

## **Building Practice Note EE-05: Transitional Requirements for NCC 2022**

This Practice Note provides guidance on the application of the NCC energy efficiency measures and rainwater tank requirements during the transition from NCC 2019 to the NCC 2022 version.

The content below provides guidance on:

- Transitional arrangements for adoption of NCC 2022
- Application of Victoria's variation to energy efficiency requirements (including rainwater tank requirements) in NCC 2019 during the transition period for NCC 2022
- VBA Practice Notes for energy efficiency during the transition period
- Application of new building regulations to building work
- Documentation of substantial progress

### **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 Regulations 2018 or the National Construction Code.

- **Act** – Building Act 1993
- **DtS** – Deemed-to-Satisfy
- **NatHERS** – Nationwide House Energy Rating Scheme
- **NCC** – National Construction Code, comprising the Building Code of Australia (Volume One and Volume Two) and Plumbing Code of Australia (Volume Three)
- **NCC 2019** – National Construction Code 2019, Amendment 1
- **NCC 2022** – National Construction Code 2022
- **RBS** – Relevant Building Surveyor
- **Regulations** – Building Regulations 2018



## Transitional Arrangements for NCC 2022

### Transition period

It is important to use the correct NCC edition when determining energy efficiency, condensation mitigation and liveable (accessible) housing requirements:

- Until 1 May 2023, NCC 2019 remains in effect. Requirements in NCC 2022 can be applied on a voluntary basis by those wishing to exceed the minimum standards so long as compliance with NCC 2019 is still achieved.
- From 1 May 2023 until 1 October 2023 compliance with provisions for energy efficiency will be a matter of choice between the requirements in NCC 2019 and those in NCC 2022.
- From 1 October 2023 the energy efficiency provisions within NCC 2022 will become mandatory. NCC 2019 may be used beyond this date subject to the provisions of section 10 of the Act.

During the period of transition, compliance must be with the entire Part of either the NCC 2019 or NCC 2022 pertaining to energy efficiency (including rainwater tank option). Practitioners cannot pick and choose individual requirements and provisions from Parts across the two editions.

The NCC edition selected for energy efficiency has no effect on the edition selected for condensation management during the transition period. For example, if NCC 2022 is used for energy efficiency, then condensation management may still use either NCC 2019 or NCC 2022.



**Transitional arrangements relate only to the energy efficiency, condensation management and liveable (accessible) housing provisions in NCC 2022.**

Practitioners must adopt all other elements of NCC 2022 from 1 May 2023 (refer to following sections for advice on application of new requirements to building work).

### Application of Victoria's variation to energy efficiency requirements during the NCC transition period

Victoria varies the energy efficiency requirements in NCC 2019 – Building Code of Australia Volume Two for all new Class 1 buildings, which are commonly met by using a DtS solution where either a rainwater tank is connected to all sanitary flushing systems or a solar water heater is installed in accordance with the Plumbing Regulations 2018.

This variation has been removed from NCC 2022 to avoid conflicts with the new 'whole of home' energy usage requirement (H6P2) introduced in place of the previous services requirement (P2.6.2). Any new Class 1 building that is built to comply with energy efficiency requirements in NCC 2022 does not need to comply with the Victorian variation to energy efficiency requirements (including the rainwater tank option) in NCC 2019.

The variation remains unchanged in NCC 2019 and must be complied with for any new Class 1 building where energy efficiency requirements in NCC 2019 are applied. Refer to EE-03-2019 for further information.



## Choosing which version of energy efficiency requirements to apply during the NCC transition period

During the NCC transition period, both the 2019 and 2022 versions of energy efficiency requirements will be valid. Deciding which version to apply is therefore at the discretion of practitioners and their clients.

The following considerations may assist in determining whether to apply NCC 2022 energy efficiency requirements during the transition period:

- In most cases, compliance with the NCC 2022 requirements can be achieved at minimal additional cost through improved building design and some changes to construction materials but will deliver significant bill-saving and comfort benefits to homebuyers.
- Software tools for demonstrating compliance with NCC 2022 through the Nationwide House Energy Rating Scheme (NatHERS) pathway will become progressively available during the transition period.
- Support and training, including case studies on attaining higher energy efficiency performance in new homes, is available from Sustainability Victoria through the 7 Star Homes program.
- Product supply chains are rapidly evolving to deliver materials that will assist with meeting requirements in NCC 2022.

### Example 01: Deciding which revision of the NCC to comply with

A builder discusses the design of a new home with a client, who asks about energy efficiency options for the home.

The builder informs the client that they can build a home that complies with regulatory requirements by:

- applying NCC 2019, including a minimum thermal performance of a 6-star NatHERS rating or equivalent and, if a new Class 1 home, installing either a solar water heater or a rainwater tank connected to toilets; or
- adopting NCC 2022, with a minimum thermal performance of 7-star NatHERS or equivalent plus a 'whole of home' energy usage assessment.

The client is keen to save energy, future proof their home and reduce their greenhouse gas emissions. They therefore request that the home complies with the NCC 2022.

## Application of Victoria's water efficiency requirements (rainwater tanks) during the NCC transition period

For those choosing to comply with NCC 2019, note that Victoria varies the energy efficiency requirements in NCC 2019 – Building Code of Australia Volume Two to include water efficiency measures (P2.6.1). As noted above, the compliant DtS solution includes either a rainwater tank connected to all sanitary flushing systems, or a solar water heater installed in accordance with the Plumbing Regulations 2018. This DtS solution has been removed in NCC 2022.

The variation remains unchanged in NCC 2019 and must be complied with for any new Class 1 building. Therefore, a rainwater tank is still required to comply with the DtS requirements of NCC 2019 where a solar water heater is not installed.

The Victorian Government proposes to implement stronger state building and plumbing regulations for water efficiency, to improve the water efficiency of all buildings, subject to a regulatory impact statement and stakeholder and community consultation. As such, there is currently no specific requirement for rainwater tanks within NCC 2022. Instead, NCC 2022 refers practitioners to regulations made under the Act to provide for water efficiency requirements that may be set in future.



## Notes within NCC 2022

There are important NCC notes for energy efficiency that must be considered during the transition period. Under clause A1G4 of the NCC Governing provisions, a 'Note' is part of a provision or requirement and provides additional mandatory instructions.

### Introduction to Part Notes

#### Part J1 NCC 2022 Volume One:

From 1 May 2023 to 30 September 2023 Section J of NCC 2019 Volume One Amendment 1 may apply instead of Section J of NCC 2022 Volume One. From 1 October 2023 Section J of NCC 2022 Volume One applies.

#### Part H6 NCC 2022 Volume Two:

From 1 May 2023 to 30 September 2023 Part 2.6 and Part 3.12 of NCC 2019 Volume Two Amendment 1 may apply instead of Part H6 of NCC 2022 Volume Two. From 1 October 2023 Part H6 of NCC 2022 Volume Two applies.

In both instances the Notes imply that compliance with NCC 2019 is mandatory until 1 May 2023, at which point a choice between NCC 2019 or NCC 2022 can occur. Post 1 October 2023 NCC 2022 must apply, subject to any application of section 10 of the Act.

#### Schedule 10 Vic H6V1 and Vic H6D2 NCC 2022 Volume Two Notes:

The Victorian NCC 2019 rainwater tank variation (VIC V2.6.1 and V3.12.0 respectively) remains in effect until 30 September 2023 after which the following takes effect:

A rainwater tank must be installed in a Class 1 building in accordance with the regulations made under the Act (Victoria).

This Victorian rainwater tank requirement is now found in NCC 2022 Volume Three (Clauses VIC B6D2 and VIC B7D4).

The intent of the note is to draw attention to the previous Victorian variation that is applicable under NCC 2019 and to reiterate the need to comply with the provisions when applying NCC 2019. The clause does not require compliance with the NCC 2019 variation when using the provisions of NCC 2022.

### Application of NCC 2022 Notes

#### Prior to 1 May 2023

NCC 2022 is not adopted in Victoria until 1 May 2023, therefore NCC 2019 remains in effect until this date.

There is no restriction in applying NCC 2022 to exceed the minimum DtS standards for an improved performance building, however compliance is still required with NCC 2019.

#### From 1 May 2023 to 30 September 2023

Once NCC 2022 is adopted on 1 May 2023, industry has a choice between complying with NCC 2019 or 2022 until 30 September 2023. There is no requirement to comply with both editions of the NCC during the transition period. The Victorian Variation (i.e. solar water heater or rainwater tank) is applicable if selecting NCC 2019, but is not required for NCC 2022.



**After 30 September 2023**

NCC 2022 is mandatory, however NCC 2019 may be conditionally used under the provisions of s10 of the Act. NCC 2022 refers practitioners to regulations made under the Act (Victoria) for any rainwater tank requirements that may be inserted in the future (Victorian state regulations do not currently require installation of rainwater tanks). As such, a rainwater tank is not currently required but may be required if/when state regulations change in the future.

**Accessing energy efficiency Practice Notes during the NCC transition**

The VBA [Practitioner Resources Hub](#) has been modified to easily identify which NCC version, the Practice Notes requirements refer to, as shown in Figure 1 below.



Figure 1: Example of selection for PNs that refer to the energy efficiency requirements for NCC 2019 (including rainwater tanks) and those that refer to the energy efficiency requirements for NCC 2022.

During the transition period, there will be two versions of the Practice Note available. Each will be marked as shown in Figure 2 below.

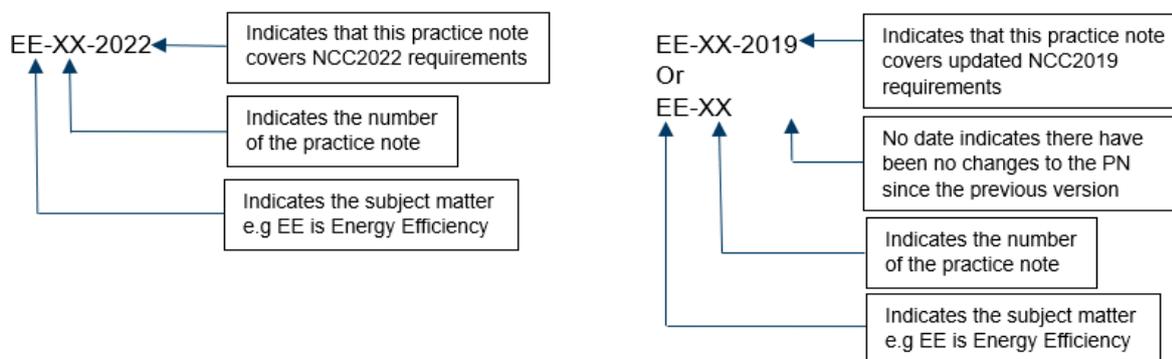


Figure 2: Naming convention during the transition between NCC 2019 and NCC 2022



## Application of new building regulations to building work

Section 10 of the Act sets out requirements for applying new building regulations to building work, such as the regulatory change from NCC 2019 to NCC 2022. This section confirms the new regulations do not apply to existing building permits (section 10(1)), provides exemptions where substantial progress has occurred (section 10(2)), confirms how the existing or new provisions may apply (section 10(3)), and allows for the use of new regulations (section 10(4)).

Minister's Guideline MG-13 offers guidance to the RBS and should be read in conjunction with section 10 of the Act. This is of particular importance post 1 October 2023 in situations where compliance with NCC 2019 is proposed under section 10(2), where substantial progress on building design was made.

Nevertheless, the RBS and the building owner may still agree to proceed using the new regulations or amended regulations in accordance with section 10(4).

## Documentation of Substantial Progress

### What is substantial progress

Section 10(2) provides the RBS with discretion to not apply the provisions of NCC 2022 in situations where building surveyor is satisfied that substantial progress was made on the design of a building prior to a building regulation or amendment commencing.

In such cases, the RBS should refer to Ministers Guideline MG13 for guidance and ensure that:

- the design relates to the proposed building on a particular allotment i.e. it is not a 'stock' or 'standard' design
- the prior design progress is well substantiated
- the design is not the re-use of a prior design for a previous dwelling that was demolished after the new regulation was made.

### Documentation required

Where the RBS determines that the design is sufficiently progressed to meet the requirements of 10(2), the RBS must certify that adequate documentation exists to substantiate that the design has progressed before the new regulation was adopted. Documentation may include:

- A contract dated before the amendment or new regulation was made; In the case of 'stock' or 'standard' designs, the relevant building surveyor should not certify that substantial progress has been made on the design unless the 'stock' or 'standard' design relates to the particular allotment on which the building is proposed to be constructed.
- A receipt for a deposit having been paid for the construction of a building of that design on the relevant allotment prior to the commencement of the regulation or for a payment completed for the stage of design development.
- A well-progressed design dated before the amendment or new regulation. The design should contain the particular allotment/address of the building to be constructed and demonstrate that the design relied on the regulation version prior to the amendment. For instance, drawings containing energy efficiency requirements that are clearly documented to be current at the time of issue.



## Related Documentation

- Building Act 1993
- Building Regulations 2018
- Plumbing Regulations 2018
- National Construction Code 2019 - Building Code of Australia, Volume One and Volume Two
- National Construction Code 2022 - Building Code of Australia, Volume One and Volume Two

## List of Amendments

- Minor editorial updates

## Version History

- Version 1.1, published 12 December 2022, supersedes previous version
- Version 1, published 11 November 2022

## Contact Us

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