

16 January 2023

Building Policy
Department of Energy and Public Works
Email: Eleanor.Ketter@epw.qld.gov.au

Attn: Eleanor Ketter

Dear Eleanor,

National Construction Code 2022 – adoption of the Modern Homes standards for Queensland Newsflash and draft scenarios

The Australian Institute of Architects (Institute) Queensland Chapter welcomes the opportunity extended to our organisation to provide a response to the Scenario document provided to us on 20 December 2022.

The Institute has considered the Scenarios provided with a view towards suggesting new scenarios and other potential amendments. Our investigations have illuminated just how complex and diverse the potential scenarios might be, while also more fully appreciating the urgency of the issue, noting that the industry is already making decisions that might be assisted by your guideline.

Our first comment, echoed with enthusiasm among members, is that the Institute hopes the industry will focus its efforts and energies in embracing the high value of this new legislation and meeting compliance requirements within the October deadline, and spend minimal time on investigating how they might postpone or work around these legislative advancements through transitional arrangements and/or sensible exemptions. With that priority in mind, consideration might be given as to what level of detail in the guideline will best serve that outcome, i.e., comprehensive and detailed, or succinct with high level principles.

Our second observation is that the scenarios that will have a more lasting value are those that deal with the sensible exemptions for new homes on steep slopes, on small lots, and for traditional designs like the iconic Queenslander. We'd like to see several further scenarios that address those three issues to provide more detail and clarity. For instance, will an exemption for Queenslanders only apply to existing homes, or new homes adopting high-set Queensland home principles. Further, a 7m wide lot is mentioned, but members are interested to know how a 3.6m wide lot might be considered.

Finally, we have prepared a matrix, provided in Appendix A, of potential common scenario characteristics, then placing your existing scenarios within that matrix to help us identify where further similar scenarios might be required. That process has made it clear that there will be a high level of discretion required by certifiers in scenarios where approvals, either planning or building, have not been achieved but are significantly progressed. Our anecdotal evidence indicates that all forms of approval are taking two to four times longer to achieve

than pre-COVID timeframes, and this factor has an impact on determining what the appropriate level of exemption discretion will be, where it is available, and who is responsible for making the determination. We understand that a key purpose of the guideline is to avoid an avalanche of QCAT cases, which we agree would be best for all stakeholders.

As further outlined in your Newsflash, some issues of non-compliance may be easy and inexpensive to correct, while others may be significantly and proportionally much more challenging and costly. To help analyse these various levels of compliance, we've proposed a scale that ranges from a small number of non-compliances that are easy to address at one end, while proposals with a larger number of non-compliances that are extremely difficult to address form the other end of the scale. In addition, a juxtaposing scale reflects the degree of completion of the designs, approvals and/or contracts. In fact, the applicable legal instruments, i.e., services agreements, land sales contracts, building contracts, development approvals and building approvals., layered with whether the work in question is new or a renovation, adds another layer of consideration for exemption leniency or lack thereof. x

It's worth noting that the existing scenarios don't seem to provide much detail as to the extent of the non-compliance nor the cost or difficulty involved in bringing the project to full compliance, and we recommend that this level of clarity be consistently provided, as it appears from the Newsflash that information is of material relevance.

Based on Appendix 1, there are over 50 potential additional scenarios identified that might assist the guideline, plus another 200 sub-scenarios once the various compliance scales are considered, including nearly 40 scenarios that are variations to the existing 13 scenarios if varying degrees of compliance are considered.

Now that we have catalogued this array of potential scenario gaps, our members may be able to further assist to determine – through their anecdotal experience – which scenarios are likely to have the most value/relevance and share the load of providing details to your department to illustrate their selections. For instance, in relation to Client Architect service agreements, members are rightly concerned about who takes responsibility for the cost of changing designs and/or documents during the transition period, and some scenario examples are likely to put forward to provide clarity on that issue in particular.

Please let us know if that input is what you are seeking, and we'll do our best to complete a prioritised selection by the end of this week.

Sincerely,



Amy Degenhart, LFRAIA
Queensland Chapter President
Australian Institute of Architects



Dr Anna Svendsdotter
Stat Manager Queensland
Australian Institute of Architects

cc. lindsay.walker@epw.qld.gov.au

Scenario	Description
1.	<ul style="list-style-type: none"> • A builder signs contract with homeowner to construct a specified house design on a particular lot. • The contract is dated prior to 1 October 2023.
2.	<ul style="list-style-type: none"> • A homeowner enters into a contract with a builder to renovate an existing house prior to 1 October 2023. • The designs referred to in the contract do not comply with the Modern Homes standards.
3.	<ul style="list-style-type: none"> • A homeowner enters into a contract with a house designer or architect to design a house to be constructed on a particular site. • The design for the house is completed prior to 1 October 2023 and is evidenced by completed house plans that are dated prior to 1 October 2023. • The completed house plans provide sufficient detail for a builder to provide a quote for the construction of the house.
4.	<ul style="list-style-type: none"> • A homeowner enters into a contract with a building designer or architect to design renovations to an existing house prior to 1 October 2023. • The renovation design is completed prior to 1 October 2023 and is evidenced by completed plans that are dated prior to 1 October 2023. • The completed plans provide sufficient detail for a builder to provide a quote for the renovation work.
5.	<ul style="list-style-type: none"> • A homeowner enters into a contract with a house designer or architect to design a house to be constructed on a particular site. • The design for the house is partially completed prior to 1 October 2023 and evidence for this fact is provided by preliminary house sketches that are dated prior to 1 October 2023. • The preliminary house sketches are not sufficiently detailed for a builder to provide a quote for the construction of the house.
6.	<ul style="list-style-type: none"> • A homeowner enters into a contract with a building designer or architect to design renovations to an existing house prior to 1 October 2023. • The renovation design is partially completed prior to 1 October 2023 and is evidenced by preliminary sketches that are dated prior to 1 October 2023. • The preliminary sketches are not sufficiently detailed for a builder to provide a quote for the renovation work.
7.	<ul style="list-style-type: none"> • A builder owns a standard house design that is completed prior to 1 October 2023. • The design does not comply with the Modern Homes standards. • The builder purchases a lot prior to 1 October 2023 with the intention of building the standard house design on the lot. • The builder obtains a building approval to construct the standard design house on the lot prior to 1 October 2023.
8.	<ul style="list-style-type: none"> • A developer enters into a design and construct contract for a 20 storey apartment building with a builder prior to 1 October 2023. • The building design is not finished prior to the contract being signed. • Preliminary design sketches are available to indicate the size and scale of the proposed building. • Detailed construction drawings will be prepared after 1 October 2023.
9.	<ul style="list-style-type: none"> • A builder owns a standard house design that is completed prior to 1 October 2023. • The design does not comply with the Modern Homes standards.

	<ul style="list-style-type: none"> • The builder purchases a lot prior to 1 October 2023 with the intention of building the standard house design on the lot. • The builder does not obtain a building approval to construct the standard design house on the lot prior to 1 October 2023.
10.	<ul style="list-style-type: none"> • A developer sells a lot to a prospective home buyer and settlement of the sale is completed prior to 1 October 2023. • The lot is 7 meters wide and this width will limit the designs of houses that can be constructed on the lot. • No contract for the construction of a house on the lot is signed before 1 October 2023.
11.	<ul style="list-style-type: none"> • A developer sells a lot 'off the plan' to a prospective home buyer prior to 1 October 2023 (i.e. the lot has not yet been sealed by the Land Titles Office). • The lot is 7 meters wide and this width will limit the designs of houses that can be constructed on the lot. • No contract for the construction of a house on the lot is signed before 1 October 2023.
12.	<ul style="list-style-type: none"> • A developer has obtained a preliminary approval that contemplates the reconfiguration 100 new lots a new housing estate. • The preliminary approval contemplates the creation of a variety of lot sizes and widths.
13.	<ul style="list-style-type: none"> • A developer has obtained a material change of use approval for a housing estate that contemplates the supply of 100 new homes. • The material change of use approval includes a condition that the housing estate include a variety of housing types and sizes. • This will include narrow lots e.g. that may not be suitable for construction of houses that are attractive to buyers and that also meet the Modern Construction Standards.

APPENDIX 1

National Construction Code 2022 – adoption of the Modern Homes standards for Queensland Newsflash and draft scenarios

16 January 2023

Planning (Development) Applications (DA)

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Preliminary DA design commenced				
Preliminary DA design completed	Scenario 12A	Scenario 12B	Scenario 12C	Scenario 12D
Preliminary DA Submitted				
Preliminary DA Approved				
DA design commenced				
DA design completed				
DA submitted				
DA approved	Scenario 13A	Scenario 13A	Scenario 13A	Scenario 13A

Design commissions for Class 1 new work

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Design services commissioned				
Designs drawings completed	Scenario 5A	Scenario 5B	Scenario 5B	Scenario 5B
Tender drawings completed	Scenario 3A	Scenario 3B	Scenario 3C	Scenario 3D

Design commissions for Class 1 renovation work

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Design services commissioned				
Designs drawings completed	Scenario 6A	Scenario 6B	Scenario 6C	Scenario 6D
Tender documents completed	Scenario 4A	Scenario 4B	Scenario 4C	Scenario 4D

Building Applications (BA)

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Design commenced				
Design completed				
Preliminary BA Submitted				
Preliminary BA Approved				
BA submitted				
BA approved	Scenario 7A	Scenario 7A	Scenario 7A	Scenario 7A

Class 1 Building Contracts for New Work

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
D & C contract signed with no designs				
D & C contract signed with designs				
FP contract signed with substantial provisional sums	Scenario 1A	Scenario 1B	Scenario 1C	Scenario 1D

FP contract signed with minimal provisional sums	Scenario 1E	Scenario 1F	Scenario 1G	Scenario 1H
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Class 1 Building Contract for Renovation Work

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
D & C contract signed with no designs				
D & C contract signed with designs				
FP contract signed with substantial provisional sums	Scenario 2A			Scenario 2B
FP contract signed with minimal provisional sums	Scenario 2C			Scenario 2D

Class 2 Building Contracts for New Work - Design and Construct (D & C) or Fixed price (FP)

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
D & C contract signed with preliminary designs	Scenario 8A	Scenario 8B	Scenario 8C	Scenario 8D
D & C contract signed with developed designs				
FP contract signed with substantial provisional sums				
FP contract signed with minimal provisional sums				

Class 2 Building Contracts for New Renovation Work - Design and Construct (D & C) or Fixed price (FP)

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
D & C contract signed with preliminary designs	Scenario 8A	Scenario 8B	Scenario 8C	Scenario 8D
D & C contract signed with developed designs				
FP contract signed with substantial provisional sums				
FP contract signed with minimal provisional sums				

Project Home Builder Standard Designs

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Legacy designs available for a site that is owned	Scenario 9A	9 Scenario B	Scenario 9C	Scenario 9D
New designs prepared for a site that is owned				
Legacy designs available for a site that is under contract				
New designs prepared for a site that is under contract				

Land Sales Contracts to End Users for Constrained Lots (small or narrow)

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Lot is under contract without preliminary designs	Scenario 11A	Scenario 11B	Scenario 11C	1 Scenario 1D
Lot is under contract with preliminary designs	Scenario 11E	Scenario 11F	Scenario 11G	Scenario 11H
Lot has been purchased without preliminary designs				
Lot has been purchased with preliminary designs				
Lot is under contract with a building contract				
Lot is under contract without a building contract	Scenario 10A	Scenario 10B	Scenario 10C	Scenario 10D
Lot has been purchased without a building contract				
Lot has been purchased with a building contract				

All Of the Above for Steep Sites

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Preliminary DA stages				
DA scenarios				
BA scenarios				
Design services scenarios				
Building contract scenarios				
Land contract scenarios				

All of the Above for Constrained Lots (small or narrow)

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Preliminary DA stages				
DA scenarios				
BA scenarios				
Design services scenarios				
Building contract scenarios				
Land contract scenarios				

All of the Above for Old Queensland Homes

Status as of 1 October 2023	Extent of compliance (Minimal or Substantial) and Impact to achieve full compliance (Minor or Major)			
	Minimal / Minor	Minimal / Major	Substantial / Minor	Substantial / Major
Preliminary DA stages				
DA scenarios				
BA scenarios				
Design services scenarios				
Building contract scenarios				
Land contract scenarios				

NB: Please refer the attached document, provided by the Department of Energy and Public Works, for details regarding the original 13 Scenarios (DRAFT), which have been theoretically expanded with sub-categories (A, B, C, D) to reflect the potential variations in their extent of compliance as well as likely cost to achieve compliance.