

From: William Jones
Sent: Monday, 3 September 2018 5:37 PM
To: Lisa Foley
Cc: Frank Ko
Subject: DA/813/2015/B - 2018SCL040 - Response to SECPP question - 180-188 Maroubra Rd, Maroubra

Dear Lisa,

Thank you for your email. In response to the Panel's question I advise that there are numerous legal decisions that have allowed the modification of DAs retrospectively. The modification application allows Council to assess the unauthorised development (both use and physical building works) against the relevant planning provisions, whereas a Building Certificate is essentially a 'certificate of non-action' and is often required to be submitted after a DA (i.e. unauthorised use) or Section 4.55 application has been properly assessed and approved by Council.

In this case, the Certifier is unable to issue the Occupation Certificate for the development due to works being inconsistent with the original DA approval and hence prompt the need to lodge a Section 4.55 application to modify the consent and a Building Certificate may be lodged afterwards to finalised the unauthorised matters.

I trust this is of assistance.

Kind regards

William JONES
Senior Town Planner – Randwick City Council
www.randwick.nsw.gov.au
Find us on  



From: Lisa Foley
Sent: Monday, 3 September 2018 12:42 PM
To: William Jones
Cc: Frank Ko
Subject: DA/813/2015/B - 2018SCL040 - 180-188 Maroubra Rd, Maroubra - clarification required

Dear William

I have been asked by a Panel member, through the Chair, to clarify an issue regarding the above DA:

The Panel requires some clarification in respect of the planning report on 180-188 Maroubra Road Maroubra, which states on page 7: "the proposed works are largely completed, including the height increase of the lift overrun and installation of plant screening. Therefore

retrospective approval is sought and a building certificate will be required for these components, should the application be approved."

If it is lawful to grant retrospective approval of unauthorised works, then why is a building certificate required in addition to the approval? On the other hand, if retrospective approval is not lawful, then the council is able to issue a building certificate without the Panel's involvement.

Please supply written advice before the meeting if you are in a position to do so, or be ready to address this issue verbally during the final briefing meeting.

Kind regards,
Lisa Foley
Project Officer
Planning Panels Secretariat



W www.planningpanels.nsw.gov.au

M Department of Planning & Environment, GPO Box 39, Sydney NSW 2001