



Determination 2019/045

Regarding the classified use of a building, which is let out for public accommodation at 623 Rangihoua Road, Purerua Peninsula, Bay of Islands.



Summary

This determination concerns the classified use of a building that is let out for public accommodation under Building Code Clause A1 Classified uses. The determination considers whether the classified use falls within “Detached dwellings” or “Community Service”.

1. The matter to be determined

- 1.1 This is a determination under Part 3 Subpart 1 of the Building Act 2004¹ (“the Act”) made under due authorisation by me, Katie Gordon, Manager Determinations, Ministry of Business, Innovation and Employment (“the Ministry”), for and on behalf of the Chief Executive of the Ministry.
- 1.2 The parties to the determination are:
 - the owner of the building, MLP LLC (“the applicant”) acting through an agent (“the agent”).
 - Far North District Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.
- 1.3 This determination arises from the authority’s view that there has been a change of use under the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 (“the Regulations”). The authority has not taken any regulatory action in respect of this purported change of use. The agent instead sought to have the classified use of the building determined.

¹ The Building Act, Building Code, compliance documents, past determinations and guidance documents issued by the Ministry are all available at www.building.govt.nz or by contacting the Ministry on 0800 242 243.

- 1.4 The matter to be determined² is therefore whether the building has the classified use Clause A1³ – 2.02 Detached dwellings in the Building Code.
- 1.5 In making my decision, I have considered the submissions of the parties and the other evidence in this matter.

2. The building and background

- 2.1 The subject building comprises of several split levels. The ground floor includes a laundry, garage, kitchen, dining and living room, a library and a bar. Levels one and two have five bedrooms with ensuites. The north part of the building includes a ‘Tower’, which contains a wine cellar, a bedroom with ensuite, and a roof terrace.

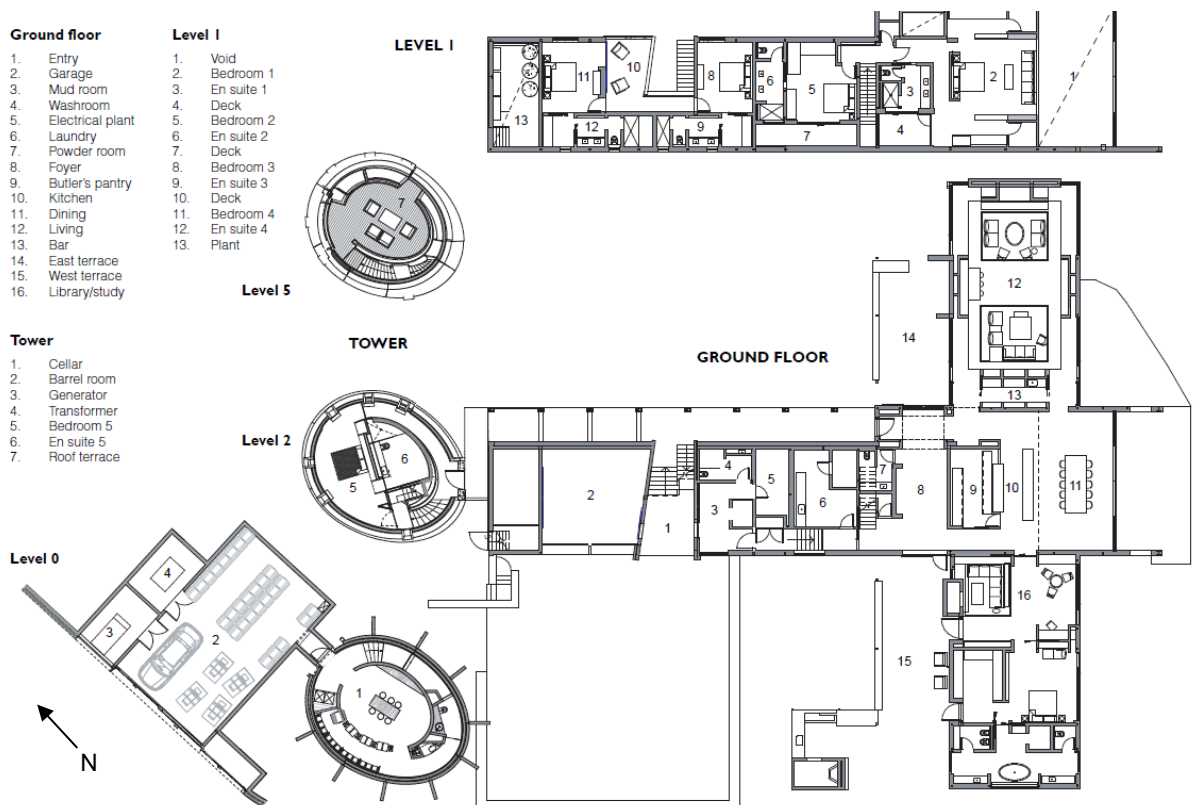


Figure 1: Floor plan of the building (not to scale)

- 2.2 The building is located within a larger lifestyle development (“the development”) that contains three other residential buildings, a farm, tennis court, gym, and vineyard. The four residential buildings are on separate property titles and privately owned (the applicant owns two of the residential buildings), but form part of the development and are also let out for public accommodation.

² Under sections 177(1)(a) of the Act.

³ In this determination, references to sections are to sections of the Act and references to clauses are to clauses of the Building Code.



Figure 2: Location of the subject building within the development (not to scale)

- 2.3 The development is managed by a hospitality company that offers a variety of services to owners and any occupants staying in the residential buildings. The hospitality company includes staff such as a Director, General Manager, Guest Service Manager, Personal Chef, Residences Manager, and a Hospitality assistant.
- 2.4 The agent applied to the authority for a liquor licence⁴ to be able to supply the residential buildings on site, which resulted in an officer of the authority inspecting the buildings. On 30 May 2018 the authority informed the agent it was of the view a change of use under the Regulations had occurred from SH (Sleeping Single Home) to SA (Sleeping Accommodation)⁵ because transient accommodation was provided (refer to Appendix A). The authority did not undertake any regulatory action in respect of this purported change of use.
- 2.5 From 21– 29 June 2018 the agent and authority corresponded regarding whether a change of use under the Regulations had occurred and the definition of “transient accommodation”. The agent is of the view the building remained within SH despite the “occasional short term holiday rental”.
- 2.6 The Ministry received an application for a determination on 6 July 2018.

⁴ Under Sale and Supply of Alcohol Act 2012.

⁵ The use categories SH (Sleeping Single Home) and SA (Sleeping Accommodation) as defined in Schedule 2 of the Regulations are included in Appendix A.

3. The submissions

3.1 The application and initial submissions

3.1.1 The agent provided a submission with the application that stated (in summary):

- The development is mostly owned by the applicant (refer Figure 2). There are two other properties on separate property titles that are owned by different parties, but they remain part of the development.
- The residential buildings are available for “short term holiday rental” when not in use by the owners, but there is a low level of third party occupancy. A hospitality company manages the holiday rental programme on behalf of the owners.
- The authority has not provided its definition of “transient accommodation”.
- The agent is of the view the use of the subject building for short term holiday rental or the fact liquor is proposed to be supplied to the occupants in the building does not result in a change of use. The building falls within SH as it does not fall within any examples that supplement the definition of the SA use.
- The degree of professionalism of the management of the building may be higher than similar operations such as other online accommodation websites but this does not change the use of the building.

3.1.2 On 11 July 2018 the authority acknowledged the determination application but made no submission.

3.1.3 On 20 August 2018 in response to a request from the Ministry the agent provided the following information:

- Over the past two years, the average length of stay period for third party occupants in the subject building has been 2 nights. In 2017 third party occupants stayed for a total of 13 nights, and 6 nights were booked for 2018. The owner’s lengths of stays are significantly longer.
- In regard to the booking process, an owner will block out dates for their use and the hospitality company will take bookings outside these times. If there is a booking request made during a period that has been blocked out by an owner, the hospitality company will ask the owner if there is a way the stay can be accommodated.
- The occupants (third party and the applicant) receive meals and housekeeping but are expected to be “largely self-sufficient”. Tours around the Bay of Islands are offered to the occupants by the hospitality company.

3.2 The draft determinations and submissions in response

3.2.1 A first draft of the determination was issued to the parties for comment on 21 December 2018.

3.2.2 The draft determination concluded that the building did not have a Detached dwellings classified use and instead had a Community Service classified use. This conclusion was based on the commercial nature of the building that aligned closely with the examples in Community Service, and the assistance extended to the occupants.

- 3.2.3 On 22 January 2019 the authority accepted the decision of the first draft determination and made no further comments.
- 3.2.4 On 23 January 2019 the agent did not accept the decision of the first draft determination and provided a further submission from their lawyer with the following comments (in summary):

General

- The draft of the determination focusses on what “limited assistance or care” is provided, while the classified use is determined largely by a building’s layout.
- Based on the physical configuration and attributes of the building the classification of Community Service is incorrect. The examples provided in the Community Service classification rely to a varying extent on communal facilities being provided outside of the main building or room. The operation of this building differs from those examples:
 - the building is self-contained and the occupants are not reliant on any other building to access facilities
 - the additional services offered by the third party company do not alter the self-contained status of the building
 - there are no communal facilities within the building, and it can only be accessed by the owner or a short-term occupant
 - the building is not available for more than one group at any time
 - the master suite cannot be used third party occupants
 - the building has been designed to “allow natural light and connection with the outside environment”.

Limited assistance

- Even if limited assistance or care was provided that would be insufficient to justify the Community Service classification because the building lacks the necessary physical configuration and attributes.
- The draft determination compared the operation of the building to that found in timeshare accommodation. However, unlike timeshare accommodation the building is standalone and there are no restrictions on the length of time the owner uses the building.
- The contracted third party services do not amount to “limited assistance or care”. The third party services are facilitated by a separate compound that houses the “commercial laundry, staff accommodation, and prep kitchen” for the subject building and the other residences. Most food is cooked at the compound and then delivered to the residences. A liquor licence is also held for the compound, and from there delivered to the residential buildings.
- The owners or occupants are not required to use the third party services.

Intended use

- The use by third party occupants is “occasional” as it occurs on average 1% - 3% of the year, with 13 nights in 2017 and 6 nights in 2018. Certain councils use a 28 day test as the benchmark for charging for commercial property rates, and a similar test should be applied in these circumstances.
- The use of a dedicated website to advertise the building as luxury accommodation does not alter its intended use.

- 3.2.5 A second draft of the determination was issued to the parties for comment on 12 August 2019.
- 3.2.6 The determination concluded the building had a Detached dwellings classified use based on consideration of the supplementary examples of the classified uses.
- 3.2.7 On 13 August 2019 the agent accepted the decision of the second draft determination without any further comments.
- 3.2.8 On 27 August 2019 and 11 September 2019 the Ministry contacted the authority requesting a response to the second draft determination. However, no response was received from the authority.

4. Discussion

4.1 General

- 4.1.1 The use of the building is the matter in dispute by the parties, with the agent seeking a determination on the classified use⁶ of the building.
- 4.1.2 The classified uses are defined by Clause A1, and are split into seven general categories – Housing, Communal Residential, Communal Non-Residential, Commercial, Industrial, Outbuildings, and Ancillary. Some categories include subcategories. Classified uses are grouped together based on the activity or use that will be carried out in the building.

4.2 Intended use

- 4.2.1 Clause 3(3) of the Building Regulations 1992 sets out how the classified use is established, and states (my emphasis):

the classified use or uses of a building or part of a building shall be the ones that most closely correspond to the intended use or uses of that building or part of that building.

- 4.2.2 Section 7 of the Act defines “intended use” as including:

(i) any reasonably foreseeable occasional use that is not incompatible with the intended use

- 4.2.3 A previous Determination⁷ stated the term “intended use”, as defined in section 7 of the Act, is not a subjective view based on the owner’s stated use of the building. While the owner’s proposed use is taken into account, the assessment of the intended use also requires an objective assessment of the use to which the building can be put to based on its physical layout and attributes (or the plans and drawings). This objective assessment is to ensure the building’s stated use is in line with the current or proposed operation of the building.
- 4.2.4 In this instance, the intended use of the building is as the applicant’s holiday house, and occasionally for public accommodation. It appears there is no dispute that the building used by the applicant as their holiday home has the classified use ‘Detached dwellings’. However, there is dispute as to the classified use of the building given that it is also used for public accommodation. I must now consider what classified use most closely corresponds to the use of the building as public accommodation.

⁶ Under Clause A1 of the Building Code.

⁷ Determination 2011/069 Regarding conditions to a building consent and the use of a building (12 July 2011).

4.3 Classified use

- 4.3.1 Sleeping uses are separated into two categories – Housing and Communal Residential. Housing applies to buildings or uses whether there is “self care and service (internal management)”, and Communal Residential applies where “assistance or care is extended to the principal users”.
- 4.3.2 It is not always obvious what classified use a building will fall within. The intended use may not neatly fit into the classified use definitions or the given supplementary examples. In this case, it is not clear whether the use of the building as public accommodation will fall within Housing or Communal Residential.
- 4.3.3 I note the classified uses are helpfully grouped broadly into general categorisations. I consider the principles under which the categorisations have been grouped together are relevant, and consideration of these principles can be used in interpreting the classified use supplementary examples and in assigning the classified use.

4.4 Housing

- 4.4.1 The ‘Housing’ category contains three classified uses where there is “self care and service (internal management)”:

Table 1: Extract from Clause A1

Classified use	Examples
2.0 Housing	
2.0.1 Applies to buildings or use where there is self care and service (internal management). There are three types:	
2.0.2 Detached dwellings Applies to a building or use where a group of people live as a single household or family.	a holiday cottage, boarding house accommodating fewer than 6 people, dwelling or hut
2.0.3 Multi-unit dwelling Applies to a building or use which contains more than one separate household or family.	an attached dwelling, flat or multi-unit apartment
2.0.4 Group dwelling Applies to a building or use where groups of people live as one large extended family.	within a commune or marae

- 4.4.2 The Housing category consists of three different types of dwelling that relate to use by households or families. Within the Housing category occupants are expected to practice “self care and service” by looking after themselves and each other, as a family would. This concept is reinforced through the Building Code performance requirements that are applicable to ‘Housing’, particularly those related to life safety, which are significantly less onerous when compared with Communal Residential requirements. The expectation is that within a “household” or “family” an individual becoming aware of a fire would naturally alert and assist others within the building to escape. There are also additional amenity requirements for buildings that fall within Housing, which are not required for buildings that fall within Communal Residential.
- 4.4.3 This category places an emphasis on the requirement for a family or a family-like arrangement, through the inclusion of the term “family” within the description of each subcategory. I consider the fact occupants will exercise “self care and service” referred to in Clause 2.0.1 will be reflected in the characteristics of a household or family.

4.5 What is a ‘household’?

4.5.1 However, a ‘household’ is not a defined term in either the Building Act or Building Code. The meaning of the word ‘household’ has been previously considered in the courts.

4.5.2 The High Court in *The Wanaka Gym Limited & Queenstown Lakes District Council*⁸ confirmed a list of factors set out in the earlier decision⁹, when the Judge held a commercial gym with a residential unit added to the back did not constitute a single household:

In determining that the company’s building could not be properly be described as a dwelling for use as a single household, he said:

[27] It seems to me in this case the following factors are relevant:

- (a) There is considerable variance in the numbers at any given time;
- (b) There are large numbers of people involved in the occupation of the building;
- (c) There is a significant degree of restriction as a matter of contract on the freedoms of the occupant which is inconsistent with people being resident in a household;
- (d) The relatively short term of the residence;
- (e) The fact that there is no necessary connection with the others residing in the house;
- (f) There is no agreement of the residents to reside together;
- (g) The whole *raison d’être* of the building essentially is commercial rather than domestic.

4.5.3 The judgment also acknowledged the issue of whether a building is used as a dwelling for a single household is a question of fact and degree, noting that the final conclusion is reached through an evaluative process taking into account all the factual issues that are relevant to the case in question.

4.5.4 Determination 2018/015¹⁰ considered whether the occupants living in a three-storey building that had separate cooking, sanitary, and laundering facilities on each level, and whose numbers varied from 15 to 28, were a single household. The determination assessed the building against the factors used in *Wanaka Gym*, and found the majority of factors to be relevant, which indicated a lack of social cohesion. The occupants could not be described as a “single household” because of the configuration of the house and lack of social cohesion between the occupants.

4.5.5 The meaning of ‘household’ was also considered by the District Court in *Jayashree Limited v Auckland Council*¹¹, which was an appeal of Determination 2018/015. The Court stated:

While essentially an issue of fact, the meaning of the word ‘household’ has been considered in several decisions including *Hopper Nominees Limited v Rodney District Council* where Anderson J considered the meaning of the word as it appears in s 30 of the Rating Powers Act 1988, saying:

Such an intent is most consistent, I think, with the ordinary New Zealanders concept of a “household” namely “an organised family, including servants or

⁸ *The Wanaka Gym Limited & Queenstown Lakes District Council* [2012] NZHC 2662.

⁹ *Queenstown Lakes District Council v The Wanaka Gym Ltd* DC Christchurch CIV 2003 002 0265, 18 November 2008.

¹⁰ Determination 2018/015 Regarding a notice to fix and the refusal to issue a certificate of acceptance for alterations to a house (20 April 2018).

¹¹ *Jayashree Limited v Auckland Council* [2019] NZDC 2407.

attendants dwelling in a house"...The word "family" has a wide meaning adequate in modern use to connote relationships of blood or marriage or other intimate relationships of a domestic nature, including, for example, persons sharing a dwelling-house such as students or friends. The essential connotation of the term is familial domesticity.

...I accept in terms of the meaning given to the word 'household' by Anderson J in *Hopper Nominees Limited* that the configuration of the dwelling-house as well the means by which the occupants were obtained, namely by advertisements in public media, means that the concept of familial domesticity is missing and that the various occupants do not operate as a single household.

4.5.6 The judgment also referenced the importance of social cohesion:

The very nature of the tenancy arrangements, their varied occupancy and absence of close familial relationships means that inevitably there would be less social cohesion in the event of an emergency such as a fire as would occur in a true organised family household.

4.5.7 The judgment reiterated the factors that can be used when assessing whether a building is a single household, noting that the list is not prescribed or exhaustive. The factors can help in considering whether there is social cohesion, and subsequently the occupants are living as a single household.

4.5.8 I note this decision will need to be made on a case-by-case basis, as there is no one definitive list of characteristics a group of occupants or building must display to be considered a "single household or family". Given the conclusion above regarding what is meant by a 'household', I will now consider whether the use of the building by third party occupants could be considered to fall within the Housing category.

4.6 Does the building fall within the classified use 'Detached dwellings'?

4.6.1 In the following paragraphs I consider whether the building falls within one of the classified uses in the Housing category or in the Communal Residential category. In making this analysis I have considered the physical configuration of the building and its intended use as described by the agent.

4.6.2 I note the building is clearly not a group dwelling and does not have the physical configuration and attributes to be used as a multi-unit dwelling, therefore I must consider whether the building has a Detached dwellings classified use.

4.6.3 The Detached dwellings classified use is limited to "where a group of people live as a single household or family". Accordingly, I have considered the present case against the factors used when considering whether the occupants could be described as single household in Determination 2018/015:

Factor from Determination 2018/015	The subject building
Varying numbers at any given time	Only one group of people is permitted to stay in the building at any time.
Large numbers of people involved in the occupation of the building	The building can accommodate up to 12 people.
Significant degree of restriction (as a matter of contract) on the freedoms of the occupant, which is inconsistent with people being resident in a household	Restricted access to the wine cellar and master bedroom.
Relatively short term of the residence	Long term stay by the owners, short term stays when let as public accommodation.
There is no connection with the others residing in the house	Only bookable by one group at a time, so it is reasonable to assume the occupants will display social cohesion.

No agreement of the residents to stay together	There is agreement of the residents to stay together because the building is only bookable by one group.
The whole raison d'être of the building essentially is commercial rather than domestic.	The building is mainly used by the applicant and was only used by third party occupants 13 nights in 2017 and 6 nights in 2018.

- 4.6.4 The building in this case does not broadly meet all the factors that resulted in the occupants in both Determination 2018/015 and *Wanaka Gym* failing to be described as a “single household”. However, the use of this building includes short term stays, and may have large numbers of people staying at the building, with up to 12 guests permitted at one time, which is typically not characteristic of dwellings occupied by a single household or family.
- 4.6.5 Firstly, the fact the occupants in this case will only reside in the building for a short time could exclude the building from falling within Detached dwellings, as some level of permanence would appear to be a key characteristic of a “single household”. Determination 2014/026¹² discussed that permanence is not only a matter of how long people stay in a place, but it is also how they view their residence. An occupant who does not consider their accommodation to be permanent is considered more at risk in a fire event and is less likely to be familiar with the escape routes.
- 4.6.6 I will consider the examples of Detached dwellings to understand whether this classified use can include this building where the occupants likely demonstrate “self care and service”, but stay short term, and have larger than typical numbers. The following are included as examples of Detached dwellings: “holiday cottage”, “boarding house accommodating fewer than 6 people”, and “hut”. The occupants in these examples would not necessarily be described as a “single household”, or have the social cohesion relied upon in an emergency due to their transient occupancy, lack of connection to each other, and the commercial element of the use. However, based on those examples, the Building Code seems to allow buildings where the occupants could stay short term, provided the number of occupants is low, to fall within Detached dwellings.
- 4.6.7 A “holiday cottage” could describe a self-contained unit that is used for public accommodation. Alternatively, this example could describe a building that is not the primary residence of an owner but instead a second house, such as a weekend bach. While not the permanent residence of the occupants, they are likely to be familiar with the building layout.
- 4.6.8 However, the inclusion of a “boarding house accommodating fewer than 6 people” appears to allow for uses in Detached dwellings that are transient, at least when the occupant numbers are restricted. The occupants in a boarding house could not be described as a “single household”. There is no agreement to reside together, a lack of connection to other occupants, short stays, and the building’s use is commercial rather than domestic.
- 4.6.9 However, there is an argument that occupants in a boarding house may have some degree of permanence and develop some form of social cohesion if there are minimum stay periods, or if a boarding tenancy agreement is required. The limited number of occupants also may not significantly affect escape times in the event of a fire. However, the decision in *Jayashree Limited* noted that a collection of

¹² Determination 2014/026 Regarding which fire risk group should be used in determining the compliance of proposed accommodation (21 May 2014).

unconnected occupants may, over time, learn to cooperate to some extent but this would not translate to the social cohesion of a “true organised family household” in the event of a fire.

- 4.6.10 Therefore, the reliance on social cohesion would seem to be missing in the boarding house example. Instead, the Building Code has accepted a lower fire safety standard and mitigated for the lack of social cohesion within these types of buildings, by restricting the numbers of occupants. Where the occupants are unknown to each other, as in a boarding house, the limit is less than 6 occupants (not including the residing family). Where the occupants are more likely to know each other and practice “self care and service” the occupancy limit is less explicit, and instead appears to rely on the fact that a “cottage” or “hut” is unlikely to hold large numbers of people, and in the case of a holiday cottage are likely to be known to each other.
- 4.6.11 However, in this case the occupants are likely to demonstrate social cohesion unlike previous determinations¹³ where the buildings fell outside the Detached dwellings classified use. Therefore, I consider in this instance the fact that there are short stays, and a slightly larger number of occupants on their own do not outweigh the fact the occupants all know each other and have agreed to stay together. Therefore, when considering the scope of buildings that can fall within Detached dwellings, the fact there will be social cohesion and the configuration of the building means the building could fall within this classified use.

4.7 Does the building fall within a ‘Communal Residential’ use?

- 4.7.1 The subcategories within Communal Residential are grouped together based on the degree of ‘assistance or care’ extended to the principal users of the building. The question I will now consider is whether the occupants in this case are the principal users of the building, and if so, whether limited assistance or care is extended to them.
- 4.7.2 Unlike the subcategories within Housing, there is no emphasis placed on the users of the building to live as a family (or single household). However, I note there is nothing limiting the occupants within the subcategories of Communal Residential from displaying ‘self care and service’ to each other. The supplementary examples cover a range of residential activities that contain different types of occupants. I consider this distinction recognises the occupants are likely to be in an unfamiliar building and the performance requirements reflect the increased risk to life safety.
- 4.7.3 There are two subcategory uses within Communal Residential – Community Service and Community Care.

Table 2: Extract from Clause A1

Classified use	Examples
3.0 Communal Residential	
3.0.1 Applies to buildings or use where assistance or care is extended to the principal users. There are two types:	
3.0.2 Community Service Applies to a residential building or use where limited assistance or care is extended to the principal users.	a boarding house, hall of residence, holiday cabin, backcountry hut, hostel, hotel, motel, nurses’ home, retirement village, time-share accommodation, a work camp, or camping ground.

¹³ Determination 2018/015; Determination 2018/044 Regarding the classified use of a main house which is let out as accommodation (7 September 2018); Determination 2018/045 Regarding the classified use of a building let out as accommodation (11 September 2018).

<p>3.0.3 Community Care Applies to a residential building or use where a large degree of assistance or care is extended to the principal users. There are two types:</p> <p>(a) Unrestrained; where the principal users are free to come and go.</p> <p>(b) Restrained; where the principal users are legally or physically constrained in their movements.</p>	<p>(a) hospital, an old people's home or a health camp.</p> <p>(b) a borstal or drug rehabilitation centre, an old people's home where substantial care is extended, a prison or hospital.</p>
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- 4.7.4 I consider it is clear the building does not fall within the Community Care subcategory.
- 4.7.5 Community Service can apply to a residential building ‘where limited assistance or care is extended to the principal users’. A ‘principal user’ is defined in the Building Code as:
 - a member of the primary group for which a building was constructed, and therefore explicitly excludes the persons or groups of persons providing care or control of that principal user group
- 4.7.6 In this case, I consider “assistance or care is extended to the principal users” (my emphasis) is the relevant point here. The occupants stay so infrequently, that they could not be considered as part of the “primary group” for which the building was constructed. In this case, the primary group would be the applicant, whose stays are more frequent and for longer durations than the total number of third party stays. Whether limited assistance is extended, the third party occupants in this case could not be described as the principal user. I note that identifying the principal users of a building when there is more than one user group will not always be this straightforward, and as such this consideration will need to be on a case-by-case basis.
- 4.7.7 Therefore, I conclude the building does not fall within Community Service because the occupants are not the principal users of the building.
- 4.7.8 I have not made an assessment of whether limited assistance or care is extended to the occupants because they are not the principal users. I note “assistance or care” is not a defined term in the Building Act or Building Code. However, if the occupants were the principal users and limited assistance or care was extended, this may not on its own cause the building to fall within Community Service. A building where limited assistance or care was extended to the principal users could still fall within Detached dwellings.
- 4.7.9 For example, ‘boarding house’ is included in both Detached dwellings, with an occupancy limitation, and without an occupancy limitation in Community Service. In both instances, limited assistance or care would be extended to the principal users; the number of occupants is unlikely to alter the fact that this would be offered to some degree. In addition to the occupancy size, the nature and degree of assistance or care provided to the principal users will be relevant when assessing whether a building falls within the Community Service classified use.
- 4.7.10 I acknowledge also that the building has a commercial element because it is offered as public accommodation, which would seem to align more with the examples in Community Service, such as a hotel. However, a building that includes a public accommodation commercial element would seem to be allowed for in Detached

dwelling, as a number of the examples, e.g. boarding house, holiday cottage, and hut, have a commercial component to them. Ultimately, the use of the building will need to be considered against other possible classified uses where factors indicating a strong single household might outweigh a building with considerable assistance or care, and a weak or non-existent single household might be outweighed by a lesser degree of assistance or care.

4.7.11 In this case, for the reasons outlined in paragraphs 4.6 and 4.7, I consider the building has a classified use of Detached dwellings.

5. The decision

5.1 In accordance with section 188 of the Building Act 2004, I hereby determine that the building has the classified use of Detached dwellings as defined in Building Code Clause A1 2.0.2.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 26 September 2019.

Katie Gordon
Manager Determinations

Appendix A: The legislation

A.1 Relevant sections of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005:

Table 1: Use categories defined in Schedule 2 of the Regulations

Use	Spaces or dwellings	Examples
<i>Uses related to sleeping activities</i>		
SH (Sleeping Single Home)	detached dwellings where people live as a single household or family, including attached self-contained spaces such as granny flats when occupied by a member of the same family, and garages (whether detached or part of the same building) if primarily for storage of the occupants' vehicles, tools, and garden implements	dwellings or houses separated from each other by distance
SR (Sleeping Residential)	attached and multi-unit residential dwellings, including household units attached to spaces or dwellings with the same or other uses, such as caretakers' flats, and residential accommodation above a shop	multi-unit dwellings, flats, or apartments
SA (Sleeping Accommodation)	spaces providing transient accommodation, or where limited assistance or care is provided for people	motels, hotels, hostels, boarding houses, clubs (residential), boarding schools, dormitories, halls, wharehau