

ACCESS FOR PEOPLE WITH DISABILITIES TO CLASS 2 AND 3 BUILDINGS

Purpose

The purpose of this Newsflash is to clarify the requirements for the provision of access for people with disabilities in Class 2 and 3 buildings.

Background

Over recent years, we have seen a significant increase in the number of apartments operating as hotels and motels. However some of these buildings were originally approved as Class 2 buildings and do not have the required access or provision of sanitary facilities for people with disabilities.

Responsibilities of Certifier

A certifier must assess the proposed building work based on the advice received with the development application. However, there may be instances where the certifier is made aware that the proposed use of the premises may be inconsistent with the classification shown on the application. In some cases, this may influence the extent to which access for people with disabilities is provided. For example, if a building application is submitted showing the intended use as a class 2, D3 of the BCA will not apply. If the building is subsequently used as a class 3, D3 becomes applicable.

A3.4 of the BCA will allow buildings to have more than one classification. If the building has a dual classification (eg a Class 2/3 building), then the more stringent provisions are required to be met.

Compliance with SBR

Class 2 buildings are currently not required by the BCA to have equitable access to and within parts of the building.

In the case of a Class 3 building i.e. a motel, hotel, boarding house, quest house, backpackers accommodation and the like, performance statement DP1 of the BCA requires “ *Access must be provided, to the degree necessary, to enable (a) safe; and (b) equitable and dignified, movement of people to and within a building*”.

Where a Class 2 building changes to a Class 3 building, Part 10 of the SBR applies and the building must comply with the BCA for the new classification and the approval by a building certifier must be obtained.

Clause D3.2 and Table D3.2 sets out the parts of a Class 3 building to which access is required.



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Responsibilities of Applicants

The owner of the building is responsible for ensuring the correct facilities are provided to and within the building. Where a building has been approved as a Class 2 and it then changes to a Class 3, or parts of it change to a Class 3, it must comply with equitable access provisions in the BCA. To obtain a Certificate of Classification, a new development permit may be required for the building work that may be required to bring the building into conformance with the relevant provisions of the BCA. In addition, an application for a “Material Change of Use” under the local government’s planning scheme may be required.

If an owner uses a Class 2 building as a Class 3 building without obtaining the necessary building or planning approvals, then he/she is committing a development offence under the IPA Sections 4.3.1. (1), 4.3.2.A, 4.3.3. (1), 4.3.4. (1) and 4.3.5. (1).

Responsibilities of Local Government

Many local governments have local laws requiring the owner of accommodation premises to register their use as a hotel, motel, boarding house etc. Where these applications are received, a check should also be made as to the correct classification of the building.

Please contact Mr Bruce Robb on (07) 3237 1705 should you require further information on this matter.