

## 7 December 2022 as tabled to Safer Buildings Taskforce

Foreword: *The below document 'Duty of Care' was written in 2012 by UOAQ executive committee member, the late Mr Gregory Carroll. As then provided to government, it today documents 25 years of UOAQ notice to government and departmental executive officers of serious but continually dismissed concerns surrounding safe building occupancy in Queensland. As such, the executive liability provisions of both the Building and Planning Acts require urgent review by those charged with the responsibility to ensure safer buildings.*

*It is not a matter of IF, but WHEN, the luck that Mr Carroll flagged 10 years ago runs out. The question for those exposed through executive liability of s257 and s227 is: Will luck run out tomorrow, over years leading up to or during the Olympic Games in 2032?*

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## DUTY OF CARE! – WHAT DUTY OF CARE?

### Situation

On 27 November 2012 a 15 storey building containing the Top of the Mark holiday complex and Shooters Night Club were engulfed in a major fire originating in the Top of the Mark electrical switch board and transformer room. Police and fire fighters responded to an alarm at 1225 am, and declared an Emergency Situation under the Public Safety Preservation Act at 1232 am. The fire rapidly spread to three higher floors of Top of the Mark and into Shooters night club where the ceiling collapsed just as the last patrons were evacuated. 1500 to 2000 residents and night club patrons including interstate schoolies were evacuated to adjacent streets. The fire was not contained until 03.40 am. Power was cut to the complex and three persons were stranded in an elevator and had to be rescued. The Emergency was lifted at 07.40 am.

### Of the fire

One resident on the 12<sup>th</sup> floor was quoted in the Gold Coast Bulletin as saying that she thought it was an explosion. "We were all freaking out," the fire fighters came in and told us to 'get out, get downstairs.' "I jumped out of bed and woke up my friends. We all had our hands over our mouths, I was panicking." One nightclub bouncer reported that "There was thick black smoke everywhere. The smoke was so thick you could hardly see a metre in front of you." Queensland Fire and Rescue Service (QFRS) area commander Todd Murray said the fire, was difficult to contain being an electrical fire in a major transformer switchboard room.

### Of the evacuation

The evacuation was completed in about 5 minutes by police and QFRS fire fighters.

Gold Coast police chief Paul Ziebarth said: "The fire could have been disastrous.

It was fortunate we had the extra police here for schoolies who acted quickly to avert a potential tragedy.”

**“WE DODGED A BULLET ON THIS,”** he said.

Surfers Paradise police inspector Mat Rosevear said the roof of Shooters nightclub had partially collapsed and it was “very lucky” no-one was killed or seriously injured.

One observer said: “ It could have been much worse with the number of people that were involved. It’s just lucky no-one was seriously injured.”

Approximately 40 people were treated on the scene by paramedics and two persons were transported to Gold Coast Hospital.

### **Lessons.**

This event was an extreme exercise in LUCK.

- Lucky the police were in the area of Shooters nightclub when the fire started.
- Lucky additional police were on duty because of schoolies.
- Lucky Shooters nightclub – a class 6 – building with back to base fire alarms was involved in the fire.
- Lucky the fire station was in close proximity.
- Lucky the building was not one of the more isolated hi-rise buildings at the northern or southern extremities of the Gold Coast.
- Lucky the police were able to evacuate Shooters nightclub before the ceiling collapsed.
- Lucky the fire appliances were able to access Orchid Avenue and the fire was contained to one building location. Had the fire involved more than one building, fire appliance access would have been extremely restricted.
- Lucky there was no mob panic during the escape, with persons crushed or trampled.

### **CAN QUEENSLAND RELY ON LUCK?**

The UOAQ has been warning State and Local Governments for the past 12 years that a high-rise building fire disaster was in the making. Fire is inevitable and as buildings age, system failures such as circuit board and transformer fires will increase. Fire does not discriminate, anyone anywhere any time can be involved in a fire scenario. The Building Code Australia recognised the safety hazards of fire in buildings – especially hi-rise – and categorised buildings by risk, specifying alarm systems, fire refuges, escape routes and warning systems that were appropriate for the building use and type of occupant.

Class 2 buildings were designed for long term or permanent residents who were familiar with the building and could escape by themselves or with the help of neighbours.

Class 3 buildings were designed with higher standard fire alarm systems, fire refuge areas, pressurised smoke exclusion areas and intercommunication systems to assist in warning and egress. Class 3 buildings also have provisions to assist persons with a disability to exit the building in an emergency.

The GCCC Senior Town Planner does not recognise the Building Code Australia building classification and has been incorrectly approving class 2 buildings for class 3 use all over the Gold Coast for many years. The Building Code Queensland Newsflash 327 and 367 define the correct use of class 2 buildings as does the recent discussion paper released by the Australian Building Codes Board (ABCB).

In August 2011 the ABCB acting on a recommendation of the Productivity Commission conducted a public survey as part of a review of class 2 and class 3 building definitions.

In May 2012 the Queensland Building Industry Consultative Group (BICG) considered an ill-founded recommendation to introduce class 2a and 2b building definitions via a Building Code Queensland (BCQ) amendment to the Building Code Australia.

On 6 August 2012 the ABCB published 'Guidelines' as to the correct understanding of class 2 and class 3 building use.

To date BCQ has failed to make any public comment on the ABCB 'guidelines', or, apparently take any action to improve the safety standards of residential and accommodation hi-rise buildings in Queensland.

The UOAQ considers that both the BCQ and Queensland Government have a 'duty of care' to Unit Owners, residents and tourists to provide residential and accommodation buildings that comply with the highest standards of construction, access and egress and fire detection and alerting. At this time this duty of care is sadly deficient in regulation, enforcement, implementation and pending action by the responsible Government department.

The UOAQ requests advice as to when BCQ may be expected to act to protect the lives of unit owners and residents in Queensland.

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**10 years on, the silence of government is deafening and the obfuscation alarming.**