



**Building and Development Tribunals**  
**Queensland Government**

Department of **Local Government, Planning,  
Sport and Recreation**

**APPEAL**

*Integrated Planning Act 1997*

**File No. 3-06-088**

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**BUILDING AND DEVELOPMENT TRIBUNAL - DECISION**

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**Assessment Manager:** Gold Coast Building Certification Group

**Site Address:** *Withheld* – “the subject site”

**Applicants:** *Withheld*

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**Nature of Appeal**

Appeal under the *Standard Building Regulation 1993 and the Integrated Planning Act 1997* against the decision of Gold Coast Building Certification Group, not to approve the ceiling heights of habitable and non-habitable rooms within the ground floor level of a residential building.

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**Date and Place of Hearing:** 10.00am on Wednesday 18 October 2006 at  
Gold Coast City Council Chambers,  
Nerang–Southport Road, Nerang

**Tribunal:** Mr Michael N Harris Tribunal

**Present:** “withheld” Owner/Applicant and Licensed Builder  
Mr Michael Doyle Principal Building Surveyor – Gold Coast Building  
Certification Group, Gold Coast City Council

**Decision**

The Gold Coast Building Certification Group’s decision (as contained in its Final Inspection Notice No. B 33706 dated 5 September 2006) not to approve the ceiling heights of habitable and non-habitable rooms within the ground floor level of the building, because of their non-compliance with BCA (Volume 2) Housing Provisions Clause 3.8.2.2, is **set aside**.

The ceiling heights are approved as complying with the provisions of the Building Code of Australia (BCA) Part 3.8.2 and Performance Requirement P2.4.2 for room heights.

This approval is also conditional on compliance with all Council approvals including but not limited to, building approval, plumbing and drainage approvals, as deemed appropriate.

## **Background**

The development application (BA No: 25/14044) lodged for approval with Gold Coast Building Certification Group, relates to the extensive renovation of a two-storey Class 1a residential building. These works are now completed and await final approval.

The existing building is approximately thirty years old and is substantially built with a concrete slab floor on the ground level, a suspended concrete slab floor on the upper level, double-brick external walls to both levels, brick internal walls throughout, solid plaster rendered and has a concrete tile roof.

The completed building has four bedrooms, two bathrooms, dining and family rooms located within the upper level, and two bedrooms, two bathrooms, a living room, a laundry and two garages within the ground floor level.

The total floor area of the building amounts to 362 square metres with each floor having an area of 181 square metres. The ground floor level which is affected by 'reduced ceiling heights', is approximately 79 square metres in area and comprises the following rooms with their finished ceiling heights:

- Two bedrooms (Habitable) - 2.360m
- Living room (Habitable) - 2.360m
- Wet bar (Non-habitable) - 2.075m
- Bathroom/Toilet (Non-habitable) - 2.075m

Prior to the recent renovations, the original ceiling height for the ground floor level was 2.400m. However, due to the extreme difficulty encountered by the owners in attempting to remove the original floor tiles from the ground floor slab by jackhammer, it was decided to bed and lay new floor tiles over the top of the existing tiles. The resultant reduction in ceiling height was inadvertently overlooked by the owners during construction.

Gold Coast Building Certification Group has refused to grant its approval on the grounds that the reduced ceiling heights failed to meet the requirements of BCA (Volume 2) Clause 3.8.2.2, which requires a minimum ceiling height of 2.400m for habitable rooms and 2.100m for non-habitable rooms.

The owners have now requested a relaxation from the requirements of Clause 3.8.2.2, to allow a finished ceiling height for the affected section to be - 2.360m for the habitable rooms and 2.075m for the non-habitable rooms.

## **Material Considered**

- Gold Coast Building Certification Group's Final Inspection Notice No B 33706, dated 5 September 2006 advising of the said ceiling height non-compliance;
- Building and Development Tribunals Appeal Notice – Form 10 and the grounds for appeal received by the Building & Development Tribunals Registrar on 27 September 2006;
- Letter from applicants to the Building & Development Tribunals Registrar, dated 26 September 2006;
- Drawings and accompanying photographs relating to the building in question;
- The *Building Act 1975*;
- The *Standard Building Regulation 1993*;
- BCA (Volume 2) - Part 3.8.2 and Clause 3.8.2.2 for Room Heights; and
- BCA (Volume 2) - Performance Requirement P2.4.2 for Room Heights.

## **Findings of Fact**

1. An application for development approval relating to the renovation of a Class 1a residential building was made to Gold Coast Building Certification Group.
2. Gold Coast Building Certification Group decided not to approve the ceiling heights of habitable and non-habitable rooms within the ground floor level of the building.
3. The appeal to the Building and Development Tribunal was lodged within the required time.
4. The Tribunal has jurisdiction to hear the appeal.
5. The Tribunal has found that although the said ceiling heights do not satisfy BCA Clause 3.8.2.2, the reduced ceiling heights can be approved as complying under the provisions of BCA Part 3.8.2 and Performance Requirement P2.4.2 for room heights.

## **Reasons for the Decision**

The BCA is a performance-based document, which sets out the “performance requirements” and the corresponding “acceptable construction practice provisions”.

BCA Performance Requirement P2.4.2 stipulates that - “A room or space must be of a height that does not unduly interfere with its intended function”.

Under the BCA “acceptable construction practice provisions” - Clause 3.8.2.2 specifies minimum ceiling heights of 2.400m for habitable rooms such as bedrooms and living rooms and 2.100m for non-habitable rooms including kitchens, laundries, bathrooms, passageways and the like.

It is the Tribunal’s opinion that in accordance with BCA Part 3.8.2, the reduced ceiling heights can be approved as an *Alternative Solution* to the requirements of Clause 3.8.2.2 and comply with Performance Requirement P2.4.2 for room heights, for the following reasons:

1. Consideration has been given to the size and space of the ground floor level containing rooms with reduced ceiling heights, its occupancy and its general amenity including adequate natural lighting and ventilation.
2. The reduced ceiling heights are not excessive (being only 40mm lower than 2.400m in the habitable rooms and 25mm lower than 2.100m in the non-habitable rooms) and would not pose any detrimental effect on the health and well being of the inhabitants of the building.
3. The main living areas within the building, which comprise four bedrooms, two bathrooms, dining and family rooms, are located on the upper floor level. The lower ground level contains a much smaller proportion of the total living space within the building.
4. The rooms with reduced ceiling heights are otherwise compliant in all respects with the BCA, and there are no protrusions from the ceiling such as light fittings or ceiling fans that could cause any height obstruction within these rooms.
5. The reduced ceiling heights in these rooms do not unduly interfere with their intended function and thereby satisfy performance requirement of the BCA P2.4.2.

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**Michael N Harris**  
**Building and Development Tribunal Chairperson**  
**23 October 2006**

## **Appeal Rights**

Section 4.1.37. of the *Integrated Planning Act 1997* provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Tribunal's decision is given to the party.

## **Enquiries**

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals  
Building Codes Queensland  
Department of Local Government, Planning and Sport  
PO Box 15031  
CITY EAST QLD 4002  
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