

**Submission
No 93**

**ADEQUACY OF THE REGULATION OF SHORT-TERM
HOLIDAY LETTING IN NEW SOUTH WALES**

Name: Mr Gregory Carroll

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CLASS 2 & 3 BUILDINGS – LONG AND SHORT TERM ACCOMMODATION

Background

In 1980, by way of an inter-government agreement, a national body called the Australian Uniform Building Regulations Co-ordinating Council (AUBRCC) was formed. This organisation, which consisted of the Commonwealth, state and territory governments, was principally created to develop a national building code. This task was successfully completed in 1990 with the production of the Building Code of Australia (BCA90).

The BCA relates to building use and is defined by the Australian Building Codes Board as:

“The goals of the BCA are to enable the achievement and maintenance of acceptable standards of structural sufficiency, safety (including safety from fire), health and amenity for the benefit of the community now and in the future.”(emphasis added)

The two building classifications of interest to unit owners and this review are:

Class 2 (Long term residential buildings); and

Class 3 (Short term accommodation buildings).

The 1980/81 standardisation committee derived the building classification definitions from an assembly of submissions of building codes from every State and Territory in Australia and also submissions from New Zealand.

There was clear logic to the development of the definitions within the guidelines established for the creation of a national building code.

Class 1 buildings were clearly understood as private residential dwellings.

Class 2 buildings were considered to be private residential dwellings (class 1) built above, beside or below each other. The aim of the committee was to restrict regulation to that applying to class 1 dwellings unless there were structural or safety requirements that justified additional regulation - thus minimum fire alarms and no access requirements for persons with a disability. (Pre 2011) The objective was to minimise cost of construction consistent with meeting the objectives of the committee and minimum burden on the community.

Class 3 buildings were considered to be commercial application buildings providing accommodation for a variety of applications and a variety of persons. This included commercial hotels, motels, boarding houses, student accommodation, etc. Thus the safety standards had to meet the worst case scenario of these uses. Fire alarm systems had to be fully automatic and provide coverage for the entire building. Access was required for persons with a disability, structural sufficiency had to be developed to withstand high occupancy numbers, materials had to be higher fire resistance and escape systems had to be to the highest standards available in 1980/81. Class 3 buildings were of necessity more expensive to construct, but the committee was of the mind that higher construction costs could be absorbed because of the commercial nature of the buildings.

There was no doubt in the minds of the standardisation committee they had clearly defined the classifications and building use.

Tourism Considerations

In 2003 the Western Australian government released the report of the Tourism Planning Taskforce that was an in-depth investigation into planning for future tourism sustainability. The Taskforce investigations provided the opportunity for the factors and issues that impact on the tourism industry, the tourist experience and tourist satisfaction, to be recognised.

The key principle identified was that a sustainable tourism industry, with its many inherent benefits, “requires tourism development to be undertaken for tourism purposes.” Past practise in New South Wales, in many instances, has been to build class 2 residential accommodation buildings and then try to adapt them to tourism facilities. This has adversely impacted the tourism experience and the quality of living of permanent residents living in these buildings. The Government policy should always have been, that the Government should encourage the construction of class 3 buildings purpose designed to cater for tourists and containing those features sought by tourists for relaxation and enjoyment.

The Hotel/ Motel industry is fully equipped to provide tourist accommodation providing the standards and facilities expected by the touring public. Moreover, the staff in these facilities are professional hospitality personnel trained and qualified to provide the level of service expected by tourists. The recent development of hotels and motels with unit type accommodation and first class facilities has made provision of unit accommodation, with mum and dad caretakers, redundant.

There is no dispute that hotel/ motel buildings must be constructed to BCA class 3 standards providing the amenity, level of health and safety commensurate with tourist expectations. This is an expensive development scenario where the higher establishment and operating costs can be recouped from the more affluent tourist market.

Class 2 & Class 3 Use

The distinction between Class 2 and Class 3 building use was clearly understood by the standardisation committee working on the predecessor to the draft BCA as far back as 1980. Class 2 buildings were defined as places of permanent residence and class 3 buildings were defined as transient/ commercial accommodation. The defined objective of the standardisation committee (that has since become the objective of the BCA) was:

The achievement and maintenance of acceptable standards of structural sufficiency, safety (including safety from fire), health and amenity for the benefit of the community now and in the future.

Two distinct types of building use was the vision of 1980/81 standardisation committee when first defining class 2 buildings as places of private residence and class 3 buildings as transient accommodation.

The use of class 2 mixed use buildings for tourist accommodation should be of great concern to the Government for safety of occupants and creation of problems for both the permanent residents and transient tourists.

Independent Findings

The study and report by the Western Australian Government found:

“There is potential for conflict between short stay tourists and residents in a tourist facility due to the different objectives of the two groups in being at the premises. This conflict can manifest itself in many ways but has two primary outcomes:

- A de-valuation of the “tourist” experience available at the development through there being a non-tourist character or ambiance to the facility.
- An impact on the amenity of the resident due to different lifestyle priorities to short stay tourists, who in many cases have a higher “recreation priority”.

Supporting this finding was the thesis of Kelly Cassidy, a final year PhD student at Griffith University, as reported in the Australian newspaper on 19 October 2007:

- i) “Apartment owners are far from one homogenous group.”
- ii) “They mostly have different and competing interests.”
- iii) “The conflict potential in many buildings is huge.”

Bill Randolph, director of the Faculty of the Built Environment at the University of New South Wales when endorsing the study (in the same edition of the Australian) said:

“Legislators, policy-makers and managers are all simply going to have to get their heads around this if they’re going to manage this sector into the future in an appropriate way.”

Committee Recommendation

The Committee should recommend separation of permanent residents and short term accommodation. Preferably by building classification but as a minimum by floor access designed to specific classification standards – preferably with dedicated entrance requirements for each classification.

Gregory J. Carroll

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