

CONSIDERATIONS FOR CLASS 1a PREFABRICATED HOMES AND NON-CONFORMING BUILDING PRODUCTS

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A person who designs, manufactures, imports, supplies or installs building products is a person in the chain of responsibility and must ensure the building products they design, manufacture, import, supply or install, are not non-conforming building products (NCBP). This includes ensuring the building product meets relevant regulatory provisions and complying with relevant duties, such as to provide required information.

Under Queensland's non-conforming building product laws, a building product is any material or other thing associated with, or that could be associated with, a building.

A building product is a non-conforming building product for an intended use if:

- it is not, or will not be, safe; or
- it does not, or will not, comply with the relevant regulatory provisions, including the National Construction Code (NCC); or
- the product does not perform, or is not capable of performing, for the use to the standard it is represented to perform by or for a person in the chain of responsibility for the product.

A prefabricated home is a building made up of individual components, that may be building products, which must comply with Queensland's non-conforming building product laws.

It is also important to note that a prefabricated home would be classified as a Class 1a building under the National Construction Code (NCC) when used as a dwelling.

The prefabricated home as a complete building may trigger building or plumbing work requirements. These building and plumbing requirements are administered by the local government where the structure is placed.

A Development Approval for Building Works (building permit) and a Development Approval for Plumbing and Drainage Works (plumbing permit) from the relevant local government or private certifier as appropriate for the prefabricated home is required under the *Planning Act 2016* (Qld). It is recommended that you seek advice from your local government or private building certifier in relation to these requirements.

Required Information and Evidence of Suitability

Required information, for a building product, means information about the product that for each intended use of the product states or otherwise communicates, among other things, the suitability of the product for the intended use. All building products imported into or manufactured in Queensland must have evidence of suitability as prescribed in the NCC.

Prefabricated homes are required to meet the NCC Governing and Performance Requirements for a Class 1a building and

sufficient 'required information' must be provided in relation to the component building products pursuant to part 6AA of the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

Dependent upon the site-specific geographical conditions, evidence of suitability such as appropriate test reports and documents satisfying the NCC A5G3 and A5G4 evidence of suitability will be required. This is used to show compliance will be achieved with the following (where applicable) relevant NCC and Queensland Development Code (QDC) 'Performance Requirements' for the prefabricated home:

H1P1	Structural stability and resistance
H2P2	Weatherproofing
H3P1	Spread of fire
H3P2	Automatic warning for occupants
H4P1	Wet areas, including falls to floor wastes
H4P2	Room heights
H4P3	Personal hygiene and other facilities
H4P4	Lighting
H4P5	Ventilation
H4P6	Sound Insulation
H4P7	Condensation and water vapour management
H5P1	Movement to and within a building
H5P2	Fall prevention barriers
P2.6.1	Building—as required by QDC MP4.1 referencing BCA 2010
P2.6.2(a)	Services (energy efficiency)—as required by QDC MP4.1 referencing BCA 2010
	Liveable Housing Provisions under NCC H8P1, QDC MP 4.5, and QDC MP4.1, also need to be considered.

Some geographic locations may require some additional specific 'Performance Requirements' not mentioned previously, to be considered.

When considering a prefabricated home, it is important to have:

- a soil test in accordance with AS 2870 and AS 1289, as applicable
- a site wind speed assessment in accordance with Australian Standard (AS) 4055 as appropriate for Class 1 and 10 buildings from a professional engineer (or other suitably qualified person), which includes terrain category, topographic classification and shielding

- location information, if applicable, such as:
 - » acoustic requirements or acoustic reports
 - » bushfire rating requirements
 - » energy efficiency requirements
 - » if required to act as a barrier (balustrade)
 - » fall prevention requirements.

If you are involved with the ordering, supply, or installation of a prefabricated home, be sure to check that it meets all the regulated criteria before ordering and installing.

Manufacturers, suppliers, and installers need to be aware of the requirements for domestic Class 1 buildings, if sold or installed in Queensland.

Unless a prefabricated home is:

1. designed and manufactured to:
 - a. satisfy the requirements of the NCC
 - b. meet relevant Australian Standards
2. installed correctly

then possible non-compliance in the areas of:

1. WaterMark certification
2. weatherproofing
3. waterproofing
4. structural reliability
5. fire safety

may, at best, impose discomfort upon the occupants and, at worst, cause sickness, injury, or even death.

Under Queensland's NCBP legislation, members of the construction industry supply chain, i.e., persons in the chain of responsibility (including, but not limited to, manufacturers, importers, sellers and installers), must ensure the building products they manufacture, supply or install are compliant, or otherwise risk incurring significant penalties.

Persons in the chain of responsibility also have a duty to provide accompanying 'required information' (as defined further below), which includes:

- the suitability of the building product for its intended use
- instructions about how the building product must be installed.

When providing a prefabricated home, advice that it requires a Development Approval for Building Works and Plumbing/Drainage Works to be obtained prior to installation, should also be provided.

Regulating the required Development Approvals for Building Works and Plumbing/Drainage Works is the responsibility of the relevant local government where the structure is placed.

Definitions

A **building product**¹ is any material or other thing associated with, or that could be associated with, a building.

A building product is a **non-conforming building product**² for an intended use if—

- (a) the association of the product with a building for the use—
 - (i) is not, or will not be, safe; or
 - (ii) does not, or will not, comply with the relevant regulatory provisions; or
- (b) the product does not perform, or is not capable of performing, for the use to the standard it is represented to perform by or for a person in the chain of responsibility for the product.

Intended use³, for a building product, means a use for which the building product is intended to be, or is reasonably likely to be, associated with a building.

Relevant regulatory provisions⁴ means—

- (a) in relation to relevant work mentioned in the definition relevant work, paragraph (a)—the building assessment provisions under the *Building Act 1975*; or
- (b) in relation to relevant work mentioned in the definition relevant work, paragraph (b) or (c)—the *Plumbing and Drainage Act 2018*.

Evidence of suitability⁵ means the form of evidence used to support that the use of a material, product, form of construction or design meets a 'Performance Requirement' or a 'Deemed-to-Satisfy Provision' and may be in the form of any one, or any combination of the following:

- (a) A current CodeMark Australia or CodeMark Certificate of Conformity.
- (b) A current Certificate of Accreditation.
- (c) A current certificate, other than a certificate described in (a) and (b), issued by a certification body stating that the properties and performance of a material, product, form of construction or design fulfil specific requirements of the Building Code of Australia (BCA).
- (d) A report issued by an Accredited Testing Laboratory that—
 - (i) demonstrates that a material, product, or form of construction fulfils specific requirements of the BCA; and
 - (ii) sets out the tests the material, product or form of construction has been subjected to and the results of those tests and any other relevant information that has been relied upon to demonstrate it fulfils specific requirements of the BCA.

¹ QBCC Act, section 74AB(1).

² QBCC Act section 74AB(2).

³ QBCC Act section 74AA.

⁴ QBCC Act section 74AA.

⁵ NCC 2022 Volume 1 A5G3 & A5G4

- (e) A certificate or report from a professional engineer or other appropriately qualified person that—
 - (i) certifies that a material, product, form of construction or design fulfils specific requirements of the BCA; and
 - (ii) sets out the basis on which it is given and the extent to which relevant standards, specifications, rules, codes of practice or other publications have been relied upon to demonstrate it fulfils specific requirements of the BCA.
- (f) Another form of documentary evidence, such as but not limited to a Product Technical Statement, that—
 - (i) demonstrates that a material, product, form of construction or design fulfils specific requirements of the BCA; and
 - (ii) sets out the basis on which it is given and the extent to which relevant standards, specifications, rules, codes of practice or other publications have been relied upon to demonstrate it fulfils specific requirements of the BCA.

Performance Requirement⁶ means a requirement that states the level of performance that a Performance Solution or Deemed-to-Satisfy Solution must meet.

Performance Solution⁷ means a method of complying with the Performance Requirements other than by a Deemed-to-Satisfy Solution.

Deemed-to-Satisfy Solution⁸ means a method of satisfying the Deemed-to-Satisfy Provisions.

Deemed-to-Satisfy Provisions⁹ means provisions which are deemed to satisfy the Performance Requirements.

Required information¹⁰, for a building product, means information about the product that—

- (a) for each intended use of the product, states or otherwise communicates the following—
 - (i) the suitability of the product for the intended use and, if the product is suitable for the intended use only in particular circumstances or subject to particular conditions, the particular circumstances or conditions;
 - (ii) instructions about how the product must be associated with a building to ensure it is not a non-conforming building product for the intended use
 - (iii) instructions about how the product must be used to ensure it is not a non-conforming building product for the intended use;

- (b) complies with the requirements for the information, if any, prescribed by regulation for this definition.

A person is **a person in the chain of responsibility¹¹** for a building product if—

- (a) the person—
 - (i) designs, manufactures, imports or supplies the building product; and
 - (ii) knows, or is reasonably expected to know, the product will or is likely to be associated with a building; or
- (b) the person installs the product in a building in connection with relevant work; or
- (c) the person is an architect or engineer who, in designing a building, specifies that the product be associated with the building.

Useful Links

[Australian Building Codes Board Handbook – Prefabricated, modular and offsite construction](#)

Disclaimer

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If you have any questions as to how the NCBP laws apply to you, you should obtain appropriate independent professional advice regarding how to discharge your duties under the *Queensland Building and Construction Commission Act 1991* (QBCC Act) and achieve compliance with relevant regulatory provisions for building products. This is especially important if you (or your company) intend to later rely upon that advice to demonstrate satisfaction of your duties under Part 6AA of the QBCC Act or other legislative obligations.

6 NCC 2022 Volume One, schedule 1 Definitions, Glossary.
 7 NCC 2022 Volume One, schedule 1 Definitions, Glossary.
 8 NCC 2022 Volume One, schedule 1 Definitions, Glossary.
 9 NCC 2022 Volume One, schedule 1 Definitions, Glossary.
 10 QBCC Act, section 74AG(7)

11 QBCC Act, section 74AE.