



Director's Determination regarding the application of Part H8 (Livable Housing provisions) of the NCC

I, Brad Wheeler, in my capacity as Director of Building Control, make the following Determination regarding Part H8 (Livable Housing provisions) of the National Construction Code.

Title	Director's Determination regarding the application of Part H8 (Livable Housing provisions) of the NCC
Description	This Determination specifies requirements for new work and exemptions and exceptions from the application of Part H8 of the NCC.
Version	1.0
Application	For the purposes of section 20 of the <i>Building Act 2016</i> , this Determination applies from 1 October 2024 until its revocation.
Approval date	1 October 2024
Commencement date	1 October 2024

A handwritten signature in black ink, appearing to be "Brad Wheeler", written over a light blue rectangular background.

Brad Wheeler
Director of Building Control
Consumer, Building and Occupational Services
Department of Justice

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Document Development History

Version	Application Date	Sections amended
1.0	1 October 2024	Original release

Definitions:

“Allotment”

Means the land to which building work under this Determination applies.

“Floor Area”

Means, in relation to a building, the total area of all storeys.

“Habitable Room”

Means a room used for domestic activities as defined by the NCC.

“Irregular Allotment”

Means an allotment with an area less than 300m² and which is unable to contain a minimum 9m x 15m rectangle beyond the primary frontage.

“Livable Housing Design”

Means the building design performance requirements in the NCC, and for the purposes of this Determination refers to Part H8 of Volume Two of the NCC.

“Livable Housing Design features”

Means the specific design features provided for in Parts 1 – 6 of the Livable Housing Design Standard, which are required for a building to meet the performance requirements of the NCC. For clarification, those Livable Housing Design features are:

Part 1 Dwelling access – getting to the entrance from the allotment boundary

Part 2 Dwelling entrance – ease of access through a step-free entrance

Part 3 Internal doors and corridors – ease of movement within the dwelling

Part 4 Sanitary compartment – ease of movement to use a toilet pan

Part 5 Shower – ease of movement by way of a step-free shower

Part 6 Reinforcement of bathroom and sanitary compartment walls - providing the ability to add supports such as grabrails if needed.

“National Construction Code” (NCC)

Has the same meaning as in section 4 of the *Building Act 2016*.

“Primary Frontage”

Means the frontage of an allotment.

“Set Back”

Means the distance from any lot boundary to a building on the allotment.

“Small allotment”

Means an allotment with a primary frontage of less than 10m in length.

“Small Prefabricated Building”

Means a permanent Class 1a building that is:

1. manufactured or built offsite, with the exception of the footings and/or ancillary structures, then transported to the allotment; and
2. the total floor area does not exceed 60m².

“Workers’ Accommodation”

Means a permanent building provided by a person conducting a business or undertaking, used as accommodation for workers who:

1. are temporarily working away from their usual place of residence or home; or
2. permanently live on the business premises (e.g. at a farm, a mine) or on associated land; and
3. it is the intention of the owner at the time of the building approval to use that building as accommodation for workers employed or engaged with the business or undertaking.

Explanatory Notes

- “Temporarily working away” may be during the performance of building maintenance, rural or farming activities including shearing, or seasonal fruit picking, or fly-in fly-out scenarios or activities like mining, etc. where the worker is required to be away from their home for a period of time while engaged in their work for the business.
- The definition links the provision of accommodation by the landowner to those persons who work for them or for their associated business.

Application of Determination

For the purposes of section 20 of the Act and regulation 82A, it is determined that the following exemptions or exceptions apply to the following types of building work.

For clarification, nothing in this Determination prevents a person from complying with a provision of the NCC that is not an applicable provision by virtue of this Determination.

1. Exemption for small or irregular allotments

A Class 1a building is not required to comply with Part H8 of the NCC if the allotment on which work is to be performed is a small or irregular allotment.

2. Exemption of certain Class 1a buildings

The following types of Class 1a buildings are not required to comply with Part H8 of the NCC:

1. small prefabricated buildings; or
2. workers' accommodation.

3. Exemption of certain work in Class 1a buildings

It is determined that where there are no habitable rooms located on the ground or entry level of a Class 1a building, the installation of a new sanitary compartment on that level of the building is not required, and that the building work is deemed to comply with part 4.1 of the Livable Housing Design features, and with the relevant performance requirements of Part H8 of the NCC.

4. Staged application of Part H8 of the NCC to the design and construction of Class 1a buildings

1. From **1 October 2024**, new building work is to comply with the requirements of Part H8 for the following Livable Housing Design features:
 - (a) Part 2.1 (clear opening width); and
 - (b) Part 5 (shower); and
 - (c) Part 6 (reinforced of bathroom and sanitary compartment walls);and the building work is then deemed to comply with all the performance requirements of Part H8.
2. From **1 October 2025**, new building work is to comply with the requirements of Part H8 for all the Livable Housing Design features listed in sub-clause 4(1) above, and also for:
 - (a) Part 3 (internal doors and corridors); and
 - (b) Part 4 (sanitary compartment); but excluding the requirement for installation of a sanitary compartment on the ground or entry level of a Class 1a building, if there are no habitable rooms located on that level;

and the building work is then deemed to comply with all the performance requirements of Part H8.

3. From **1 October 2026**, new building work is required to comply with all the requirements of Part H8, with the exception of the exemptions from H8 as specified in Clauses 1 – 3 above.

Explanatory Notes, not part of the Determination:

Clarification on general transitional provisions in the Building Act 2016 and their application to specific designs or work

General transitional provisions in section 11 of the *Building Act 2016* apply after 1 October 2024 and allow landowners and building practitioners a limited window of time to commence or complete any existing or contracted buildings using the approved designs.

- These provisions state that any building work completed, or building work underway or approved for construction, is exempt from the change to the NCC.
- For building designs, for which a contract was entered, design work commenced, and substantial progress made before 1 October 2024, that design is still acceptable to be constructed and installed after that date. The designer should arrange with the relevant building surveyor to certify that substantial progress was made on the design before the change to NCC 2022 occurred.

Reference: *Building Act 2016*, s.11(5).

Work must comply with Act and National Construction Code

(5) For the purposes of this section, a provision of the National Construction Code is not an applicable provision in respect of work if –

- (a) the certificate of likely compliance issued in respect of the work was issued before the provision of the National Construction Code was adopted by the State; or
- (b) the building surveyor, or relevant permit authority, for the work certifies in writing that substantial progress had been made in the design of the work before the provision was adopted by the State; or
- (c) if the provision of the National Construction Code applies a standard, or requirement, by reference to a document that is subsequently amended – the building surveyor, or relevant permit authority, for the work certifies that substantial progress had been made in the design of the work before the document so applied was amended.