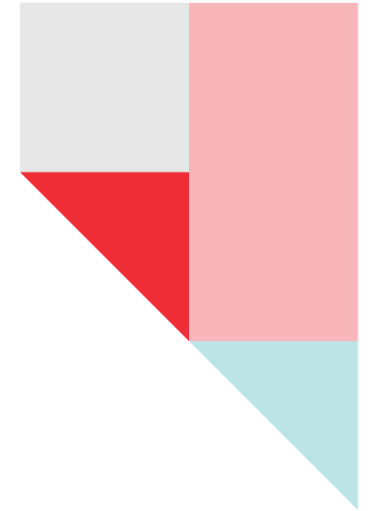


PlanSA



PlanSA | Building User Forum | 14 August 2024
Questions on Notice



Question record

Certificate of Occupancy for Class 1a Buildings

Requirements for a Certificate of Occupancy

Q: From what date is a Certificate of Occupancy required for Class 1a buildings?

A: A Certificate of Occupancy is required for any development where the application for Building Consent is verified on or after 1 October 2024.

Planning, Development and Infrastructure (General) Regulations 2017 - Regulation 103G - Other Matters

(2) Pursuant to section 152(1)(a) of the Act, if an appropriate notice in respect of an application for building consent in relation to a Class 1a building under the Building Code is provided under regulation 31(1)(d)(iii)(B) before 1 October 2024, a certificate of occupancy is not required in respect of the building (but a certificate of occupancy is required in respect of the building if such a notice is given on or after that date).

Q: For alterations and additions to an existing dwelling, is there a minimum floor area where a Certificate of Occupancy would be required?

A: There is no minimum floor area prescribed. A Certificate of Occupancy is required for any building work to a Class 1a building, or where there is a change of building classification to Class 1a.

PLUS will be monitoring the impact of the Certificate of Occupancy for building alterations and additions and provide additional guidance if required or will consider further regulatory updates where necessary.



Question record

Issuing a Certificate of Occupancy

Q: Where can I find the Statement of Building Occupancy Requirements for Class 1a Buildings?

A: [Certificate of Occupancy for Class 1a buildings | PlanSA](#). The Statement constitutes the *Statement of Building Occupancy Requirements for Class 1a buildings under the Building Code* for the purposes of regulation 103B of the *Planning, Development and Infrastructure (General) Regulations 2017*. The relevant authority for issuing the Certificate of Occupancy must ensure all sections of the statement are satisfied (where they apply).

Q: If there are conditions related to stormwater/landscaping on a Decision Notification Form (DNF) that states that works must be completed prior to occupation, does this mean a Certificate of Occupancy cannot be issued until those conditions are satisfied?

A: Where relevant, evidence that conditions have been complied with needs to be provided – but only to the extent it is relevant to the occupation of the building. In this case, the completion of stormwater and the connection of downpipes, or landscaping are not a mandatory requirement set out in the Statement of Building Occupancy Requirements for Class 1a buildings. A Certificate of Occupancy may still be issued (and should be) if the conditions don't relate to occupation.

Other works not identified in the Statement of Building Occupancy Requirements for Class 1a buildings, but outlined in Part A, Clause 1 of the Statement of Compliance that remain outstanding must be completed within 6-months of the date the Certificate of Occupancy is issued.

Enforcement action can still be taken by council if a condition of approval is not complied with. However, it is not grounds to withhold the issue of the Certificate of Occupancy.

Q: Can a person with a Building Level 4 accreditation issue a Certificate of Occupancy?

A: Currently, someone with a Building accreditation Level 4 is not prescribed any functions under *regulation 25 – Accredited Professionals (section 97)* and is unable to issue a Certificate of Occupancy. Building Level 4 is identified as a building inspector and authorised to carry out inspections as provided under the practice direction if a council believes they have sufficient skills and qualifications and has appointed them an authorised officer under the Act.



Question record

Q: What are the implications for a council or building certifier if a Certificate of Occupancy is issued without undertaking an inspection and there are issues down the track?

A: If not by inspection, a relevant authority is still required to be satisfied by some other means that the building is suitable for occupation. It is recommended that records as to how the council/building certifier satisfied themselves of this is included to justify the decision made.

If a relevant authority is not satisfied a building is suitable for occupation based on the requirements of the Act, (General) Regulations and Statement of Building Occupancy Requirements for a Class 1a building, they should withhold issuing the Certificate of Occupancy.

Q: Who decides whether a Certificate of Occupancy can or cannot be issued on matters that do not affect structural soundness, health, amenity or fire safety?

A: The Statement of Building Occupancy Requirements for Class 1a are the mandatory requirements for issuing a Certificate of Occupancy for a Class 1a building. Other matters outlined in Part A, Clause 1 of the Statement of Compliance must be conditioned to be completed within 6-months.

This gives relevant authorities the flexibility to issue a Certificate of Occupancy in circumstances where they are satisfied a dwelling is suitable for occupation but for the completion of certain aspects identified on the Statement of Compliance.



Question record

Certificate of Occupancy and Inspection Fees

Q: Has a fee increase been considered for councils issuing a Certificate of Occupancy? \$56 seems low?

A: We are aware of council's concerns relating to the fee for issuing a Certificate of Occupancy. The Department will monitor workload and resourcing impacts as a result of the introduction of a CoO for Class 1a buildings on councils to determine if a review of the fee can be considered along with the adoption of the 2025-26 Ministerial Fees Notice.

Q: Is there an additional inspection fee proposed for inspection associated with CoO where a previous inspection has already been undertaken?

A: No additional inspection/compliance fee is proposed to apply as it is not mandatory to inspect the building work before issuing a Certificate of Occupancy. As above, the Department will continue to monitor impacts to council in this regard. A review of the Practice Directions related to inspection policies is currently being undertaken. The impacts of Certificate of Occupancy for Class 1a building will be considered when reviewing council's inspection targets.

Development Application Process (DAP)

Q: Will the Development Application Processing (DAP) system allow a Certificate of Occupancy to be issued if there are any outstanding unsatisfactory inspection outcomes?

A: Currently if the 'completion of building work notification' is unsatisfactory, the DAP will not allow a Certificate of Occupancy to be issued.

For any other building notification, any unsatisfactory outcome is currently not blocking a CoO being issued. An enhancement to the DAP is in progress to review and revise system behaviour related to 'non conformances' with respect to CoO.



Question record

Q: What happens if the building certifier doesn't provide the Certificate of Occupancy and associated documents to council? Who is responsible?

A: When a building certifier has issued the Certificate of Occupancy, the location council will receive an email notification that it has been issued and are provided access to the decision and the associated documentation uploaded during the assessment of the CoO.

Q: We've had an issue previously where the rectification inspection wasn't done, because documents were provided, but because we select not inspected, DAP still sees it inspection as unsatisfactory. Has this been addressed?

A: There are enhancements to the DAP in progress to address this. One enhancement is to give councils the ability to mark all non-conformances as having been rectified and another to enable an inspection outcome to be edited.

Q: How will Certificates of Occupancy be issued for applications with multiple dwellings lodged under one application. Does the portal allow CoO to be issued separately and monitored when they are completed at different stages?

A: Yes, a certificate of occupancy can be applied for multiple times on the same application and without superseding a previous occupancy certificate. This is provided that the mandatory 'completion of building work notification' has been submitted.

However, PlanSA are aware of some challenges around building notifications in the DAP where multiple dwellings have been added under the same building work and where council's have deleted the mandatory completion notification to add in individual completion notification for each dwelling.

Enhancements are currently being analysed to address these issues which may involve building works being automatically split based on the number of dwellings being applied for and/or to give councils the ability to add multiple mandatory commencement and completion building work notifications.



Question record

Q: When are the enhancements to the DAP scheduled?

A: Following a review of the existing Certificate of Occupancy process and workshops with building professionals at the end of 2023, a number of enhancements and updates to the DAP have been identified.

A new version of the Certificate of Occupancy form has been approved and will be available from 1 October 2024 within the DAP.

A range of other enhancements focused on improving existing workflows, workload management and user interface will be released over the coming months in preparation for when applications for Certificate of Occupancy for Class 1a buildings start being received in early-mid 2025.



Question record

NCC

Q: Can you please confirm that Livable Housing applications lodged before 1 October 2024 (still awaiting planning consent) are concessional for this part of the Building Consent?

A: Class 1a and Class 2 buildings that are the subject of a *development application* (for planning consent or building consent) lodged before 1 October 2024 are not required to comply with NCC 2022 Part H8 Livable Housing Design.

Q: Regarding MBS 013, it states in there that you can do a performance solution using a verification method under 13A2A2 of MBS 013. However, Part 13B2 specifically excludes using the two applicable verification methods. Can you provide some clarification?

A: MBS 013 has been amended to remove the reference to using a verification method.

Q: What happens when a DA was lodged and work commenced prior 1 October 2024, then a minor variation has been lodged which is not treated minor, which affects say the bathroom. Do the Liveable Housing provisions apply?

A: A variation to an authorisation which is determined not to be minor would be treated as a new application and assessed against the Building Rules that apply at the time.

The elements/aspects of the development that are not being varied would still benefit from the exclusions outlined in MBS 007. If the variations are applied for after 1 October 2024, it would constitute a new application and the extent to which the variation applies would be subject to an assessment of the new liveable housing/energy efficiency provisions.



Question record

NCC

Q: What has prompted all these changes? LHD on all new dwellings and additions seems pretty extreme. Just wondering what state or national data has prompted these drastic changes?

A: The [2009 National Dialogue on Universal Housing Design](#) committed to a 100% uptake of accessible housing features in new houses by 2020. This commitment was supported by a broad group of key industry organisations, community advocates and governments. In April 2021, most Building Ministers agreed to include minimum accessibility provisions for residential housing and apartments in the National Construction Code (NCC) 2022 based on the Livable Housing Design Guidelines (silver level), first published by Livable Housing Australia.

Livable housing design is about making homes easier to use and more adaptable by reducing steps, making doorways and hallways wider, providing extra space in the bathroom and toilet, and allowing for the future installations of grabrails. These changes will help increase the stock of housing that is adaptable and better able to meet the needs of the community, including older people and people with mobility limitations, as well as families with young children and people that sustain a temporary injury. This is important to support housing choice, ageing in place and reducing the cost of future adaptations as needs change over time.

Q: When can NatHERS be used for additions and alterations?

A: Assessing the energy efficiency of an *alteration* and/or *addition* using *house energy rating software* designed for new dwellings is not an NCC 2022 deemed-to-satisfy solution. It is included in MBS 013 as a deemed-to-satisfy solution but limited to an *addition* that increases the floor area of the *habitable rooms* of an existing dwelling by no more than 50%.

The assessment requires the existing dwelling (before new work) be rated and a revised compliant star rating determined using a formula set out in MBS 013. The dwelling is re-rated using the proposed thermal performance enhancements and the new rating must equal or be more than the calculated star rating.