



MASTER BUILDERS
A U S T R A L I A

10 July 2021

To Neil Savery
Chief Executive Officer
Australian Building Codes Board
224 Bunda St
Canberra ACT 2600

Re: Livable Housing Design - ABCB Standard

To Neil

Thank you for the opportunity to make comment on the NCC 2022 Public Comment Draft, specifically the Livable Housing Design - ABCB Standard and associated provisions.

It is Master Builders longstanding position that accessible housing should not be regulated, but rather achieved through non-mandatory measures. We do not support regulations that adversely impact housing affordability, challenge good design or put productivity at risk and the proposed provision will achieve all 3 negative impacts.

The decision Regulatory Impact Statement compiled by the ABCB showed a negative societal cost benefit for all options considered in the billions of dollars and did not constitute a defensible rationale for imposing a poorly considered regulatory solution. This results in no societal benefits for regulatory intervention, with the benefit only being realised once people who actually require accessible housing occupy the newly built accessible home; even then, there will be additional cost to make the home accessible.

Master Builders notes Building Ministers disregard for rigour and due process in its decision on accessible housing. This decision further undermines efforts to bring about real and lasting reforms in the building control regime, undermines industry confidence in the governing process, including the role of the ABCB.

This decision by Building Ministers to include another social overlay into the NCC directly affects the quality of the proposed and existing technical regulation. The office of the ABCB has been forced to work to a time constraint—not a quality outcome—and unfortunately this is evident in the drafting of the proposed NCC provisions (objectives, functional statements, performance requirements and deem to satisfy provisions and the standard).

This lack of clear scope relating to accessible housing has prevented:

- an accurate description of the problem, and
- the policy development required to address those problem(s).

Master Builders have noted there has already been a change of name from the Accessible Housing Options Paper during the RIS phase to Livable Housing Design in the ABCB Standard as a glaring example of a lack of clear policy parameters.

Master Builders believe the review process for the provisions proposed has been poor and adds no value to the public comment draft. The reason for this is, when the proposed provisions went to the Building Codes Committee in March 2021 for comment, there were numerous versions for review and no commitment to implementation of any provisions. We are concerned that the poor review process has created a disjointed structure within the provisions. Resulting in minimum standards that is applied to all housing, in two separate documents, with numerous provisions that clash or overlap and create unnecessary regulatory complexity. Master Builders opinion is, if these provisions were to be mandated, they should have been included within the existing structure of the housing provisions (e.g., ramp requirements should have been located with existing ramp requirements in the code). This complexity does not add value, it only dilutes the potency of the NCC and provides another opportunity for unintentional non-compliance and poor regulation.

Master Builders could understand the separation of structure, if the Livable Housing Design Standard were a complete Deem-to-Satisfy document (including practical prescribed solutions for clashes) and the performance requirements allowed for States and Territories to opt into its use, rather than having to opt out. Unfortunately, the standard does not resolve all the technical clashes and uncertainty. Also, the provisions as drafted leave jurisdictions having to make legislative amendment to opt out of the blunt application of provisions and to apply the provisions in a more targeted way.

We are conscious that many jurisdictions already apply Livable Housing design requirements in state led planning and development activity and that these mechanisms should have be built upon. Additionally, LGA's have implemented requirements for a targeted proportion of dwellings to be built to Livable Housing Design Guidelines. Better education around these planning-based requirements for all stakeholders and a process implemented to learn what has worked to share successful best practise would be a better approach. This would map out what is already in the planning requirements and a Livable Housing/Accessible Housing ABCB Standard could have been developed to align with planning requirements and this would achieve significantly better results.

Due to site-specific constraints, such as the size or shape of the plot, there is a pressing need to articulate clear exemptions and given the prevalence and complexity of state, territory and local government regulation, there is a high risk of regulatory overlap and provision needs to be made to streamline existing regulation at the state, territory and local government level before any changes are implemented in the NCC.

Further, exemptions for slope and site constraints should be applied through planning overlays. This would enable application of the requirements to be determined through existing, localised processes which should consider local land characteristics, access to services and requirements of the specific communities and taking pressure off an already overburdened certification system.

Master Builders notes that sufficient time is needed to work up and test how the drafted provisions will apply in practice, as well as the information and training resources needed to support market delivery.

Time is also needed to allow the supply chain to adjust to any change. This would be several years, not 6 or 12 months.

Master Builders requests:

- 3-year review and clarification of proposed policy and provisions (including objectives and functional statements)
- 3-year transition period regarding application of finalised provisions (post review)
- An exemption for smaller studio apartments/maisonettes (Example where internals < 55sqm).

Master Builders also requests a clear delineation between the Performance Requirements, Deem to Satisfy provisions and the Standard—they are too similar and in some cases, the applicable requirements are in the performance requirements and not in the Deem to Satisfy or the standard. For example, the requirement for a shower to be on the ground floor. In other parts the Deem to Satisfy refer to the design standard for exemptions. Master Builder requests that these issues must be addressed and that there must be a clear delineation between Performance Requirements, Deem-to-Satisfy and the Design Standard.

Master Builders will continue to oppose the introduction of these requirements in their current format. We are committed to working constructively with governments to determine the scope of exemptions, as well as who will make decisions on those exemptions.

Yours Sincerely

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