



MASTER BUILDERS
A U S T R A L I A

11 July 2021

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

Re: National Construction Code 2022 - Public Comment Draft (stage 1)

To Neil

Thank you for the opportunity to make comment on the NCC 2022 Public Comment Draft (stage 1).

Master Builders acknowledges the scale of provisions for public comment and the breadth of work undertaken by the office of the ABCB. Master Builders are concerned about the capability of the Office of the ABCB to develop and deliver technical regulatory provisions suitable for regulating construction industry. Especially the housing sector, with a draft code that appears to lack regard for the issues created when:

- the law is structured in a complex and convoluted manner, and
- the language used is byzantine at times.

These structural and language issues need to be addressed. In the past, the office of the ABCB seemed committed to delivery of plain English drafting with clear structure (2017), this commitment seems to have gone. The ABCB must recommit to drafting in plain English and delivering provisions that are clearly structured – see PCD provision E2D20(e) as an example.

Whilst Master Builders supports the new clause identification system in principle. The new system combined with the breadth of technical change has made getting industry feedback difficult. Master Builders has had numerous comments like “housing provisions are difficult to read and understand”, “what is going on?” and “what has changed [technical requirements]?”. This has meant many practitioners have needed weeks to figure out the structure before they can contemplate any technical change. When consulted about how these changes would be implemented, we noted the challenges and recommended a long industry exposure time prior to implementation. We believe it was a mistake to combine the new structure with new technical provisions for the public comment draft.

Master Builders believes that Volume 2 of the NCC and the housing provisions needs to be consolidated. These provisions lack clear scope, making it unclear when DtS provisions are appropriate. In some instances, the scope of regulation is contained in reference document (see timber framing as an example), which Master Builders believes is poor regulatory practice and goes against the spirit of the law (access to justice).

Currently the draft code has two social overlays (Energy Efficiency/condensation and Livable Design Standard) which create DtS clashes with other longstanding provisions (see weatherproofing as an example). This leaves industry having to plug the regulatory gaps with performance solutions for issues created by the code itself (e.g. NatHERS compliance and the uses of cladding DtS). This results in the inability to use DtS provisions as a complete compliance solution. Master Builders would like to see consolidation of the code provision into a single style of regulation incorporating the social overlays into existing provisions and creating clear technical regulation. This, combined with appropriate access to justice, will allow industry to understand the scope of technical regulation. The correction of these issues should be incorporated as a key performance indicator (KPI) for the office of the ABCB.

Master Builders believes that there needs to be a complete regulatory framework review of wet area construction and weatherproofing. This would require a review of policy, NCC Objectives, Functional Statements, Performance Requirements, Acceptable Construction Practices, Acceptable Construction Manuals and Referenced Documents. There is widespread dissatisfaction within industry regarding the regulation of wet area construction, weatherproofing and the disjointed way these issues are addressed within the regulatory framework/NCC.

Master Builders support the inclusion of wet area provisions within volume 2 and we look forward to the further improvement of these provisions prior to NCC 2025.

Master Builders support in principle the introduction of weatherproofing provisions in Volume 1. However, we do not support the provisions as drafted and believe they require further work prior to introduction into the NCC.

Master Builders do not support the inclusion of the Livable Housing provisions within the NCC—for further information please see our letter addressing this issue.

For any further information or clarification of items raised in this letter, please feel free to contact me.

Yours Sincerely

Max Rafferty
National Technical Policy Manager
Master Builders Australia