

Multi-Storey Residential Buildings – Warranty Insurance Exemption

This updates the previous Practice Note 2012-01 issued May 2012

Reference to the BCA Volume One in this Practice Note means Volume One of the National Construction Code Series.

SUMMARY

This Practice Note explains the regulations that provide an exemption for warranty insurance requirements for multi-storey residential buildings.

BACKGROUND

The Victorian and NSW governments agreed to changes to builders warranty insurance for residential developments in a 10-point plan announced in March 2002. One point in that plan removes the mandatory requirement for builders of multi-storey residential buildings to provide warranty insurance. That change now forms Div 3 Part 18 of the Building Regulations 2006 (the Regulations).

An exemption from the provision of warranty insurance applies if a builder carries out domestic building work under a major domestic building contract for the construction of a multi-storey residential building. The exemption applies to a major domestic building contract entered into on or after 10 April 2002.

WHAT IS A MULTI-STOREY RESIDENTIAL BUILDING?

Regulation 1807 introduces a new definition for a multi-storey residential building.

A multi-storey residential building is a building that has a rise in storeys of more than three, and contains two or more separate dwellings. The number of storeys contained in a building can differ from the rise in storeys.

The building relates to the works that a builder proposes to construct under a major domestic building contract.

The provision of firewalls to separate parts of a building will not satisfy the exemption provisions. The entire building must be considered. The provision of fire separation to create separate buildings is only applicable to Sections C, D & E of the Building Code of Australia (BCA) Volume One, and does not apply to Div 3 Part 18 of the Regulations.

Where it is proposed to construct two separate (detached) buildings on the same allotment each building must be assessed separately.

Examples of buildings are contained in Appendix A.

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WHAT DOES A STOREY INCLUDE?

The provisions relate to a 'rise in storeys' in determining whether a building is multi-storey. The method for calculating the 'rise in storeys' is set out in Clause C1.2 of BCA Volume One. The 'rise in storeys' for Div 3 Part 18 relates to the work described in the major domestic building contract.

The definition of a storey is stated in Clause A1.1 of BCA Volume One. This Clause should be read, as some spaces are excluded.

According to the definition in Div 3 Part 18, a space within a building that only contains accommodation for vehicles is not considered a storey for the purposes of calculating the rise in storeys.

Therefore, a car park situated at ground level that contains nothing other than vehicle accommodation is not a storey.

If the car park contains other facilities (such as storage areas and entrance foyers) it is then considered a storey. However, if the car park only contains stairways that provide emergency exits from the car park level, lifts and associated lift lobbies it is not considered a storey.

Examples of buildings are contained in Appendix A.

OWNER-BUILDER EXEMPTIONS

An owner-builder of a multi-storey residential building is exempt from the requirement to provide the relevant warranty insurance, when entering into a contract to sell the dwelling or building. However, an owner-builder is not exempt from providing a report as required under section 137B(2) of the Act.

This applies to any contract of sale entered into on or after 10 April 2002.

APPENDIX A

Examples of buildings in reference to warranty insurance requirements.

Legend:

- Figures are sectional elevations
- Figures 1-14 are for constructions of new buildings
- Figures 15 & 16 are for existing buildings

'7'	Class 7, space only for vehicle accommodation
'2'	Class 2, separate dwelling
'5'	Class 5, office
'6'	Class 6, shop
'GL'	Ground level
'Required'	Warranty insurance is required
'Not required'	Warranty insurance not required

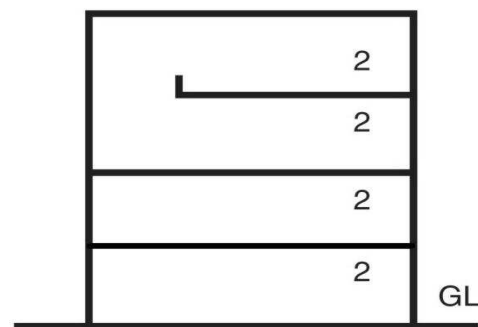
FIGURE 1



Rise in stories = 4

Not Required

FIGURE 2



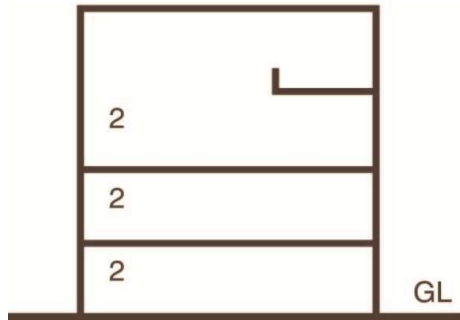
Rise in storeys = 4

Not required

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Note: Top floor is a mezzanine and a storey as per BCA Volume 1, Clause C 1.2 (d)(i)

FIGURE 3

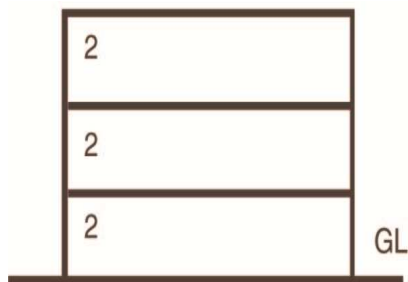


Rise in storeys = 3

Required

Note: Top floor is a mezzanine but not storey as

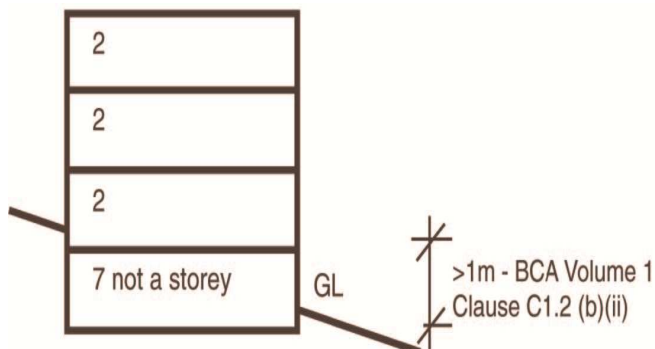
FIGURE 4



Rise in storeys = 3

Required

FIGURE 5



Rise in storeys = 3

Required

Note: The Class 7 floor only contains accommodation for vehicles, therefore not considered a storey. Fire escape stairways and lift lobbies are allowed.

FIGURE 6

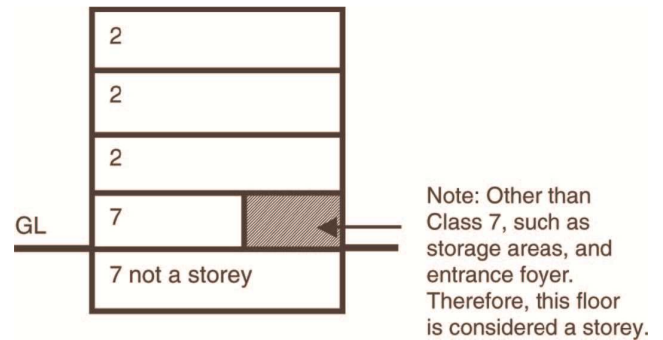


Rise in storeys = 2

Required

Note: The Class 7 floors only contain accommodation for vehicles, therefore they are not considered a storey. Fire escape stairways and lift lobbies are allowed.

FIGURE 7



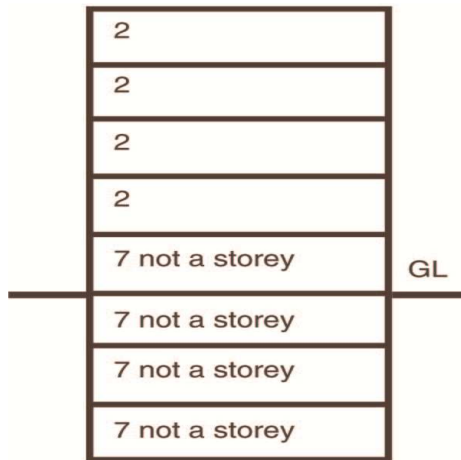
Rise in storeys = 4

Not required

Note: The floor below ground level is not considered in the calculation of rise in storeys as per BCA Volume 1 Clause C 1.2(b)(ii).

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FIGURE 8

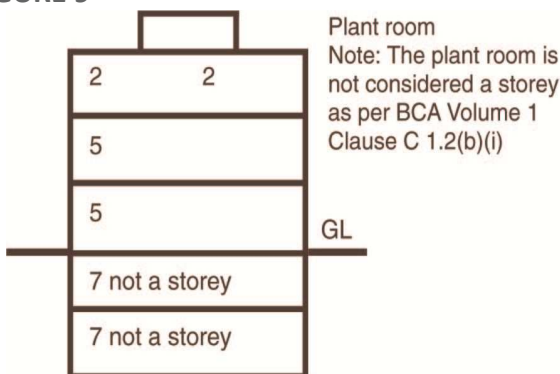


Rise in storeys = 4
Not required

Note: The floors below ground level are not considered in the calculation of rise in storeys as per BCA Volume 1 Clause C 1.2(b)(ii).

The Class 7 floors only contain accommodation for vehicles, therefore they are not considered a storey. Fire escape stairways and lift lobbies are allowed.

FIGURE 9

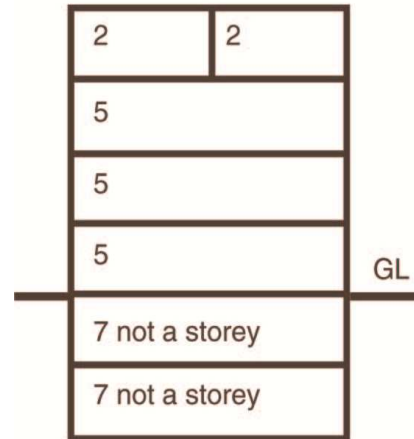


Rise in storeys = 1
Required

Note: In the example above, the works described in the major domestic contract are for the construction of the Class 2 components. When measured from ground level, the

contracted works show a building with a rise in storeys of one. The floors below ground level are not considered in the calculation of rise in storeys as per BCA Volume 1, Clause C 1.2(b)(ii).

FIGURE 10

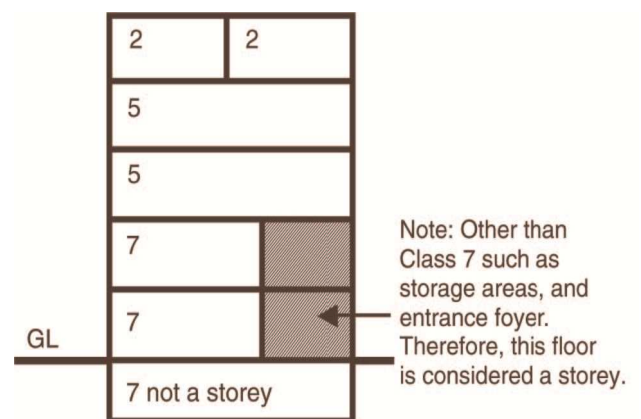


Rise in storeys = 1
Required

Note: In the example above, the works described in the major domestic contract are for the construction of the Class 2 components. When measured from ground level, the contracted works show a building with a rise in storeys of one.

The floors below ground level are not considered in the calculation of rise in storeys as per BCA Volume 1 Clause C 1.2(b)(ii).

FIGURE 11

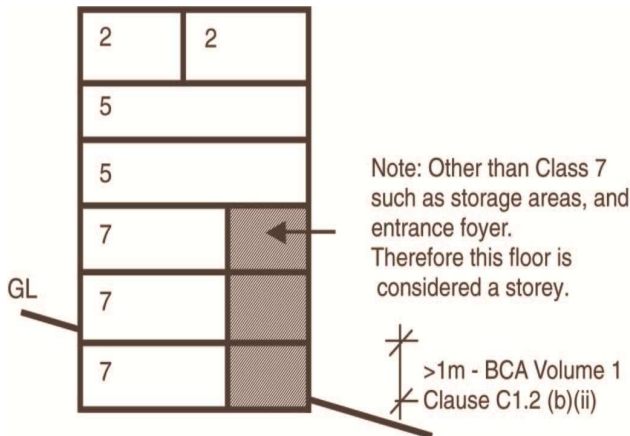


Rise in storeys = 3
Required

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Note: The works described in the major domestic building contract are for the construction of the Class 2 and 7 components. When measured from ground level, the contracted works show a building with a rise in storeys of three.

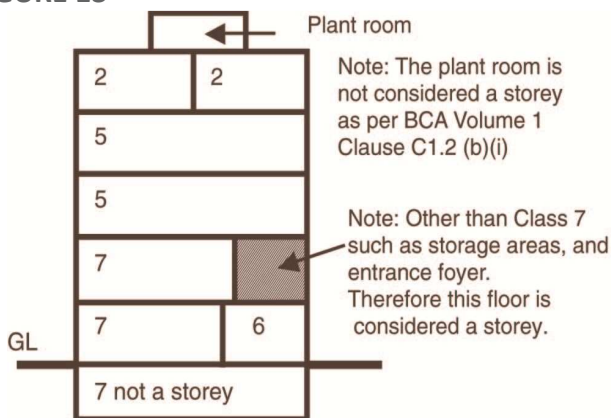
FIGURE 12



Rise in storeys = 4
Not required

Note: The works described in the major domestic building contract are for the construction of the Class 2 and 7 components. When measured from ground level, the contracted works show a building with a rise in storeys of four.

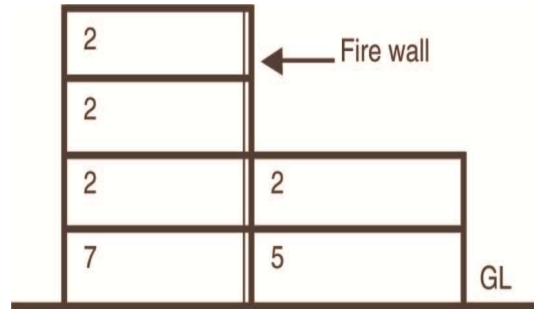
FIGURE 13



Rise in storeys = 3
Required

Note: The works described in the major domestic building contract are for the construction of the Class 2 and 7 components. When measured from ground level, the contracted works show a building with a rise in storeys of three.

FIGURE 14



Rise in storeys = 4
Not required

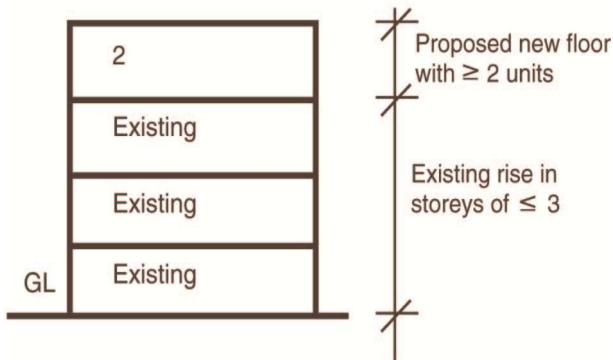
Note: The works described in the major domestic building contract are for the construction of the Class 2 and 7 components. A fire wall has been used to separate the two storey Class 5 and Class 2 part of the building from the remainder.

The provision of fire walls only relates to a part of a building being regarded as a separate building for the purposes of Sections C, D and E of Volume 1 of the BCA in accordance with Clause C2.7 (b). The provision of fire walls is not relevant to determining the requirement for insurance.

The building shown above has a rise in storeys of four. This is because the ground floor storey is a Class 7 and Class 5 part and is therefore regarded as a storey and with the three storeys of Class 2 above, totals a rise in storeys of four.

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FIGURE 15

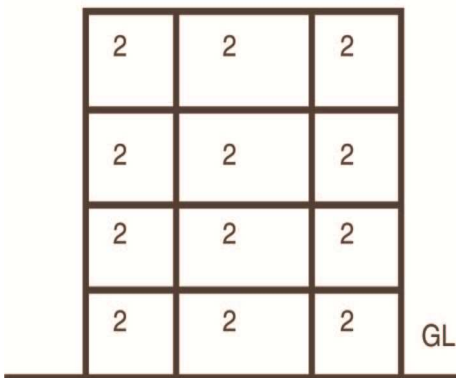


Rise in storeys = 1

Required

Note: The requirement for insurance relates to the work described in the major domestic building contract. In the example above, the contract is for the construction of an additional single storey. When measured from ground level, the contracted works show a building with a rise in storeys of one.

FIGURE 16



Rise in storeys = 4

Not required

Note: In the case above, the existing building is being refurbished and converted to a Class 2 building. The major domestic building contract describes work related to the construction of alterations which, when measured from ground level, has a rise in storeys of four. The definition of construct in the Building Act 1993 includes alterations to a building and so the exemption from the provision of warranty insurance will

apply even though the walls and supporting structure are not part of the construction.

Further Note: If figure 16 were a proposed new building constructed as 'shell and core' it would also be exempt. If the major domestic building contract for the fit out described works relating to a rise in storeys of more than three (the entire building), then the exemption from the provision of warranty insurance would again apply.

However, if a major domestic building contract described works relating to the fit out of a single dwelling or part of the building affecting no more than a rise in storeys of more than three then the exemption would not apply.

If you have a technical enquiry please email: technicalenquiry@vba.vic.gov.au or phone 1300 815 127

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