

04 August 2021

Our Ref: P218_260

Stuart C Plumb
Sent via Email

Attention: Stuart Plumb

20 Glen Avenue, Randwick
Re: Statement of Facts & Contentions (SoFC) – BCA Assessment

This correspondence has been prepared to assist the applicant with proceedings which are listed before the Land & Environment Court of NSW.

The purpose of this correspondence is to demonstrate to the Court that whilst the current Building Code of Australia (BCA) Report prepared by others does not reflect the latest architectural drawings the intent of the subject report is still valid and the current design is capable of achieving compliance with current requirements contained within the BCA, subject to the inclusions of the amendments discussed herein.

Design Confidence has been engaged to provide building regulatory advice regarding the compliance status of the proposed residential development when assessed against the relevant prescriptive requirements as contained within the Building Code of Australia (BCA) 2019 – Volume 1.

Design Confidence has had some involvement on the project since the development of the schematic architectural design which was submitted to Randwick Council for approval, the advice being provided to date has been in the context of the following –

- » Building Code of Australia (BCA) 2019 – amendment 1;
- » Performance Based Design / Fire Safety Engineering principals;

Whilst limited involvement has occurred on the design to date, this office has since undertaken a series of assessment of the proposed design against the relevant provisions of the BCA and based upon this review we believe that the design can achieve BCA compliance, provided specific measures are included which are discussed herein.

This and the following 4 pages is
the annexure marked "C" referred to in the
Affidavit of Arthur C. Bushman
sworn / affirmed
at Edgely this 14th day of September 2021
before me

.....
Solicitor / Justice of the Peace

2. Response to Contentious Issues

The matter in question which this correspondence responds to is in paragraph 5 in Section B of the contentions which states –

Confirmation as to the need for a second exit to the basement

The response below will look to clarify and confirm that a second exit from the basement is required, the reason why is to ensure compliance with the BCA.

Clause D1.2 of the BCA states –

- (a) All buildings – every building
- (b) Class 2 to 8 buildings – in addition to any
- (c) Basements – in addition to any horizontal, not less than 2 exits must be provided from any storey if egress from that storey involves a vertical rise within the building of more than 1.5m, unless –
 - (i) The floor area is not more than 50sqm; and
 - (ii) The distance of travel from any point on the floor to a single exit is not more than 20m
- (d) Class 9 buildings 0 in addition to a
- (e)
- (f)
- (g)

If it can be demonstrated that the basement proposed meets the criteria specified within sub-clause (c) above then the second exit from the basement will be required.

The assessment undertaken revealed the following –

- (i) The vertical rise from the basement level to a road / open space is exceeds 1.5m, being 12m;
- (ii) The floor area of the basement is 318sqm; hence it exceeds 50sqm
- (iii) Discounting the second exit the distance to an exit from the basement is greater than 20m, being 23m.

The above demonstrates that a second exit is required from the basement, if the second exit is not provided then compliance with the BCA will not be achieved.

Conclusion

Our strategy for ensuring compliance will be refined and documented over the coming months in conjunction with the continual development of the architectural documentation, if required.

As stated above, we are of the opinion that the subject design in its current format can achieve compliance with the BCA and that a Construction Certificate can be issued on the current design, provided not less than two exits are provided from the basement.

We trust that the above information is sufficient for the Courts in assessing the merit of the architectural design.

This statement should not be construed as relieving any other parties of their legislative obligations.

I possess Indemnity Insurance to the satisfaction of the building owner or my principal.

Yours Faithfully



Luke Sheehy

Principal

For Design Confidence (Sydney) Pty Ltd

APPENDIX A

Curriculum Vitae

Luke Sheehy

Principal |

Accredited Fire Safety Engineer C10

P: +61 2 8399 3707

e: lsheehy@designconfidence.com

Qualifications

Master of Engineering (Building Fire Safety and Risk Engineering)

University of Victoria,
Australia

Graduate Certificate - Performance Building & Fire Codes & Risk Engineering

University of Victoria,
Australia

Graduate Diploma of Building Surveying

University of Western Sydney,
Australia

Diploma of Environmental Health & Building Surveying

Sydney Institute of Technology,
Australia

Professional Memberships

National Fire Protection Association

Member

Society of Fire Safety – Engineers Australia

Member

Member of the Society of Fire Protection Engineers

Member

Association of Accredited Certifiers

Member

Professional Summary

Mr. Luke Sheehy is a Principal of Design Confidence.

Having worked within the building regulations industry within Australia and the United Arab Emirates for the past twelve years, Luke has developed an in-depth knowledge the both Local and International Building Codes having worked on complex and difficult projects throughout Australia, North Africa, India and the Middle East.

He has extensive experience in identifying and the implementation of performance based solutions for large-scale developments. Luke has considerable experience in assessing, co-ordinating and facilitating large residential, commercial and industrial projects that require negotiations with local authorities.

Experience and Achievements

- Armidale Courthouse redevelopment
- West Pymble Pool
- Alexandria Park Community School
- New Science Building – WSU – Parramatta Campus
- Campbelltown Clinical School – WSU – Campbelltown
- Centre for Excellence – Sydney Boys / Girls High School

"D"

Mechanical Services Design
Carpark Ventilation

20 Glen Ave Randwick NSW

Land and Environment Court, Case number: 2021/00175542

DA Application No: DA/154/2020

To: **Randwick City Council**

Ref No: 01718-1, Rev B

Date: 3rd September, 2021

Rev	Date	Description	Prepared By	Signed
A	05.08.21	Original issue	M. Sarkis	<i>M. Sarkis</i>
B	03.09.21	Revised architectural reference	M. Sarkis	<i>M. Sarkis</i>

Prepared By:



152 Wollongong Rd, Arncliffe NSW 2205
PO Box A98
T : (02) 9599 1969
Email: msarkis@twoms.com.au
Web: www.twoms.com.au

This and the following 2 pages is
the annexure marked "D" referred to in the
Affidavit of *Anthony Bushnell*
sworn / affirmed
at *Edinburgh* this 14th day of September 2021
before me

[Signature]
Solicitor / Justice of the Peace

Dear Sir/Madam,

I have been commissioned as the mechanical services consultant to assist with the Mechanical Services design for the carpark, for the proposed new residential development at 20 Glen Ave Randwick NSW.

In response to clause (d) of the 'Contentions that there is insufficient information to access the application' of S4.56, I confirm that I have considered all National Construction Code (NCC-1 of BCA2019, Amendment 1), Deem To Satisfy (DTS) compliant ventilation options for the carpark ventilation, including natural ventilation.

Due to the site constraints the natural ventilation for the carpark is not feasible in this case, as it does not comply with the requirements of AS1668.4-2012, Section 4. This is due to insufficient openings to outside and the minimum clearances required from the openings (as detailed in clause 4.3.3 of AS1668.4-2012).

Supply only ventilation to the carpark was also considered. It is also non-compliant with AS1668.2-2012 due to required minimum distance from the relief opening.

The most effective and efficient Deem To Satisfy (DTS) compliant solution, in this case, is to use natural make-up air via louvre openings on basement level, and a mechanical exhaust ventilation system. The exhaust ventilation will be via an exhaust fan on basement level, and exhaust shaft from basement to the roof. There will be a small section of ductwork on the roof, to enable the discharge to meet the minimum distances required from boundaries, openings and intakes, as per AS1168.2-2012.

My qualifications include: 27 years experience in Building Services, a chartered Engineer (MIEAust), Registered Professional Engineer (NPER and RPEQ), C9 and C11 accredited certifier, an Accredited Assessor for NABERS, accredited assessor for the CBD, Qualified Section J Assessor, Building Energy consultant and Registered Design Practitioner.

*MIEAust, CPEng, CBSEng, NPER, RPEQ, APREng
C9 and C11 Accredited Certifier
DBP Registered Design Practitioner
BE. Mech, M. Arch Sc and Building Services
M. ASHRAE, M. AIRAH.*

M: 0411 343 782

Yours sincerely,

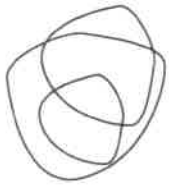


Michel Sarkis

Director

Reference Documents

1. Land and Environment Court, Case number: 2021/00175542
2. Architectural drawing PLU-DJO-6 Rev G, Roof Level/Site Plan, dated 25.08.21, by CSA Architects



CSA
ARCHITECTS

"F"

10 September 2021

List of changes Rev E section 4.55 lodged to Rev G

1. Level 2 and 3
 - a. Rear set back increased 889 at north side and 1679 south side, western edge now tapers (parallel to rear boundary).
 - b. Western glass line set back further 500.
 - c. 2200 wide x 500 deep articulation recess added to southern elevation adjacent to Master robe + additional planting in nook.
 - d. Playroom recess at northern elevation widened 200.
 - e. Levels 3 shifted west to align with level 2 floor plan (wall between meters/bike store and bath/laundry shifted accordingly)
 - f. Level 2 and 3 balcony blade walls removed.
2. Level 4
 - a. Western edge of roof set back further 1990mm
 - b. Southern recess adjacent to robe carried through at roof
 - c. 1 x Bicycle parking relocated from level 3 to front court yard.
3. Level 5 lobby width increased further 170.
4. Roof - Mechanical duct revised to ensure compliance.
5. Sections, Elevation, Solar etc updated to reflect all the above.
6. FSR reduced 6.46m²
7. Landscape increased 5.19m²
8. Private open space revised, unit 1 and 2 balcony's areas reduced 6m² each.
9. New drawings 54 and 55 added – Views from reserve.

Yours sincerely,
Alex Smith
Director, CSA Architects Pty Ltd

This and the following
the annexure marked "E" pages is
Affidavit of "Anthony, Bash" referred to in the
sworn / affirmed
at Edinburg this 10th day of September 2021
before me

Solicitor / Justice of the Peace

Kate Bash

CSA Architects Pty Ltd. - 61 2 9389 4055 - www.csa-arch.com.au - alex@csa-arch.com.au

Nominated Architect: Alex Smith Reg #5473 - a.c.n. 087 234 053

185 Old South Head Road, Bondi Junction NSW 2022

Anthony Boskovitz

Subject:

FW: Randwick City Council ats Plumb re 20 Glen Street, Randwick

From: Anthony Boskovitz

Sent: Friday, 10 September 2021 11:26 AM

To: 'Victoria McGrath' <Victoria.McGrath@randwick.nsw.gov.au>

Subject: RE: Randwick City Council ats Plumb re 20 Glen Street, Randwick

Victoria

This is not how it works

The court has said to us that the Applicant should seek the consent to upload and if that consent is given by the council then orders can follow in the Court such as orders that the application is amended and if the amendments are more than minor, then costs pursuant o 8.15(3)..

We are able to upload to the portal and the council has sign off as accepting the updated documentation

Regards,

Anthony Boskovitz
Boskovitz Lawyers
Suite 110, 203-233 New South Head Road
EDGECLIFF NSW 2027
Tel: 8711-0944
Fax: 8711-0955
Mobile: 0414829953
Email: anthony@boskovitzlawyers.com
Website: www.boskovitzlawyers.com
<https://au.linkedin.com/in/anthony-boskovitz-1679154>

This and the following
the annexure marked "F" pages is
Affidavit of sworn / affirmed Anthony Boskovitz
at Edgecliff this 10th day of September 2021
before me

Solicitor / Justice of the Peace
Kate Boskovitz



We have changed our contact details. All mail should be sent to PO Box 305, Edgecliff NSW 2027

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From: Victoria McGrath <Victoria.McGrath@randwick.nsw.gov.au>

Sent: Friday, 10 September 2021 11:07 AM

To: Anthony Boskovitz <anthony@boskovitzlawyers.com>

Subject: RE: Randwick City Council ats Plumb re 20 Glen Street, Randwick

Anthony

Until you have the leave of the Court to rely on amended plans Council is unable to upload the amended documents. Please file your notice of motion and I will then obtain instructions accordingly.

Regards

Victoria McGrath
Special Counsel
Randwick City Council

02 9093 6685

Victoria.McGrath@randwick.nsw.gov.au

www.randwick.nsw.gov.au



From: Anthony Boskovitz <anthony@boskovitzlawyers.com>

Sent: Friday, 10 September 2021 10:53 AM

To: Victoria McGrath <Victoria.McGrath@randwick.nsw.gov.au>

Subject: RE: Randwick City Council ats Plumb re 20 Glen Street, Randwick

Victoria

We refer to the above matter

Please see link below to amended documentation the applicant seeks to rely upon

<https://www.dropbox.com/sh/2zrsup19lwg1dgl/AACsmPaU3DCleeo9v4Du-FdZa?dl=0>

We seek your consent for the Applicant to rely on same by uploading same to the portal.

Thereafter we would seek to file the plans and documents and seek the following orders

1. *The Court notes Development Application No. DA-154/2020/A has been amended by applicant with consent of Council pursuant to clause 55 of EP&A Act to rely upon following documents.*
2. *The Court notes the amended application has been lodged on the NSW Planning Portal on @@@@*
3. *The Court notes that the amended application was filed with the Court on @@@@*

We require a response by Tuesday 14 September 2021.

Regards,

Anthony Boskovitz
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EDGECLIFF NSW 2027
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