobby area is to be provided with lever style latching that is readily openable at all times from the side seeking egress. The latching is to be set at a height of between 900 and 1100mm.
11. Each of the retail and commercial tenancies on the ground floor have inward swinging doors which is satisfactory as each of the tenancies is less than 200m², however each of the exit doorways is to be provided with hold open devices such as parrot hooks and loops.
12. There is no handrail provided to the front external sandstone steps from the footpath to the retail tenancy – H2O Manly, a handrail compliant with BCA Clause D2.17 is to be provided to one side of the stairway.

It is noted that the scope of this report is for fire and life safety and as such provision for access for people with a disability required under BCA Part D3 has not been considered in this report.

4.7 Fire Fighting Equipment – Part E1

The building, being a building with a floor area of more than 500m², is required to be covered by the following services under this Part:

- Fire Hydrants;
- Portable Fire Extinguishers;

Fire Hydrants

The building is not provided with fire hydrant coverage from an on-site system, it is noted that there is a street hydrant located adjacent to the allotment on East Esplanade to the front of the subject property. There is concern that the coverage from the street hydrant is insufficient as measured coverage from the street hydrant would require approximately 68m of hose length where only 60m is permitted.

As there is very limited space within the building for a hydrant system to be located it is proposed that Council discretion be applied to allow the use of the street hydrant to provide coverage to the building subject to compliant coverage being available from the street hydrant.

It is recommended that a report be obtained from a qualified hydraulic engineer as to the coverage provided by the street hydrants.

Portable Fire Extinguishers

The building is to be provided with portable fire extinguishers within the common areas and retail/commercial suites. The extinguishers are to cover Class A fires and are to be installed and certified as being in accordance with BCA Clause E1.6 and AS2444-1995.

4.8 Smoke Hazard Management – Part E2

The building requires the following smoke hazard management system to be installed:

- Automatic smoke detection and alarm system

Automatic Smoke Detection and Alarm System

In addition to the fire detection system recommended in Part 4.6 of this report, a hard wired smoke detector and alarm system is to be provided throughout the residential units and the residential common areas in accordance with BCA Specification E2.2a. This will include the installation of:

1. standalone hard wired smoke alarms to the units to be located on or near the ceiling between each part of the unit containing bedrooms and the remainder of the unit and where bedrooms are served by a hallway, in the hallway; and
2. to the residential common areas an interlinked smoke detection and alarm system that activates a building occupant warning system in accordance with BCA Specification E2.2a Clause 6.

It was noted that the building had been provided with battery operated smoke detectors, these detectors are to be removed once the hardwired system is installed and commissioned.

4.9 Lift Installations – Part E3

No lifts are installed within the building.

4.10 Emergency Lighting, Exit Signs and Warning Systems – Part E4

Emergency lighting is to be provided within the internal stairway. Any new or existing emergency lighting is to be certified as complying with BCA2009 Clause E4.2 which requires emergency lighting to comply with AS2293.1-2005.

Exit signage complying with BCA Clause E4.7 (non-illuminated signs) is to be provided to the residential area. BCA Clause E4.7 requires that a non-illuminated sign with the word "EXIT" in capital letters not less than 25mm high in a contrasting colour with that of the background be located on the back of the ground floor public entry doorways.

The retail and commercial tenancies are not required to be provided with emergency lighting or exit signage as the ground floor storey is less than 300m² and the tenancies open directly to open space or the footpath. Should any existing emergency lighting or exit signage be located within these tenancies these systems are to be maintained the standard to which they were installed.

PART 5 UPGRADING STRATEGY

5.1 General

This part of the report outlines an upgrading strategy for the subject building, designed to either achieve compliance with DTS provisions of the BCA, or to achieve a reasonable level of compliance with the BCA, given the restraints which exist with an existing building and the areas above where Council discretion is requested to be applied.

5.2 Upgrading Works

In order to achieve an adequate level of fire and life safety in the subject building, it is recommended that the following works be undertaken:

- A. A suitably qualified contractor is to access all units and is to carry out testing/an inspection of the floor construction of each level. The contractor is to certify that the fire separation between the level of the building is in accordance with BCA Specification C1.1 Clause 3.1, which requires that the internal walls separating the units from one another and separating the units from the common areas to the top floor extend to either:
1. the underside of the roof covering, with only roof battens with a maximum dimension of 75 x 50mm and sarking crossing between the walls and the roof covering; or
 2. a concrete floor slab; or
 3. a ceiling that has a resistance to the incipient spread of fire to the roof space of not less than 60 minutes (this is achievable with two layers of 16mm fire rated plasterboard or with intumescent paint).

Should it be found that there is insufficient fire separation between the levels the separation between the levels is to be upgraded to achieve the required fire separation as noted above.

In either of the options above any service penetration, including where downlights are provided through a fire resistance ceiling, are to be appropriately fire stopped in accordance with a tested and certifiable system.

As a part of the testing/inspection of the construction of the floors the existing building is to be inspected in detail to determine the existence of any unprotected service penetration through building elements required to be fire rated such as the bounding walls and floors, and where such are discovered, they are to be fire sealed/stopped, all in accordance with BCA Clause C3.15, and Specification C3.15. This will involve an appropriately qualified contractor inspecting the existing fire rated construction of the building for service penetrations and where not already any penetrations are to be sealed with a compliant system of fire stopping. This may require a destructive investigation where existing building elements are opened to identify levels of fire stopping.

Further, where new works are carried out to achieve the required fire ratings any service penetrations are to be sealed as a part of these works.

- B. The openings in the northern facade identified as being within 3m of the northern boundary are required to be provided with protection against a fire spreading for the neighbouring property. The following options exist to provide the required protection:
1. External wall wetting sprinklers over fixed or automatically closing windows;
 2. External -/60/- automatic closing fire shutters;
 3. Upgrade the existing windows to be automatic closing or fixed closed -/60/- fire windows; or
 4. External wall wetting sprinklers over the windows which are to be provided with heat attenuation screens that have been tested to AS1530.4 to achieve a radiant heat attenuation of not less than 42% (such as Centra Security "Fire Tuff" Radiant Heat Attenuation Screens).
- C. The doors to the residential units are to be upgraded to be self-closing -/60/30 fire doors and any highlight windows over the doorways are to be replaced to be either part of the door, ie a tall door, or are to be upgraded to have a FRL of not less than -/60/60 measured in both directions.
- D. Smoke seals to all four sides of the doors are to be provided to the unit entry doors, which are being upgraded to fire doors.
- E. All balustrades to all unit balconies are to be inspected by an appropriately qualified contractor and where not already compliant with BCA Clause D2.16 the balustrades are to be upgraded to comply with BCA Clause D2.16. This will involve the contractor checking such things as that the balustrades are a minimum of 1m in height, that there are no gaps in the balustrades that will allow a sphere with a diameter of 125mm to pass through and that where the balustrade protects a fall of 4m or more that there are no climbable elements between 150 and 760mm and rectifying any non-compliances identified.
- F. All balustrades/barriers to all unit windows where the fall is 4m or more from the floor level to the ground below are to be inspected by an appropriately qualified contractor and where not already compliant with BCA Clause D2.16 the balustrades are to be upgraded to comply with BCA Clause D2.16. This will involve the contractor checking such things as that the balustrades are a minimum of 865mm in height, that there are no gaps in the balustrades that will allow a sphere with a diameter of 125mm to pass through and that where the balustrade protects a fall of 4m or more that there are no climbable elements between 150 and 760mm and rectifying any non-compliances identified. Alternatively the bottom panels of the windows may be permanently fixed shut or fixed such that they may only open a maximum of 125mm.
- G. The balustrades/handrails to the internal stairways are to be upgraded or replaced to comply with BCA Clause D2.16 which will at a minimum require the balustrades to be increased in height to be not less than 1m at the landings, and 865mm in the stair flights, and the balustrades are to have no gaps that would allow a sphere with a diameter of 125mm to pass through them.
- H. The lowest stairway to the residential common area is to be provided with a handrail compliant with BCA Clause D2.17 to one side of the stairway, with the handrail not to reduce the exit width at this point to less than 800mm consistent with the upper levels.

- I. The garbage enclosure located under the stairway at the ground floor is to be upgraded to have a minimum FRL from within the enclosure of 60/60/60. This will require the inside of the enclosure to be lined with fire rated materials and the door to the enclosure is to be provided with a self-closing -/60/30 fire door.
- J. The meter cupboard on the ground floor of the residential common area is to be cleared of all materials not forming part of the metering system and the cupboard is to be upgraded to be lined with non-combustible materials and smoke sealed from the remainder of the building. It is noted that as existing the cupboard has a -/120/30 fire door, which may remain but is to be provided with smoke seals as a part of these upgrading works.
- K. The door to the ground floor residential lobby is to be provided with a hold open device, such as parrot hook and loop.
- L. The latching to the door to the ground residential lobby area is to be provided with lever style latching that is readily openable at all times from the side seeking egress. The latching is to be set at a height of between 900 and 1100mm.
- M. Each of the exit doorways to the retail and commercial tenancies on the ground floor are to be provided with hold open devices, such as parrot hooks and loops.
- N. The front external sandstone steps from the footpath to the retail tenancy – H2O Manly, are to be provided with a handrail compliant with BCA Clause D2.17 to one side of the stairway.
- O. A report is to be obtained from a qualified hydraulic engineer as to the coverage provided by the street hydrants against the requirements of AS2419.1-2005.
- P. The building is to be provided with portable fire extinguishers within the common areas and retail/commercial suites. The extinguishers are to cover Class A fires and are to be installed and certified as being in accordance with BCA Clause E1.6 and AS2444-1995.
- Q. A hardwired thermal detector is to be located within each residential unit within 1.5m of the unit entry door, or where the unit entry door from the stairway opens to a balcony area (top floor) the detector is to be located within the living area of these units. The thermal detector is to be interlinked with the common area building occupant warning system, such that should the thermal detector be activated the common area building fire alarm will be activated.
- R. Each of the retail and commercial tenancies to the ground floor are to be provided with a hardwired smoke detection and alarm set out in accordance with AS1670.1 and connected to the residential common area fire alarm system, such that any activation of the detectors to the retail or commercial suites will activate the residential common area alarm.

- S. In addition to the fire detection system recommended in Part 4.6 of this report, a hard wired smoke detector and alarm system is to be provided throughout the residential units and the residential common areas in accordance with BCA Specification E2.2a. This will include the installation of:
1. standalone hard wired smoke alarms to the units to be located on or near the ceiling between each part of the unit containing bedrooms and the remainder of the unit and where bedrooms are served by a hallway, in the hallway; and
 2. to the residential common areas an interlinked smoke detection and alarm system that activates a building occupant warning system in accordance with BCA Specification E2.2a Clause 6.

Existing battery operated smoke detectors are to be removed once the hardwired system is installed and commissioned.

- T. Emergency lighting is to be provided within the internal residential stairway. Any new or existing emergency lighting is to be certified as complying with BCA2009 Clause E4.2 which requires emergency lighting to comply with AS2293.1-2005.
- U. Exit signage complying with BCA Clause E4.7 (non-illuminated signs) is to be provided to the residential area. BCA Clause E4.7 requires that a non-illuminated sign with the word "EXIT" in capital letters not less than 25mm high in a contrasting colour with that of the background be located on the back of the ground floor public entry doorways.

Grant Harrington

From: Barefoot Coffee Traders <shop@barefootcoffee.com.au>
Sent: Monday, 15 August 2011 3:23 PM
To: Grant Harrington
Subject: Fwd: Hours / Days of Operation and number of seats

Hi Grant,

Please see below from Natasha.

Please also proceed with our Complying Development Application. The sooner the better for obvious reasons

Thanks in advance

Michael & Steve

----- Forwarded message -----

From: Barefoot Coffee Traders <shop@barefootcoffee.com.au>
Date: Mon, Aug 15, 2011 at 2:24 PM
Subject: Re: Hours / Days of Operation and number of seats
To: Natasha Harras <natasha@nhup.com.au>

YOU'RE AMAZING !!!

Finally some good news

Michael :)

On Mon, Aug 15, 2011 at 1:48 PM, Natasha Harras <natasha@nhup.com.au> wrote:

Hi Michael and Steve

As discussed on the phone today, I note your advice that David Stray from Council advised you that you could get a complying development certificate to operate the proposed café on the site, but that this would restrict you to operating only 6 days a week. As there are no relevant complying development provisions under the Manly LEP, it is the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (The SEPP) that are relevant in this case. You were concerned about the hours of operation and the number of seats you could have. My opinion is as follows:

Hours of Operation

Part 5, Subdivision 2 of the SEPP sets out the requirements for a change of use to be considered as complying development. I have copied the entire section below, but it is useful to note that:

5.6(h) provides that:

if there is no existing condition relating to hours of operation, the premises must not be operated outside the following hours:

(i) if the new use is as bulky goods premises or commercial premises—7.00 am to 10.00 pm Monday to Saturday and 7.00 am to 8.00 pm on a Sunday or a public holiday,

(ii) in any other case—7.00 am to 7.00 pm Monday to Saturday and the new use is not to be carried out at any time on a Sunday or a public holiday

Under this SEPP, I believe you would be a commercial premises. This is defined in the SEPP as “**commercial premises means business premises, office premises or retail premises**”. Retail premises are not separately defined in the SEPP, but are defined in the “Standard Instrument” and include “Food and Drink Premises”. A food and drink premises is in turn defined as:

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

(a) a restaurant or cafe,

(b) take away food and drink premises,

(c) a pub.

***Note.** Food and drink premises are a type of retail premises—see the definition of that term in this Dictionary.*

Therefore as you would be a commercial premises under this SEPP and, as the existing consent does not have a condition relating to hours of operation, I believe you can operate 7 days a week as set out under 5.6(h)(i) above.

Number of seats

There is nothing in the complying development provisions that specifically restricts the number of seats. However 5.6(i) provides that:

(i) if there is no existing condition relating to car parking, the new use must comply with any relevant requirements contained in an environmental planning instrument or a development control plan applying to the land relating to car parking.

It can be argued that the new use does not result in a deviation from the DCP applying to the site as it does not result in any additional demand for on-site parking. The previous use of the site included a refreshment room area which generated a requirement for 5 parking spaces (refer to my detailed letter dated 4 August 2011). Your proposed use will also generate a requirement for 5 spaces providing your floor area does not exceed 33m² or 15 seats. If you have a complying development certificate, you could therefore operate with up to 15 seats in my opinion. Any increase above 15 seats would mean that you are no longer complying development and would require a DA. It would also attract a requirement for payment of a s94 contributions towards parking.

I trust that is of assistance to you.

If you decide you want to proceed with a DA for more than 15 seats or for an awning, I will be more than happy to assist or to advise on the likelihood of approval.

I have attached an invoice for my work to date.

Kind regards,

Natasha



natasha harris urban planning pty ltd

ph: 0431231969 fax: 02 9299 1221

email: natasha@nhup.com.au

web: www.nhup.com.au

abn: 17 131 896 645

Subdivision 2 Change of use of premises

5.4 Specified complying development

A change from a current use to a new use that is a change from:

- (a) a bulky goods premises to another bulky goods premises, or
- (b) a type of commercial premises to another type of commercial premises, or
- (c) a light industry to another light industry, or
- (d) a warehouse or distribution centre to another warehouse or distribution centre, or
- (e) a light industry to a warehouse or distribution centre, or
- (f) a warehouse or distribution centre to a light industry, or
- (g) a light industry to an ancillary office, or
- (h) a warehouse or distribution centre to an ancillary office,

is development that is specified for this code.

Note. See the entry for change of use of premises in the General Exempt Development Code.

5.5 Development standards—general

The standards specified for that development are that:

- (a) the current use must be a lawful use, and
- (b) the current use must not be an existing use within the meaning of section 106 of the Act, and
- (c) the new use must not be carried out at premises that are a manufactured home, moveable dwelling or associated structure, temporary structure, tent, swimming pool, ship or vessel, and
- (d) the new use must not be any of the following:
 - (i) a funeral chapel,
 - (ii) a funeral home,
 - (iii) retail premises where firearms within the meaning of the *Firearms Act 1996* are sold,
 - (iv) landscape and garden supplies,
 - (v) a market,
 - (vi) a pub,
 - (vii) restricted premises,
 - (viii) a roadside stall,
 - (ix) sex services premises,
 - (x) timber and building supplies,
 - (xi) vehicle sales or hire premises, and
- (e) the new use must not result in a change of building use under the *Building Code of Australia* that is any of the following:
 - (i) from a class 5 or 6 building to a class 2, 3, 4, 7a, 7b, 8, 9a, 9b or 9c building,
 - (ii) from a class 7b or 8 building to a class 2, 3, 4, 6, 7a, 9a, 9b or 9c building, and
- (f) a new use that is an ancillary office within premises that are a warehouse or distribution centre or are used for light industry must not occupy more than:
 - (i) the maximum amount of gross floor area permitted for such an office in such a building under an environmental planning instrument applying to the land, or
 - (ii) 20% of the gross floor area of the building in any other case, and
- (g) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, car parking and landscaping, and

(h) if there is no existing condition relating to hours of operation, the premises must not be operated outside the following hours:

(i) if the new use is as bulky goods premises or commercial premises—7.00 am to 10.00 pm Monday to Saturday and 7.00 am to 8.00 pm on a Sunday or a public holiday,

(ii) in any other case—7.00 am to 7.00 pm Monday to Saturday and the new use is not to be carried out at any time on a Sunday or a public holiday, and

(i) if there is no existing condition relating to car parking, the new use must comply with any relevant requirements contained in an environmental planning instrument or a development control plan applying to the land relating to car parking.

Note. The construction or installation of a driveway or hard stand space in relation to bulky goods premises, commercial premises, premises used for light industry or a warehouse or distribution centre is not exempt development or complying development under this Policy.

5.6 Development standards—Building Code of Australia matters

The following standards are also specified for that development:

(a) if the change of use involves an area of more than 500m² of bulky goods premises or commercial premises, or an area of more than 1000m² of premises used for light industry or a warehouse or distribution centre, that area must:

(i) comply with the requirements set out in DP2–DP5 of Volume 1 of the *Building Code of Australia*, and

(ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*, and

(iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the *Building Code of Australia*,

(b) if the building is a mixed use development that also contains a class 2, 3 or 4 portion, the area involved in the change of use must be separated from the class 2, 3 or 4 portion by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the *Building Code of Australia*.

Note. Pursuant to the requirement under the Act that a building must be suitable for occupation and use in accordance with its classification under the *Building Code of Australia*, a change of use may require building work to be carried out despite such work not being included in an application for a complying development certificate.