

Ref 22-219517 Built_Landsbldg_FireSafetyUpgrade_Letter_230307

7 March 2023

Built Pty Ltd
Level 4/185 Clarence Street
Sydney NSW 2000

Attention: **Matt Seelin**
Project Manager

Re: **Proposed Refurbishment of the Sandstones Lands Building – Phase 1b**
23-39 Bridge Street, Sydney NSW 2000

I refer to the above project and the need for compliance with Section 19 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulations 2021 (extract below):

14 Fire protection and structural capacity

(1) A certifier must not issue a construction certificate for building work under a development consent that authorises a change of building use unless—

- (a) the fire protection and structural capacity of the building will be appropriate to its new use, and
- (b) the building will comply with the Category 1 fire safety provisions that apply to the new use.

Item (b) above can only be addressed via DtS or Performance Solution pathway. It is our understanding two different fire engineers have assessed the existing ceiling and retention thereof, but retaining the ceiling will not achieve the necessary fire rating based on the change of use and fire safety strategy proposed for the building. Therefore, where a Performance Solution cannot be provided, in this instance retaining the existing ceiling to achieve the required fire separation (even though a reduced FRL), the proposal may require redesign.

Based on the above legislative requirements, complying with the Category 1 Fire Safety Provisions would not be suitable to enable the issuance of the relevant Construction or Occupation Certificate.

Similarly,

Section 19 Compliance with development consent and Building Code of Australia

(1) A certifier must not issue a construction certificate for building work unless—

- (a) the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any, and
- (b) the design and construction of the building, as described in the relevant building work plans and specifications and in other information given to the certifier under section 12, is consistent with the development consent, and
- (c) the building will comply with the relevant requirements of the Building Code of Australia as in force at the time the application for the construction certificate was made.

Item (c) above can only be addressed via DtS or Performance Solution pathway. It is our understanding two different fire engineers have assessed the existing ceiling and retention thereof, but retaining the ceiling will not achieve the necessary fire rating based on the change of use and fire safety strategy proposed for the building. Therefore, where a Performance Solution cannot be provided, in this instance retaining the existing ceiling to achieve the required fire separation (even though a reduced FRL), the proposal may require redesign.

In reference to the above requirements and noting that a change of building use has been approved under the current consent, any redesign contemplated would be required to comply with the Category 1 Fire Safety Provisions and would prevent the implementation of a fire safety upgrade approach.

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Based on the above legislative requirements, complying with the Category 1 Fire Safety Provisions would not be suitable to enable the issuance of the relevant Construction or Occupation Certificate.

Thank you for allowing us to assist you on this occasion and should you have any queries in regard to the above, please do not hesitate to contact the undersigned.

Kind regards,

Frank De Pasquale

Senior Associate

PHILIP CHUN BUILDING CODE CONSULTANT