

Controversial building code move simmers on standby

John Punch reports

We previously reported that this continuing hot issue was affected by a court ruling in South Australia that appeared to give relief to the tourism sector here in Queensland that would have otherwise seen about 60,000 apartments taken out of the tourist market by a proposed change to the building code.

The change would have forced the unit owners of Class 2 buildings to be unable to use them for tourist accommodation (unless they were converted to class 3 buildings). This represents the backbone of affordable tourist accommodation on the Gold Coast – and most other areas of the state.

Recent correspondence from the State Government suggests that the issue has been placed on the back burner, perhaps awaiting events developing at a national level. Changes proposed to the Building Code of Australia may require more onerous space and access requirements for all class 2 and 3 buildings however it has been indicated that they will not be replicating the provisions of the Disability Discrimination Act.

While this in itself is a relief for developers and future unit buyers, who believe affordability is an issue for all, it remains to be seen how the Queensland Government will react.

It was decided by the Court in a South Australian case - based on the National Building Code - that the Building Act Certificate of Classification for a class 2 residential apartment building was not subject to any minimum time limit on use by occupants. In other words, class 2 apartments could be used by tourists for short term accommodation without a class 3 classification. In Queensland the Department of Infrastructure and Planning is working on preparing options for possible amendments to the Building Code of Australia.

As an SDGCI Executive Member from Short Punch & Greaterix Lawyers, I've been representing the organisation with the Minister and the Department. He has received advice from the Executive Director that there is also activity on a national level to acquire an increase in standards for the application of disability use in such accommodation.

The issues of the both the change to building classification of apartments and any increase in requirements for use of apartments by disabled persons need input to the Department from an industry perspective to cover the construction and future use by tourists of apartments on the Gold Coast. SDGCI is therefore offering to the Department the assistance of experts as a key stakeholder and we will continue in this important area.

Many months of hard work to protect the management rights sector has paid off to date because had the building code change been enforced it could have devastated a city such as the Gold Coast.

To change classification for apartment buildings would be a massive step involving extraordinary expense. New product would not be developed and it would be impossible for existing and future buildings to provide a mix of short term accommodation with a mix of resort style living.

When the building code change was gazetted, the Gold Coast Tourism board, the Accommodation Owners' Association and developers called for intervention by Infrastructure Minister Stirling Hinchcliffe and our own then locally-based Tourism Minister Peter Lawlor. Such is the slow wheels of progress dealing with government that even though in 2008 when SDGCI took it up with the Department of Infrastructure and Planning it took until late 2009 before we could get an audience with the Minister himself.