

Building Note 114

Non-habitable buildings and structures not requiring building permit and occupancy certification

Purpose

This Building Note specifies the types of Class 10 buildings approved by the Director of Building Control under Regulation 3(2)(a) of the *Building Regulations 1993* (the Regulations) for construction without a building permit or occupancy certification.

This Building Note is issued by the Director under section 167B of the *Building Act 1993* (the Act).

Background

Act and Regulations

Regulation 3(2)(a) provides that sections 55 and 65 of the Act do not apply to or in relation to certain types of Class 10 buildings approved by the Director and constructed in accordance with the Director's approval.

Section 55 of the Act provides that a person must not carry out building work without a building permit.

Section 65 provides that a person must not occupy a building unless occupancy certification has been granted for the building.

National Construction Code

Under the National Construction Code, a Class 10 Building is a non-habitable building or structure.

Within Class 10, the National Construction Code specifies three sub-classifications:

- Class 10a: a non-habitable building including a private garage, carport, shed or the like.
- Class 10b: a structure that is a fence, mast, antenna, retaining wall or free-standing wall or swimming pool or the like.
- Class 10c: a private bushfire shelter, associated with but not attached to a Class 1a building.

Application

This Building Note applies to Class 10 buildings (non-habitable buildings or structures), where the construction commences after the approval date of this Building Note.

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To be exempted from the need to obtain a building permit or occupancy certification pursuant to the Director's approval under Regulation 3(2)(a), buildings or structures must meet the specific criteria outlined in Table 1 and Table 2.

If a building or structure does not fall within the criteria outlined in the Tables, the building permit and occupancy certification requirements will apply.

If there are inconsistencies between this Building Note and the Act or Regulations, the Act and Regulations prevail.

These types of structures must be structurally adequate and installed in accordance with the manufacturer's specifications, if applicable. Building owners may also need to comply with certain requirements of the National Construction Code to ensure the safety of the buildings or structures.

Other legislation

This Building Note does not provide any exemption from compliance with other legislation or guidelines, including the following:

- *Planning Act 1999*, the Northern Territory Planning Scheme and Jabiru Town Plan

For example, compliance with the building setback requirements will still be required. For further information on relevant planning provisions please contact Development Assessment Services on telephone (08) 8999 6565 or via e-mail on das.ntg@nt.gov.au.

- *Electrical Safety Act 2022*
- *Work Health and Safety (National Uniform Legislation) Act 2011*
- *Heritage Act 2011*
- *Swimming Pool Safety Act 2004*

Definition

This Building Note is intended to be consistent with the Building Act and Building Regulations, and the terms and definitions contained in those documents are intended to have the same meaning in this Building Note.

Some important Act definitions are replicated below, along with some additional terms and definitions used in this Building Note.

For terms not defined in the Act, Regulations or below, please refer to the definitions contained in the National Construction Code.

Building Act definitions:

- **building** includes a structure and a part of a building or structure.
- **building permit** means a permit to carry out building work provided for in section 55 of the Building Act.
- **building work** means work for or in connection with the construction, demolition or removal of:
 - a building; or
 - plumbing or drainage services, whether or not connected to a building, other than plumbing or drainage services vested in the Power and Water Corporation established by the *Power and Water Corporation Act 1987*.
- **construct**, in relation to a building, includes:
 - build, re-build, erect or re-erect the building; and
 - repair the building; and
 - make alterations to the building; and
 - enlarge or extend the building; and
 - place or relocate the building on land.

Other terms used in this Building Note

- **ancillary** in relation to a building or structure, means a secondary building or structure associated with a main or primary building, and is not an integral part of the main or primary building with which it is associated.
- **domestic**, in relation to a building or structure, means a building or structure designed and used for personal or residential purposes; as opposed to commercial, industrial or public purposes.
- **freestanding** means not physically attached or connected to another building or structure.
- **fully enclosed**, in relation to a room or space, means surrounded and protected from the elements on all sides by walls, doors, windows, solid screens or similar.
- **habitable** means a building or structure designed and able to be occupied by a person or persons frequently and/or for extended periods of time.
- **height** in relation to:
 - a building (other than a wall or fence) at any point, means the vertical distance between natural ground level and the top of the roof covering; and
 - a wall at any point, means the vertical distance between the natural ground level at the base of the wall and the point at which the outer wall intersects the plane of the top of the roof covering or the top of the parapet, whichever is higher; and

- a retaining wall at any point, means the vertical distance between the natural ground level at the base of the wall and the top of the wall, excluding the height of any retained ground above that point;
- a fence at any point, means the vertical distance between the natural ground level at the base of the fence and the top of the fence.
- **lightweight**, in relation to construction, means construction which incorporates or comprises:
 - sheet or board material, plaster, render, sprayed application, or other material similarly susceptible to damage by impact, pressure or abrasion; or
 - concrete and concrete products containing pumice, perlite, vermiculite, or other soft material similarly susceptible to damage by impact, pressure or abrasion; or
 - masonry having a width of less than 70 mm.
- **private garage** means a garage associated with a Class 1 building, or a single storey of a building containing not more than 3 vehicle spaces (limited to only one storey within a building), or any separate single storey garage associated with another building that contains no more than 3 vehicles.
- **residential**, in relation to a building or structure, means a building or structure designed and used for people to live or stay in for a considerable time; as opposed to commercial, industrial or public purposes.

Further information

Contact Building Advisory Services for further information at BAS@nt.gov.au or phone 08 8999 8985.



Mark Meldrum

Director of Building Control

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Table 1. Types of Class 10 structures approved by the Director for construction without the need to obtain a building permit (Building Act section 55) or occupancy certification (Building Act section 65): *Building Regulation 3(2)(a)*.

Type	Approved Class 10a structures	Additional notes
1	Small freestanding structures Freestanding buildings or structures that: (a) have a floor area of less than 15m²; and (b) do not exceed 2.5m in height; and (c) are constructed of lightweight materials; and (d) are not connected to plumbing or drainage services; and (e) are not fully enclosed; and (f) are ancillary to a residential building; and (g) are not attached to any other building; and (h) are only used for storage or domestic purposes.	This approved type is intended to include: • carports; or • pool pump enclosures; or • shade structures with a roof area of less than 15m²; or • bin enclosures; or • domestic animal enclosures such as aviaries, dog kennels, chicken coops.
2	Enclosed storage structures Freestanding buildings or structures that: (a) have a floor area of less than 15m²; and (b) do not exceed 2.5m in height; and (c) are constructed of lightweight materials; and (d) are not connected to plumbing or drainage services; and (e) are not attached to any other building; and (f) are only used for storage and non-commercial purposes.	This approved type is intended to include: • affixed shipping or sea containers; or • garden sheds; or • private garages This approved type <u>does not</u> include trailers, caravans, mobile homes or vehicles registerable under <i>Motor Vehicles Act 1949</i>.

Type	Approved Class 10a structures	Additional notes
3	Medium-sized freestanding structures Freestanding buildings or structures that: a) have a floor area of less than 30m²; and b) do not exceed 2.5m in height; and c) have a roof area of less than 15m²; and d) are not connected plumbing or drainage services; and e) are ancillary to a residential building; and f) are not attached to any other building; and g) are not fully enclosed; and h) are used only for storage and non-commercial purposes.	This approved type is intended to include: • shade structures, pergolas, gazebos, “Bali huts”; or • green houses/shade houses; or • domestic animal enclosures such as aviaries, dog kennels, chicken coops. This approved type <u>does not</u> include fully enclosed spaces such as sunrooms; those structures should be treated as class 1a structures and meet the requirements for class 1a structures. This approved type <u>does not</u> include decks. Decks are dealt with separately – see approved type 4 below.
4	Decks Deck structures that: (a) have a floor area of no more than 25m²; and (b) are not more than 400mm above ground level; and (c) are not fully enclosed; and (d) do not have a roof; and (e) are ancillary to a residential building; and (f) are not attached to any other building, or do not affect the integrity of the building to which they are attached.	This approved type <u>does not</u> include fully enclosed spaces such as sunrooms; those structures should be treated as class 1a structures and meet the requirements for class 1a structures. This approved type <u>does not</u> include pergolas, gazebos or other shade structures. Pergolas, gazebos and other shade structures are dealt with separately – see approved type 3 above.

Type	Approved Class 10a structures	Additional notes
5	Storage structures in rural zones or unzoned lands identified in the NT Planning Scheme Structures that: (a) have a floor area of not more than 100m²; and (b) do not exceed 2.5m in height; and (c) are not provided with or connected to plumbing or drainage services; and (d) are used for storing non-hazardous materials; and (e) are not used for any commercial purposes; and (f) are ancillary to a residential building; and (g) are not attached to any other building.	This approved type <u>does not</u> include: • structures intended or designed to be inhabited by people; and • buildings or structures used for commercial farming or agricultural activities; and • buildings or structures used for commercial purposes, such as produce packing buildings.

Table 2. Types of Class 10b structures approved by the Director for construction without the need to obtain a building permit (Building Act section 55) or occupancy certification (Building Act section 65): *Building Regulation 3(2)(a)*.

Type	Approved Class 10b structures	Additional Notes
6	Fences, screens, gates or similar vertical structures Vertical structures such as fences, screens or gates: (a) not including fall barriers or glass panel fences or barriers; and (b) of no more than 1m in height, if constructed from masonry or other material offering resistance to wind loading; or (c) of no more than 1.8m in height, if constructed of mesh, tubular or slatted material with a gap ratio of no more than 100mm; or (d) of no more than 1.8m in height if constructed of light weight cladding or sheet metal.	Fences associated with swimming pools, spas and wading pools must comply with the <i>Swimming Pool Safety Act 2004</i> and <i>Swimming Pool Safety Regulations 2004</i>.

Type	Approved Class 10b structures	Additional Notes
7	Retaining walls Retaining walls that: a) are of no more than 600mm in height; and b) do not directly provide stability to a building or structure; and c) are not constructed in conjunction with or as part of other building work; and d) do not provide stability to adjoining property; and e) are not to be located on across any registered easements and any water or sewer main.	
8	Swimming pools or spas	Swimming pools or spas must comply with the safety barrier requirements under: • the <i>Swimming Pool Safety Act 2004</i>; and • the <i>Swimming Pool Safety Regulations 2004</i>.
9	Masts, poles, antennas, aerials Masts, poles, antennas, aerials or similar structures that: (a) are of no more than 2m in height above the highest point of the attachment to the building; or (b) are not attached to a building and do not exceed a height of 6m above ground level; and (c) if built for the purpose of displaying signage, are more than 3m to a street alignment and have a display area of no more than 6m².	This approved type is intended to include: • domestic satellite dishes with a diameter of no more than 900mm; or • flag poles; or • netball or basketball hoops; or • football goal posts; or • television or fixed wireless antennas
10	Rainwater tank Placed on a slab on ground or a slab built up a maximum of 450mm.	