

Please note: this document is a preview of the survey only and is not for submitting feedback. To submit feedback, please complete the online survey on the ABCBC [Consultation Hub](#) website.

Overview

About the consultation

Research has indicated that serious defects related to waterproofing are the most common defects in buildings compared to other areas, such as fire safety, building enclosures, structural integrity, and key services. A lack of Deemed-to-Satisfy (DTS) Provisions is considered to have contributed to problems, including poor design and documentation, a hit-and-miss approach to Performance Solutions, and sub-standard construction outcomes. In turn, these problems are contributing to waterproofing defects.

The Australian Building Codes Board (ABCBC) has been undertaking work to identify potential changes to waterproofing and water shedding provisions in the next edition of the National Construction Code (NCC). This work builds upon the waterproofing and water shedding provisions included in the 2022 edition of the NCC. The proposed provisions were developed in consultation with the waterproofing and water shedding Technical Reference Group (TRG), external stakeholders and industry experts. These are included in the NCC public comment draft (PCD).

The proposed changes aim to:

- resolve issues stemming from the lack of sub-surface water management; and
- clarify the interpretation and application of multiple Performance Requirements

In the long run these changes are expected to:

- reduce building defects
- avoid financial burden and stress to homeowners and occupants,
- extend building lifespans,
- maintain structural integrity,
- improve flexibility in design,
- improve clarity in construction.

The ABCBC engaged ACIL Allen to conduct a Consultation Impact Statement (CRIS) to evaluate the impacts of the proposed provisions. ACIL Allen has since developed a CRIS on the proposed NCC waterproofing and water shedding provisions in accordance with the [Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies](#) <<https://oia.pmc.gov.au/resources/guidance-impact-analysis/regulatory-impact-analysis-guide-ministers-meetings-and-national>> administered by the Commonwealth Office of Impact Analysis (OIA). The CRIS includes a cost-benefit analysis, as well as a sensitivity analysis and breakeven analysis. The report is now available for public comment.

Resources

To support stakeholders in providing informed comments, resources are available via the Related Documents section at the bottom of this page:

- CRIS on proposed next edition of the NCC – waterproofing and water shedding
- Placemat

You can access the [full CRIS](#) <[user_uploads/waterproofing---cris-report.pdf](#)> below or download a copy at the bottom of this page.

The next edition of the NCC PCD (the technical provisions) is also open for consultation until **11:59 PM AEST 1 July 2024**. You can view the draft and supporting documentation on the [ABCBC's Consultation Hub](#) </> .

You will still be able to view the CRIS and PCD once the public comment period has closed.

Why your views matter

The purpose of this consultation is to seek your feedback on the consultation impact analysis undertaken on the proposed condensation mitigation measures. The views of stakeholders are fundamental to ensuring the impact analysis is based on the best available information. Questions have been included to guide your responses on specific matters where more information would be particularly helpful in developing the final impact analysis report.

Providing comment

This consultation is open for responses until **11:59PM AEST Monday 1 July 2024**. In line with the ABCBC's procedures for undertaking public consultation, comment will only be accepted through the ABCBC's online Consultation Hub.

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May 2024



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1 Important: Please ensure that you have read and understood the below statements before proceeding

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- the Department of Industry, Science and Resources or the ABCBC Office, and the staff of the Department and the ABCBC Office;
- the ABCBC, its committees and any working groups established by the ABCBC, and their staff and advisors;
- the Commonwealth Government, and State and Territory Ministers responsible for building regulation and policy, and their staff and advisors;
- other Commonwealth or State and Territory government departments and agencies;
- any consultant or contractor engaged by the ABCBC for the purpose of undertaking work in respect of the subject matter of the submission process.
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GPO Box 2013
Canberra ACT 2601

Confidential Information Statement

All submissions and comments will be published unless they are marked 'commercial-in-confidence'. However, any contact details you provide within your submission will be redacted prior to the submission being published.

In order to promote debate and transparency, the ABCBC prefers that all submissions and comments be provided in a way that does not require confidentiality to be maintained. However, it recognises that in some circumstances you may want to provide information in confidence.

It is the responsibility of the person making the submission to ensure that any 'commercial-in-confidence' information is clearly identified. Please consider if you can structure your response to keep only some parts confidential. If only part of your submission is confidential, you can provide the confidential part as a separate submission so that the ABCBC can publish the non-confidential part of the submission.

Where confidentiality is requested for an entire submission, it will not be published by the ABCBC, nor will your name or organisation details; however, see the comments below regarding Impact Analysis.

Please note that we may still disclose the confidential part of your submission to any of the above identified users of the information as part of the consultation process and we will use reasonable efforts to ensure that the recipients keep the submission confidential.

Submissions for Impact Analysis will be made public in accordance with the Office of Impact Analysis' [Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies](https://oia.pmc.gov.au/resources/guidance-impact-analysis/regulatory-impact-analysis-guide-ministers-meetings-and-national) <<https://oia.pmc.gov.au/resources/guidance-impact-analysis/regulatory-impact-analysis-guide-ministers-meetings-and-national>> .

The ABCBC or the ABCBC Office may also disclose confidential information in circumstances where:

- we are required or authorised by law disclose it;
- you agree to the information being disclosed; or
- someone other than you has made the confidential information public.

Your submission, comments, opinions and responses will not be published if the ABCBC or the ABCBC Office considers that your submission, comments, opinions and responses may contain potentially defamatory statements or other offensive comments.

(Required)

Please select only one item

Yes, I have read and understood the privacy collection statement.

2 By making a submission on this consultation you agree to the collection of the information you provide in your submission; and the use and disclosure of the information you provide in your submission as outlined above.

(Required)

Please select only one item

- Publish response
- Publish response anonymously (this will remove personal identifiers including, name and organisation)
- Do not publish response

Personal Information

3 What is your name?

4 What is your email address?

Enter your email address to automatically receive an acknowledgement email when you submit your response.

(Required)

5 What is the name of your organisation?

If submitting comments as an individual please leave blank.

6 Please select your State or Territory

Please select only one item

- ACT
- NSW
- NT
- Qld
- SA
- Tas
- Vic
- WA



7 Which best describes your industry sector?

Please select all that apply

- Building commercial
- Building residential
- Building commercial and residential
- Building and plumbing products
- Building certification / surveying
- Architecture and design
- Engineering
- Plumbing
- Compliance, testing and accreditation
- Legal and finance
- Specialist - disability access
- Specialist - energy efficiency
- Specialist - fire safety
- Specialist - health
- Specialist - hydraulic / plumbing
- Students / apprentices
- Trades and other construction services
- Education
- Community and non-government organisations
- Government
- General public
- Other

If other, please specify



What is the problem?

There is growing evidence of the prevalence of waterproofing defects in Class 2 to Class 9 buildings in Australia.

There is no systematic collection of information about the causes of waterproofing defects in buildings. However, an analysis of data collected by the ABCB from a sample of buildings with waterproofing defects shows that sub-surface water is responsible for the majority of waterproofing defects in Class 2 to 9 buildings. Sub-surface water includes:

- all natural occurring water, other than surface water, which is either groundwater or water which results from rainfall infiltration on the site or other infiltration from another water source; or
- water beneath the surface of a building element, other structure, or the ground
- ABCB's technical committees have indicated that the NCC's current Performance Requirements and DTS Provisions relating to the ingress of sub-surface water is contributing to waterproofing defects. The absence of adequate provisions in the NCC results in a reliance on Performance Solutions, but there is a hit-and-miss approach to these Performance Solutions, leading to poor design and documentation, and sub-standard construction outcomes.

See chapter 3 (from Page 9) of the CRIS to read the full section.

8 The CRIS outlines some common causes of waterproofing defects (see Chapter 2 pg. 7-8), sourced from a literature review. Does this adequately capture common causes of waterproofing defects?

Please select only one item

- Yes
 No
 Unsure

Please explain your answer and provide any additional information to support your view.

9 To what extent do you agree with the statement: "Waterproofing defects in balconies, podiums and roofs are now amongst the most common defects in buildings?"

Please select only one item

- Not at all
 Somewhat agree
 Mostly agree
 Certainly agree

Please explain your answer and provide any additional information to support your view:



10 Do you agree with the statement: 'The absence of adequate Performance Requirements and DTS Provisions in the NCC relating to the ingress of sub-surface water to buildings is contributing to waterproofing defects'?

Please select only one item

- Yes
- No
- Unsure

Please explain your answer and provide any additional information to support your view:

11 The report suggests the proportion of waterproofing defects caused by the lack of consideration of sub-surface water in the design of buildings is 52% for Class 2 buildings and 49% for Class 3-9 buildings. Do you agree with these findings regarding the prevalence of waterproofing defects arising from sub-surface water?

Please select only one item

- Yes, the findings are accurate
- Yes, the findings are somewhat accurate
- No, the findings are too high
- No, the findings are too low
- I'm not sure

Please explain your answer and provide any additional information to support your view:



12 The report identifies the scope of the waterproofing defects for different building classifications (see Table 3.10 pg 25 of the report). Please rank building classifications based on the prevalence of waterproofing defects.

Please rank from highest to lowest prevalence, 1 being the highest

	1	2	3	4	5	6	7	8
Class 2 buildings (apartments) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Class 3 buildings (residential buildings other than Class 1 or Class 2 buildings, or a Class 4 part of a building) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Class 4 buildings (part of a building) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Class 5 buildings (commercial) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Class 6 buildings (retail) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Class 7 buildings (storage/carparks) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Class 8 buildings (factory) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Class 9 buildings (public use buildings) <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer and provide any additional information to support your view:

Is there a case for government intervention?

The discussion in Chapters 2 and 4 of the CRIS suggest that, in principle, there is a case for more stringent waterproofing regulation on the basis that:

- There are existing market failures that justify government intervention in relation to the waterproofing of new buildings. These include information asymmetries, split incentives, and negative externalities
- Asymmetric information and split incentives are major barriers to fostering design and construction practices that effectively deal with the ingress of sub-surface water to buildings
- The significant health, safety and financial impacts of waterproofing defects have led to a legitimate public outcry about this issue in several Australian jurisdictions.
- More stringent waterproofing regulation would contribute to achieving social objectives and equity objectives by meeting community expectations that all buildings in Australia provide a minimum level of performance and safety.



- There is a lack of non-regulatory alternatives that would be effective to correct market failure in relation to the waterproofing of buildings.
- Existing regulation needs to be updated to reflect changes to the regulatory environment, improved government and community understanding of risks, risk appetite of building owners and occupants to accept building failures, and changing business practices.

For more information see **Chapter 4 (from Page 30)** of the report.

13 The report presents a case for market failure. Do you agree that asymmetric information and split incentives are present in the current market? (see Section 4.1, pg. 30 - 32 of the report)

Please select only one item

- Yes
- No
- Unsure

Please explain your answer and provide an additional information to support your view:

14 To what extent do you think regulatory failure is present in the current market and that the NCC has failed to keep pace with modern construction practices in relation to waterproofing defects?

Please select only one item

- Not at all
- Somewhat agree
- Mostly agree
- Certainly agree

Please explain your answer and provide any additional information to support your view:

Options proposed to address the problem

The broader objectives of the proposed changes to the waterproofing provisions in the NCC can be summarised as:

- Drive a reduction in the incidences of waterproofing defects and reduce rectification costs.
- Improve confidence in the construction industry
- Improve health and amenity in buildings.



There are also a number of secondary objectives of the proposed changes. These include:

- Increased clarity of the water management requirements of the NCC (for instance, by recasting 5 Performance Requirements into one and removing ambiguity about the ability for water to penetrate a building element).
- Providing a level platform for all sectors to operate within.

To achieve these objectives the following policy options have been considered:

- Business as Usual (BAU) or status quo
- Amending the waterproofing requirements in the next edition of the NCC.
- Each of these options are discussed in more detail in **section 5.2 (pg. 38)** of the report

15 Of the two options proposed, which one is your preferred option? Please provide your reasons and any evidence for your preferred option. Option 1: maintain status quo or mark no changes to the waterproofing requirements. Option 2: amending the waterproofing requirements in the next edition of the NCC.

Please select only one item

- Option 1
 Option 2
 Unsure

Please explain your answer and provide any additional information to support your view:

16 How would industry most likely respond to the proposed changes?

Please select only one item

- Accept the proposed changes to DTS Provisions.
 Propose an alternative to the DTS Provisions/Performance Solution. (Please provide an explanation below on what they would be)
 Choose the cheapest option

Please explain your answer and provide any additional information to support your view:



17 Do you think Performance Requirement F1P1 removes ambiguity about the ability of water to penetrate a building element and provides a consistent baseline for performance to alleviate market failure? (see Attachment D under section F1P1, pg. 113 of the report)

Please select only one item

- Yes
- No
- Unsure

Please explain your answer and provide any additional information to support your view:

Cost-Benefit Analysis

The analysis considers 4 categories of benefits and 3 categories of costs associated with the proposed new waterproofing provisions.

Benefits – the analysis uses the following measures of the potential benefits accruing to the proposed changes:

- avoided rectification costs – these are the costs that are incurred by the owners and occupants of Class 2 to 9 buildings under the current regulations to rectify waterproofing defects, which will be avoided under the proposed changes.
- avoided professional costs – these are the costs incurred to obtain professional advice on waterproofing defects, which will be avoided under the proposed changes.
- avoided legal costs – these are the costs incurred to resolve disputes over waterproofing defects, which will be avoided under the proposed changes.
- avoided time costs – this is the value of the time that building owners and occupants spend to rectify waterproofing defects, which will be avoided under the proposed changes.

Costs – the proposed changes entail costs to industry and government. There are 3 categories of costs that have been included in the analysis:

- construction costs — these are the additional costs that would be incurred by developers to meet the proposed new waterproofing requirements.
- industry costs — these are the costs that would be incurred by the industry to implement the proposed new waterproofing requirements.
- government costs — these are the costs that would be incurred by the government to transition to the proposed new waterproofing requirements.

18 Do you consider the costs of the proposed changes outlined in the report to be accurate? Section 6.3 (see pg. 52-60 of the report) outlines the cost of the proposed changes for construction costs (Table 6.2, Table 6.5, Table 6.7) using the assumed building sizes outlined in Table 6.6. Table 6.8 provides a projection of costs to industry for NCC over a 10-year period.

Please select only one item

- Yes, the findings are accurate
- Yes, the findings are somewhat accurate
- No, the findings are too high
- No, the findings are too low
- I'm not sure

Please explain your answer and provide any additional information to support your view:

19 The CRIS outlines costs to industry for training and education if the provisions are included in the next edition of the NCC (see section 6.3.2, pg. 57 of the report). Are these accurately addressed?

Please select only one item

- Yes, the costs are accurate
- Yes, the costs are somewhat accurate
- No, the costs are too high
- No, the costs are too low
- I'm not sure

Please explain your answer and provide any additional information to support your view:

20 Estimated costs for rectifying waterproofing defects are outlined in the report (see Table 6.12, pg. 61). The mid-estimate was used in the analysis for the CBA. Are the cost estimates presented reasonable?

Please select only one item

- Yes, the cost estimates are accurate
- Yes, the cost estimates are somewhat accurate
- No, the cost estimates are too high
- No, the cost estimates are too low
- I'm not sure

Please explain your answer and provide any additional information to support your view:



21 Are the estimated avoided costs for legal advice (see Tables 6.17, pg. 65) and time managing repairs by owners (see Table 6.18, pg. 66) reasonable?

Please select only one item

- Yes, the cost estimates are accurate
- Yes, the cost estimates are somewhat accurate
- No, the cost estimates are too high
- No, the cost estimates are too low
- I'm not sure

Please explain your answer and provide any additional information to support your view:

22 Do you agree with the assumptions used to calculate the regulatory burden estimates in the report? (See Table 6.21, pg. 69 of the report)

Please select only one item

- Yes
- No
- Unsure

Please explain your answer and provide any additional information to support your view:

23 Are there any other assumptions or parameters that should be included in the sensitivity or breakeven analyses? (see Section 6.6, Table 6.22 and Table 6.23)

Please select only one item

- Yes
- No
- Unsure

Please explain your answer and provide any additional information to support your view:

24 Do the findings of the cost-benefit analysis results (see Table 6.19, pg. 67 of the report) on proposed options align with your own qualitative assessment?

Please select only one item

- Yes
- No
- Unsure

Please explain your answer and provide any additional information to support your view:

Final question

25 Are there any other comments you would like to make in relation to the analysis in the CRIS?

Please select only one item

- Yes
- No

Additional comments

Please attach a copy of any documents you wish to include to this printout.

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