

Annexure A: Derivation of BCA Class 2 Building Definition

CLASS 2 BUILDINGS

Introduction

The Department of Infrastructure and Planning (DIP) Newsflash 367 of 22 May 2009 published a draft 'Guideline' clarifying the correct use of class 2 buildings under the Building Code Australia (BCA) in Queensland. 'Guideline' 367 published on 31 July 2008 is complementary to 'Guideline' 327. The existing BCA definitions were derived following extensive public and government consultation during the 1980's and was based on building **use, hazard and occupancy**. These criteria were clearly understood by the 1980/81 standardisation committee. Unfortunately the understanding of the class 2 building definition has since been corrupted by vested interest developers (aided by incompetent or corrupt local council officers) who saw an opportunity to increase profit at the expense of safety.

Classification Reasoning

The following Part of the BCA is specific in stating the 'Principles' and 'Intent' of building classification.

PART A3 CLASSIFICATIONS OF BUILDINGS AND STRUCTURES

A3.1 Principles of Classification Intent

To state the basis of any decision regarding the classification of a building or part of a building.

The use of a building determines its classification. Use is determined on the basis of its design, construction or adaptation.

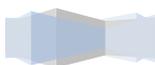
A3.2 Classifications Intent

To categorise buildings of similar risk levels based on use, hazard and occupancy.

Classification is a process for understanding risks in a building or part, according to its use. It must be correctly undertaken to achieve BCA aims as appropriate to each building in each circumstance.

What is a class 2 building?

Newsflash 327 included a succinct précis of the history of class 2 buildings and the intent of the BCA definition. The Queensland historic legislation was also quoted:



“The Standard Building By-Laws 1975 (repealed), which preceded the BCA in Queensland, included the term ‘dwelling units’ in the definition of a class 2 building and required a dwelling unit to be suitable for use as a separate domicile. The dictionary definition of domicile includes ‘a place of residence; an abode; a house or home; a permanent legal residence’.”

Moreover, the Macquarie Dictionary defines dwelling as:

- “1. a place of residence or abode; a house.
2. continued or habitual residence.”

Furthermore:

BCA 88 (1988) included classifications from existing State and Territory Building Acts and Regulations. At that time, class 2 buildings were: *“multiple residential, self-contained dwellings where occupants reside.”*

Adding further creditability to the definition is the Australian Bureau of Statistics who defines a ‘Dwelling Unit’: *“A dwelling unit is a self-contained suite of rooms, including cooking and bathing facilities and intended for long-term residential use”.*

The South Australian Government has published its understanding of a class 2 building as:

*“A building containing 2 or more sole-occupancy units **each being a separate dwelling.**”*

The document goes on to state:

“The last few words are important as the only other definition that refers to ‘dwellings’ is the definition for class 1a buildings (i.e. houses that will normally be occupied by a number of related people on a long-term basis). Accordingly, the occupancy and use of the separate units in a class 2 building should be similar to a house. Because the residents are permanent and related, they will be familiar with the building, have a degree of control over (and vested interest in) what happens within the unit and in an emergency they will know the best means of escape and will assist each other.”

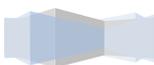
The New South Wales Government made a succinct statement in:

HOME BUILDING REGULATION 2004 - REG 6

Definition of dwelling—certain residential buildings and other structures excluded.

For the purposes of the definition of dwelling, the following are declared to be excluded from that definition:

- a) a boarding house, guest house, hostel or lodging house,
- b) all residential parts of a hotel or motel,



- c) any residential part of an educational institution,
- d) accommodation (other than self-contained units) specially designed for the aged, persons with a disability or children,
- e) any residential part of a health care building that accommodates staff,
- f) a house or unit designed, constructed or adapted for commercial use as tourist, holiday or overnight accommodation, (underline added)
- g) any part of a non-residential building that is constructed or adapted for use as a caretaker's residence,
- h) a moveable dwelling (with or without a flexible annexe) within the meaning of the Local Government Act that is, or is capable of being, registered under the class Road Transport (Vehicle Registration) Act (such as a caravan or a motor home),
- i) a residential building for the purposes of which development consent can be granted only because of State Environmental Planning Policy No 15-Rural Land sharing Communities.

All of the above leave no doubt as to the intended correct use of class 2 buildings; therefore, the conclusion must be that the incorrect approval and construction of class 2 buildings for class 3 use in Queensland was deliberate and blatant manipulation of the BCA. Thus leaving some transient holiday resort complexes, that should have been built to Class 3 standards, with no provision for access or escape by persons with a disability and lower fire detection and alerting standards,

The following concessions can apply to class 2 buildings:

Disability Access:

- No access or facility requirements for persons with disabilities

Energy Efficiency:

- Less stringent requirements, based on the assumption that buildings will be used as permanent dwellings (consistent with class 1a use) and that the occupants will pay the electricity bills

Fire Safety:

- Less stringent fire resistance requirements in some cases
- Self-contained smoke alarms permitted with no requirement for a full smoke detection system
- No requirement for fire alarm monitoring system connected to a fire station or fire station dispatch centre (unless fire sprinklers are required)
- Additional exit sign exemptions
- Sound systems and intercom systems for emergency purposes not required unless the building is more than 25 m high.

Queensland Understanding

Unfortunately, in the past, the Queensland Government has allowed the Holy Grail of tourism to override practical considerations of building safety and human rights. The construction and use of Class 2 buildings as transient tourist accommodation, with inadequate fire detection and no access for persons with a disability, and ignoring the rights of persons seeking a building classification that provides permanent long-term accommodation, with the amenity, level of health and safety commensurate with community expectations, have been sacrificed to the expediency of tourism development.

As population densities increase (in line with Government policy) the number of persons permanently accommodated in apartment buildings will increase. These persons have every right to expect accommodation standards that provide the amenity, health and safety equal to private residential houses. They should not be expected to live with noise, and short term renters (strangers) using their recreational facilities such as swimming pools, garden areas and community lounges. The lifestyle expectations of permanent residents and short-term transient holidaying tourists are entirely incompatible.

The Australian Building Codes Board (ABCB) public consultation paper on noise levels in buildings, reported that an UK Department of Environment, Transport and Regions' January 2001 document states:

"Noise, at the sort of levels encountered in dwellings, can lead to a wide range of adverse health effects including loss of sleep, stress and high blood pressure. Qualifying the risks attributable to exposure to environmental noise and, particularly, neighbour noise is difficult but it is suggested that there are between one and ten deaths per year in the UK (these being suicides or as a result of assaults) attributed to noise from neighbours. The number of less severe problems attributed to noise (such as stress, migraines, etc.) is estimated to be about 10,000 per year."

As from 1 January 2012 the Work, Health and Safety Act 2011 makes it a financial graveyard for any body corporate misusing a class 2 building for short term accommodation. The fire safety standards of a class 2 building will be found to be inadequate for transient accommodation building use. *"In the event of a death by fire of a transient resident in a class 2 building, being a worst case, which would be recklessness causing death or serious injury, it's up to a \$3 million fine for the body corporate and \$600,000 fines and/or five years in jail for individual committee members,"* Michael Teys (solicitor) says. *"And your EC insurance won't cover you - deliberate negligence will invalidate most strata insurance policies."*

