

Bushfire Prone Areas BF 01| Emergency Accommodation Buildings – Part 11A

Audience

The audience/s for this Practice Note include/s:

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| <input checked="" type="checkbox"/> Architects/ Designers | <input checked="" type="checkbox"/> Owner Builders |
| <input checked="" type="checkbox"/> Builders | <input checked="" type="checkbox"/> Plumbers |
| <input checked="" type="checkbox"/> Building Surveyors/ Inspectors | <input type="checkbox"/> Real estate management agents |
| <input checked="" type="checkbox"/> Engineers | <input type="checkbox"/> Trades and Maintenance (inc. Electricians) |
| <input checked="" type="checkbox"/> Home Owners / Residential Tenants | |

Purpose

The purpose of this Practice Note is to provide guidance on Part 11A of the Regulations that sets out the requirements for emergency accommodation buildings.

The content below provides guidance on:

- What are emergency accommodation buildings
- Notification to be given to the relevant councils
- Construction requirements
- Exemptions from certain requirements
- Offences



The emergency accommodation building exemptions were introduced following the 2019-2020 Black Summer bushfires to help affected owners by allowing them to construct and live in temporary buildings while they rebuild. These exemptions importantly will help in the recovery of future emergency events.

Abbreviations & Definitions

The abbreviations and definitions set out below are for guidance only. They are not intended to vary those set out in the Building Act 1993 or the Building/Plumbing Regulations 2018 or the National Construction Code

- **AS** – Australian Standard
- **AS/NZS** – Australian/ New Zealand Standard
- **Class 1a building** – a detached house, town house, villa or terrace house
- **Emergency** – A class 1 or 2 emergency within the meaning of the Emergency Management Act 2013



- **Emergency accommodation building** – The same meaning under regulation 166B of the Regulations
- **Maximum occupation period** – for an emergency accommodation building that is not constructed by or on behalf of the State, 3 years commencing after the notified commencement date
- **MBS** – Municipal Building Surveyor
- **NCC** – National Construction Code
- **Notified commencement date** – the date notified to the relevant council by the intended occupier
- **Occupier** – the owner of the land on which the building is constructed or proposed to be constructed
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018

What are emergency accommodation buildings

An emergency accommodation building is a building that can be constructed and occupied without permits if an existing Class 1a building has been destroyed or rendered unfit for occupation as a result of an emergency and the Class 1a building was the owner's principal place of residence.

Under regulation 166B of the Regulations, an emergency accommodation building must be intended for use as the principal place of residence of the owner before or during the repair of an existing Class 1a building or the construction of a new Class 1a building on the land. The emergency accommodation building must not have a floor area greater than 60 m² unless approved by the relevant council.

Notification to be given to the relevant council

The Regulations only require emergency accommodation buildings to comply with certain requirements that are appropriate for the temporary nature of emergency accommodation buildings. Importantly it does not require emergency accommodation buildings to fully comply with the NCC. The requirements under regulation 166F of the Regulations are:

- (a) Performance requirements of the NCC mainly relating to safe and suitable occupation of a home being:
 - i. H1P1 – Structural reliability and resistance
 - ii. H1P2 - Buildings in Flood areas
 - iii. H2P2 - Weatherproofing
 - iv. H2P3 – Rising Damp
 - v. H3P1 – Spread of fire
 - vi. H3P2 – Automatic warning for occupants
 - vii. H4P1 – Wet areas
 - viii. H4P3 – Personal hygiene and other facilities
 - ix. H7P3– Heating appliances
- (b) If the emergency accommodation building forms part of or is attached to any other building, the emergency accommodation building must have elements which will avoid the spread of fire from another building to the emergency accommodation building except for Class 10 buildings (e.g. garage, shed etc).



- (c) The building must be connected to:
- i. A reticulated drinkable water supply or alternative drinkable water supply
 - ii. A reticulated electricity supply or to an alternative energy source (e.g. solar, batteries, generator)
 - iii. A reticulated sewerage system or to a septic tank system approved by the relevant council.

An emergency accommodation building does not have to be a Class 1a building. It could be for example an existing Class 10a private garage or shed. However, if an emergency accommodation building is not a Class 1a building, the performance requirements above apply to the building as if it were a Class 1a building. This would likely mean that the building would need building work to comply with the performance requirements. A building permit is not required for this change of use as explained in the following section.

Exemption from certain requirements

Regulation 166G of the Regulations exempts emergency accommodation buildings from all Parts of the Regulations except Part 11A of the Regulations which deals with emergency accommodation buildings. This means that a building permit is not required for the building work to construct an emergency accommodation building and for the most part only needs to comply with the construction requirements under Part 11A of the Regulations and the Plumbing Regulations 2018.

Importantly, for an emergency accommodation building that was constructed by or on behalf of the State, the exemption only applies for a maximum occupation period of 3 years and only if the owner has complied with the notification requirements to be given to the relevant council and the construction requirements.

The exemption ceases to operate if:

- (a) the MBS has identified a non-compliance at an inspection of the emergency accommodation building and the owner does not rectify the non-compliance within the period time required by the MBS; or
- (b) the owner no longer occupies the building as the owner's principal place of residence.
- (c) In the case of an emergency accommodation building that was not constructed by or on behalf of the State, the end of the maximum occupation period.

A planning permit for an emergency accommodation building may still be required particularly when not related to a bushfire event. Owners are advised to check with the relevant council if any planning permit exemption exists and conditions of any applicable exemptions. Clause 52.07 of the planning scheme gives a planning permit exemption for temporary housing for up to 3 years for the purpose of bushfire recovery.

Offences

The following offences relate to emergency accommodation buildings:

- Regulation 166D – A person must not occupy an emergency accommodation building for residential purposes before the notified commencement date.
- Regulation 166H – A person must not occupy an emergency accommodation building for residential purposes if an exemption under regulation 166G has ceased to operate unless the building complies with the Act, the Regulations that apply to that class of building.

The MBS may serve a building infringement notice to an owner or occupier who has committed an offence.



Related Documentation

- Building Act 1993
- Building / Plumbing Regulations 2018
- Emergency Management Act 2013
- National Construction Code 2022
- Victorian Planning Provisions

List of Amendments

- Changes due to the commencement of the Building Amendment (Emergency Recovery) Regulations 2023

Document history

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