

Master Builders Australia

SUBMISSION TO AUSTRALIAN BUILDING CODES BOARD

***Response to Energy Efficiency NCC 2022 and
beyond: Scoping Study***

September 2019



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1. Introduction

1. This submission is made on behalf of Master Builders Australia and is in response to the Australian Building Codes Board (ABCB) Scoping Study issued in July 2019 entitled *Energy efficiency: NCC 2022 and beyond*.

General Position

2. The focus of Master Builders's response to this scoping study is on the two options proposed for residential buildings.
3. In respect of commercial buildings, the scoping study notes that the ABCB is considering more moderate changes and refinement of some provisions. We support this but would recommend future changes should be used to incorporate lessons learnt from 2019 NCC changes that improve those provisions; and evaluation of performance of 2019 changes be done first, before further stringency increases are progressed in an NCC update.
4. Master Builders has consistently advocated for no increases in star ratings for residential buildings above the existing 6 stars. We do not support further stringency increases in the built fabric but do support whole of house methods based on an assessment tool such as BASIX used in NSW and not NaTHERS star increases.
5. Existing building fabric requirements could be rolled into BASIX-style models, so we can accurately test performance of the combination of appliance and building fabric methods and get a better understanding of whole of house performance before ramping up stringency further.
6. The ABCB is conducting several processes that need to be brought together in the one regulatory impact assessment process to get a complete picture of the regulatory and cost impacts from proposed stringency reforms. The one process needs to consider both thermal comfort as well as condensation impacts. Two separate process have been commenced by the ABCB.
7. As a consequence, Master Builders does not support either option contained in the scoping study as they are currently presented. At this point, the focus should be on optimising the current system to make it function more effectively. Not until we do this should we consider further stringency increases.

National Construction Code (NCC) 2019

8. We note that the 2019 NCC improved requirements for separate measurement of heating and cooling load limits in both summer and winter that have addressed the issue of over-performance of homes in one season over another. This measure addresses the requirement for the National Energy Productivity Plan (NEPP) to advance the NCC and we therefore question why further measures are being fast-tracked.
9. Master Builders supports a broad aspirational plan for improving energy performance as captured in the COAG Energy Council's *Trajectory for Low Energy Buildings* but questions the pace at which this is being implemented. Until we know the effects on emissions of the previous changes and the likely impact of proposed changes, further stringency measures should be delayed.
10. This is because there are often difficulties in terms of how regulatory changes actually function on the ground compared with their original intent. In consultation with industry, proposed new regulations should be road tested and trialled in order to fine tune them and identify any issues or problems that arise from implementation. This should not be dictated by an ambitious policy plan. A shared commitment to effectively working up and testing options should be the driver of the reform process, not timeframes prescribed in the theoretical policy plan.

11. It is too early to determine how the newly-implemented 2019 NCC has affected aggregate emissions from the Australian economy. The new NCC took effect on 1st May 2019 and involved very substantial changes to commercial buildings alongside some energy stringency changes for residential buildings. It may be that these changes have 'over' achieved in terms of their contribution to enhancing Australia's energy performance. It is simply too early to be able to establish what the situation is and until we do, we are not well placed to prescribe future steps.
12. Until we have reliable data around this, it may be possible that further stringency measures are unnecessary in terms of meeting Australia's emissions reduction targets.

Cost of Housing

13. The ABCB has a very ambitious agenda for reform work including building confidence report implementation, accessible housing and energy stringency in its current three-year amendment cycle. The cost of each one of these measures for industry to implement is going to be very substantial.
14. Early estimates that we have on additional cost for energy stringency changes range from \$5,000 to \$20,000 per home. This cost estimate does not include costs for administration, redraws, processing and assessments, time delays, retraining, use of expert consultants and condensation-related risks. While the bulk of home building costs are generated by labour and materials, the burden of regulation and indirect costs is considerable and has a detrimental impact on the capacity of the industry.
15. The introduction of more stringent regulations will increase the cost of building new homes, regardless of their intent. This will hurt housing affordability both for those wishing to purchase a home or those relying on the rental market.

Existing Housing Stock

16. Master Builders considers not enough work has been done to bring existing stock in line with existing requirements and this should be the focus of further reform work, not increasing star ratings on new buildings. Because the volume of new home building activity is small relative to the size of the total dwelling stock, efforts to improve the energy efficiency of Australia's housing stock would best be concentrated on existing homes, which vastly outnumber newly-built dwellings.
17. This could start with better monitoring and enforcement of compliance with existing standards; and consumer-facing point-of-sale measures that educate the consumer on the benefits and unintended consequences (moisture damage) from stringency improvements.

Condensation Management - Unintended Consequences

18. Experience has shown that tighter energy efficiency standards have been shown to have unintended consequences. For example, problems relating to condensation and mould have resulted from previous stringency measures around heavier insulation and energy efficiency. Addressing these issues has required costly solutions such as more elaborate air flow systems. We therefore recommend the regulatory impact assessment considers both the cost of condensation impacts as well as thermal comfort improvements in the one process. We also recommend consideration be given to Government indemnifying the cost of condensation risks.

Conclude

19. Master Builders supports efforts to increase quality and the performance of building but through balanced, practical and sensible policy and regulatory settings that can be delivered in an effective and efficient way.

20. More detail supporting matters raised above follow in general observations on the NEPP Trajectory and associated NCC process; and Key Elements of Master Builders Submission. The key elements in the Master Builders submissions argue the following:

- a) The greatest gains in terms of energy efficiency will be made by targeting the existing dwelling stock.
- b) The effects on emissions of the previous changes to building regulations made in the 2019 National Construction Code have not yet been established.
- c) By increasing the cost of building new homes, tighter regulations will hurt housing affordability and depress new home building activity.
- d) Any new regulatory changes must be practical and workable.
- e) Additional changes in regulations will inflict disproportionate pain on smaller businesses.
- f) Consumers need to become more aware of the financial benefits of energy efficiency.
- g) Regulatory changes have been shown to have unintended consequences.
- h) The strength of the enforcement regime must match any regulatory changes.
- i) Energy Efficiency Ratings for Homes do not take account of all relevant factors.

It is, therefore, the view of Master Builders that the options contained in the Scoping Study are unwarranted at this stage of the process, they should be set aside and instead the focus should be on the alternative approaches outlined above.

Structure

The Master Builders submission is made up of the following sections:

1. Introduction
2. General Observations on the NEPP Trajectory and Associated NCC Process
3. About Master Builders
4. Overview of Australia's Building and Construction Industry
5. Background to Master Builders's Submission
6. Outlook for Residential Building Activity
7. Key Elements of Master Builders's Submission
8. Conclusion

2. General Observations on the NEPP Trajectory and Associated NCC Process

21. The driver of changes to NCC energy provisions is the National Energy Productivity Plan (NEPP). Its objective is to improve Australia's energy productivity by 40 per cent by 2030 and deliver one quarter of low-cost emissions savings. The NEPP includes residential building-related measures that advance the National Construction Code (NCC), improve energy rating disclosure, improve compliance and industry skills/training, more choice for consumers, support best practice services for vulnerable consumers and deliver a new Equipment Energy Efficiency Plan¹.
22. In terms of current building codes, Australia's international ranking is strong. The stringency of Australia's residential and commercial building codes with respect to energy efficiency received the maximum score in the 2018 International Energy Efficiency Scorecard².
23. Master Builders acknowledges that changes to building sealing and heating and cooling load limits for residential buildings in the 2019 NCC have already been implemented and have advanced energy efficiency provisions in the NCC. Therefore, other residential-related building areas should be the focus of action instead of further NCC reform options.
24. Master Builders is concerned that several separate processes are being conducted to determine the regulatory impact of stringency reforms and this will compromise the quality and effectiveness of the regulatory impact assessment process.
25. Firstly, to advance the NCC, separate regulatory assessment processes on provisions for thermal comfort and for condensation management are being executed. These two processes need to be considered in the one regulatory impact assessment to get a more complete picture on regulatory impacts for the sector. Proper assessment is imperative if a practical, fair and reasonable reform outcome is to be delivered.
26. Effectively testing the reforms should be the priority, even if this delays progress in implementing reforms in the current NCC amendment cycle. There are three NCC cycle updates between now and 2030 that could be used to implement the reforms currently being considered for the 2022 update.
27. Secondly, whilst Master Builders recognises that the NCC process is about technical requirements for new buildings, we are concerned that a more holistic package has not been developed and evaluated before NCC reforms are decided and implemented. Ideally being able to consider the suite of residential building measures together (e.g. existing dwellings, point of sale energy rating disclosure), we can identify the most effective low-cost pathway/s available for emissions abatement and avoid protracted adversarial climate change debates.
28. At a time when new residential housing construction is struggling to meet affordability and supply needs, expensive building shell and other thermal comfort upgrades are not going to be equitable if the cost of housing increases, even when there are consumer benefits from energy bill cost savings.

¹ Department of Environment: *Draft report: Trajectory for low energy existing homes*, July 2019

² American Council for an Energy-Efficient Economy (2018) *The 2018 International Energy Efficiency Scorecard* (p12)

3. About Master Builders

29. Master Builders Australia is the nation’s peak building and construction industry association which was federated on a national basis in 1890. Master Builders’s members are the nine Master Builder Associations based in each of the eight states and territories as well as Newcastle. Over 129 years the movement has grown to over 33,000 businesses nationwide, including the top 100 construction companies. Master Builders is the only industry association that represents all three sectors of construction: residential, commercial and engineering construction.

4. Overview of Australia’s Building and Construction Industry

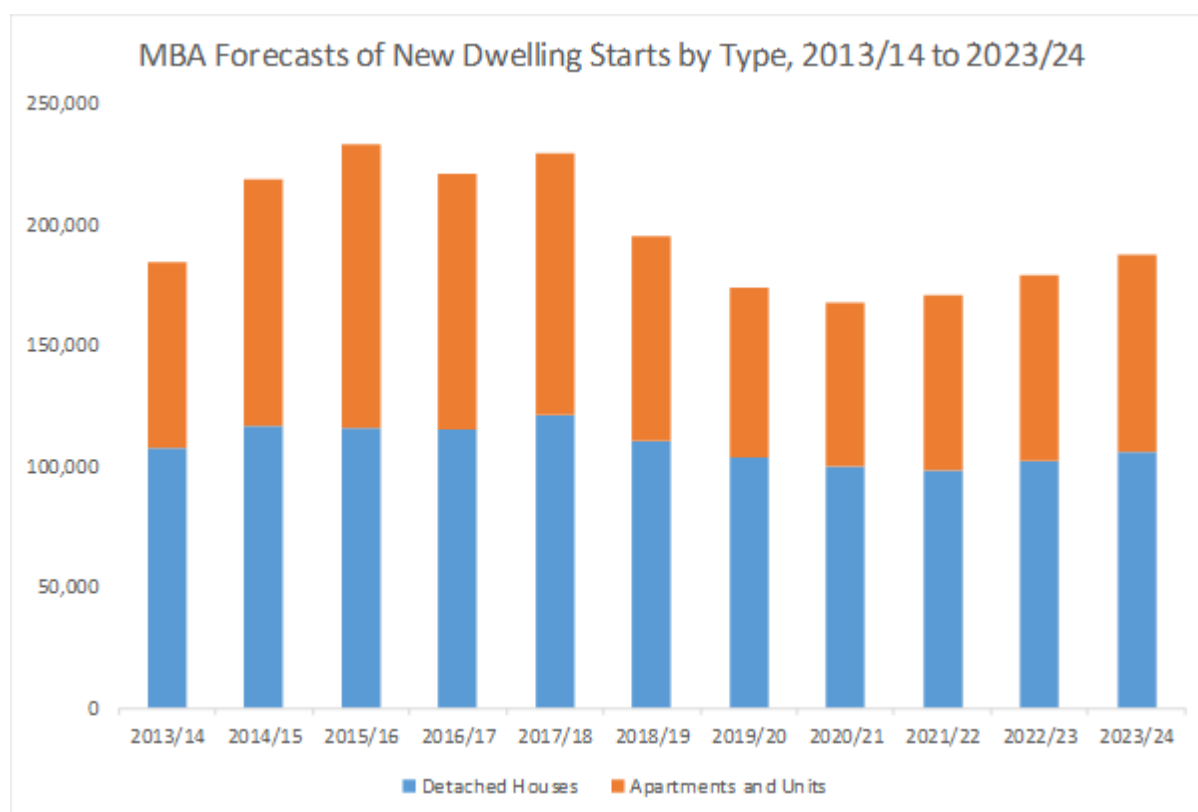
30. It is important to provide some key background about the building and construction industry. This is necessary not only in order to contextualise the responses in this submission, but also as the structure of the building and construction industry and the work it undertakes is unique and widely mischaracterised.
31. The Total Revenue of the building and construction industry was \$429.85 billion during 2017/18. Industry Value Added amounted to \$125.81 billion over the same period. In the year to March 2019, the total value of construction work done across Australia was \$222.23 billion. The building and construction industry contribution represents just over 11% of GDP.
32. As at May 2019, the building and construction industry employs 1.18 million persons. It is important to recognise that this number is a total of those directly employed within the building and construction industry and does not include employees indirectly employed as a result of the building and construction industry and its operations. The current size of the building and construction industry workforce is expected to grow significantly over the period to May 2023, requiring an estimated 118,110 net additional persons on top of the need to replace normal and customary industry labour turnover.
33. The building and construction industry is dominated by business entities that are small in size, mainly SMEs and subcontractors. As at 30 June 2018, there were 383,326 business entities within the building and construction industry of which:
 - 356,718 have turnover of less than \$2 million;
 - 379,032 are SMEs (employing less than 20 people); and
 - 157,693 employ at least one person.

5. Background to Master Builders’s Submission

34. The ABCB is currently investigating possible changes to energy efficiency provisions for new residential and commercial buildings as part of the 2022 National Construction Code (NCC). The work being undertaken in this regard by the ABCB is at the direction of the Building Ministers’ Forum within the framework of the Council of Australian Governments Energy Council’s *Trajectory for Low Energy Buildings* published in December 2018. The Trajectory proposes changes to the NCC to reduce the operational energy use and associated greenhouse gas emissions of buildings.
35. The July 2019 ABCB Scoping Study, to which this Master Builders submission relates, represents the commencement of the process which will conclude with recommendations by the ABCB relating to energy efficiency changes in the 2022 NCC.
36. Substantial changes were made to energy efficiency standards for commercial building in the 2019 NCC and the ABCB has thus indicated that changes for commercial buildings in NCC 2022 will be moderate. Accordingly, this submission from Master Builders focuses on residential buildings. Based on the ABCB Scoping Study, it is our understanding that the ABCB is proposing to develop two sets of NCC provisions (or options) to be tested through regulatory impact analysis to determine the appropriate option to be adopted in NCC 2022. Option 2 is less stringent than Option 1 in terms of energy efficiency. The ABCB Scoping Study specifies the two options are follows:
 - Option 1: This would involve a set of provisions which would result in residential buildings having a level of thermal comfort equivalent to 7 stars NatHERS and net zero annual energy use for the regulated building services (i.e. space conditioning, heated water systems, lighting and pool and spa pumps).
 - Option 2: This would involve a set of provisions which would result in residential buildings having a level of thermal comfort equivalent to 7 stars NatHERS and a moderate amount of annual energy use for the regulated building services.
37. As well as identifying the preferred of the two options, Master Builders also understands that the ABCB is considering whether to include a transitional period for the new changes. The scoping study indicates that should the less stringent Option 2 be selected for inclusion in the 2022 NCC, the Option 1 provisions may still be used to guide further changes to the NCC beyond 2022.
38. The scoping study also identifies that the ABCB is considering more moderate changes to the commercial building energy efficiency provisions in the 2022 update and more substantial changes in NCC 2025. The changes in 2022 are likely to include refinement of provisions for fabric and glazing, air-conditioning and the use of on-site renewables. Detail on these changes have not been included in this paper.
39. In addition to the current scoping study, there will be further opportunities provided to comment to the ABCB on the proposed changes to the 2022 NCC, including a full public consultation process (likely to be in early 2021) on the detailed changes proposed for NCC 2022.
40. Master Builders Australia argues that neither option should be considered, as currently presented and until further options such as existing system optimisation are addressed.

6. Outlook for Residential Building Activity

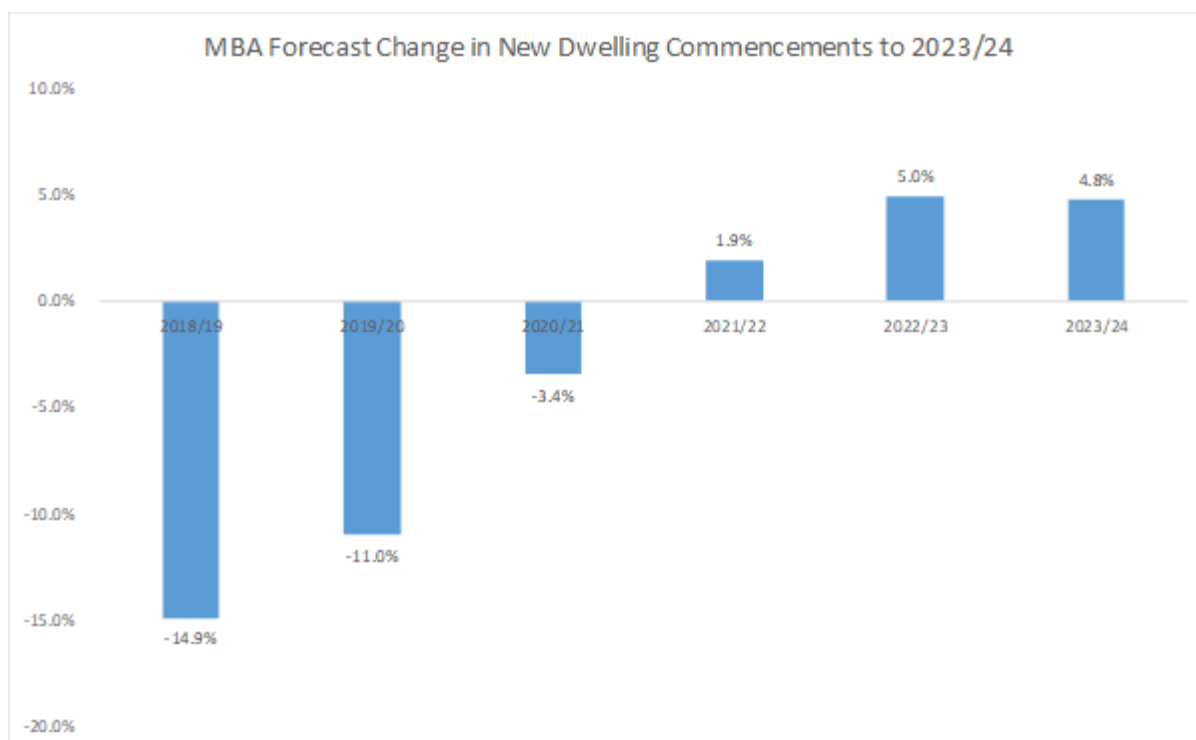
41. New home building activity continues to reverse from the all-time record high of 234,500 starts reached during the 2016 calendar year. Latest figures for the year to March 2019 indicate that at 209,664, the number of new dwelling starts has so far fallen back by a pretty modest 10.6% from the record peak. Current housing output is still very elevated by historic standards – up until 2014, new home building activity had never breached the key 200,000 threshold in a year, so latest results should be seen as favourable in that context.
42. The record level of new home building in recent years owes its origin to a remarkable constellation of positive macroeconomic stimuli: interest rates at all-time lows, unprecedented population growth, a solid jobs market and the largely supportive policy environment.
43. Many of the factors that propelled new home building to such high levels are still in place. Over the year to March 2019, Australia’s headcount increased by 389,000, equivalent to a 1.6% rate of population growth. Of the gain in population, 250,000 was accounted for by overseas migration. This is an important feature because migrants tend to be concentrated in the 20-40 age group, a cohort which has a strong and immediate impact on housing demand. The creation of 311,000 new jobs in the Australian economy over the year to August 2019 has also had very positive ramifications for housing demand, if only by increasing the number of people eligible for mortgages. Interest rates, already comfortably at record lows, have been cut twice more by the RBA in the past few months and may fall further. From the standpoint of residential building, the macroeconomic environment is largely on the favourable side of the ledger.



44. The disruption to home building activity over the past three years has been more the product of microeconomic rather than macroeconomic issues. First came the APRA-imposed ‘speed limit’ on investor lending which came into effect in early 2015. This was followed by the spread of

whopping stamp duty supertaxes on foreign buyers across most states and territories, which effectively shut an important buyer segment out of the market for new homes.

45. Looking ahead, the prospects for residential building in Australia will be determined by the combined interplay between macroeconomic conditions, microeconomic considerations as well as local issues in each of the different geographic markets around the country.
46. A raft of good news over recent months means that the short-term outlook for residential building has become a little more positive. The Government’s First Home Loan Deposit Scheme is set to kick off in January 2020, while many of those employed are already benefitting from the package income tax cuts passed by Parliament in early July. House prices have fallen back considerably over the last couple of years, but latest figures suggest that a turning point may have been reached in this regard. In addition, APRA has relaxed the rules around mortgage eligibility for home buyers. Enhancements to Cities Deals are also favourable to prospects for new home building. Less welcome are the recent issues surrounding building quality and insurance for building surveyors – in the absence of a timely and adequate policy response, the decline in high-density dwelling starts could deteriorate further.
47. Latest indicators around new home building approvals as well as lending indicate that the short-term outlook is quite weak. As the chart below illustrates, Master Builders forecasts that the number of new dwelling starts is set to fall by a further 11.0% during 2019/20. This is projected to be driven by a much sharper drop in apartment/unit commencements (-16.8%) compared with detached houses (-6.5%). The 2020/21 financial year is expected to represent the bottoming out point for new home building with a drop of 3.4% in commencements.



48. Just as the home building downturn started on the high-density side, there too will the recovery first kick off. During 2021/22, apartment/unit starts are forecast to increase by 5.9% while new detached house starts are projected to ease by another 0.8% during the year. We expect that 2022/23 will be a year of growth on both sides of the market with detached house starts anticipated to grow by 3.4% and apartment/unit commencements expanding by 7.1%. The

recovery will be built upon during 2023/24 with growth of 3.8% and 6.2% in detached house and high density starts respectively.

49. The 2020/21 trough for new home building activity is expected to involve a total of 167,962 commencements, an outturn which would represent a 28.2% reduction on the 2016 peak. In terms of magnitude, this is fairly consistent with the typical pattern of previous downturns in new home building. Compared with most sectors of the economy, the fluctuations in building activity tend to be very large as it moves through the cycle.

Summary of MBA New Home Building Forecasts to 2023/24						
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
<i>MBA Forecast Dwelling Starts:</i>						
Detached Houses	111,015	103,792	99,930	99,116	102,445	106,297
Apartments/Units	84,292	70,115	68,032	72,047	77,195	81,958
Total New Dwelling Starts	195,307	173,907	167,962	171,163	179,640	188,255
<i>Change compared with previous year:</i>						
Detached Houses	-8.4%	-6.5%	-3.7%	-0.8%	3.4%	3.8%
Apartments/Units	-22.2%	-16.8%	-3.0%	5.9%	7.1%	6.2%
Total New Dwelling Starts	-14.9%	-11.0%	-3.4%	1.9%	5.0%	4.8%

50. In contrast to new home building which we expect will fall further before recovering, the outlook for home renovations activity is a little bit brighter. Growth in renovations activity is expected to be modest but steady over the forecast horizon to 2023/24. Overall, renovations activity is anticipated to expand by 4.6% over this period – equivalent to about 0.9% per year.

51. Home renovation work will be helped along by the environment of ultra-low interest rates. Interestingly, the historic pattern of new home building in Australia will work in favour of demand for home renovations work: more new detached houses were built in Australia in the late 1980s than at any other time – either before or since. A disproportionately large portion of home renovations demand tends to be concentrated in detached houses of this vintage. Cue an improved pipeline of renovations work over the next few years. The forecast increase in home renovations work would be larger but for the weakness of consumer demand as well as the depletion of home equity reserves caused by the house price reversal of recent years. Also, as is detailed later in the submission, Australia’s home renovations industry is well placed to benefit from any schemes or programs aimed at improving the energy efficiency of previously-built dwellings.

7. Key Elements of Master Builders’s Submission

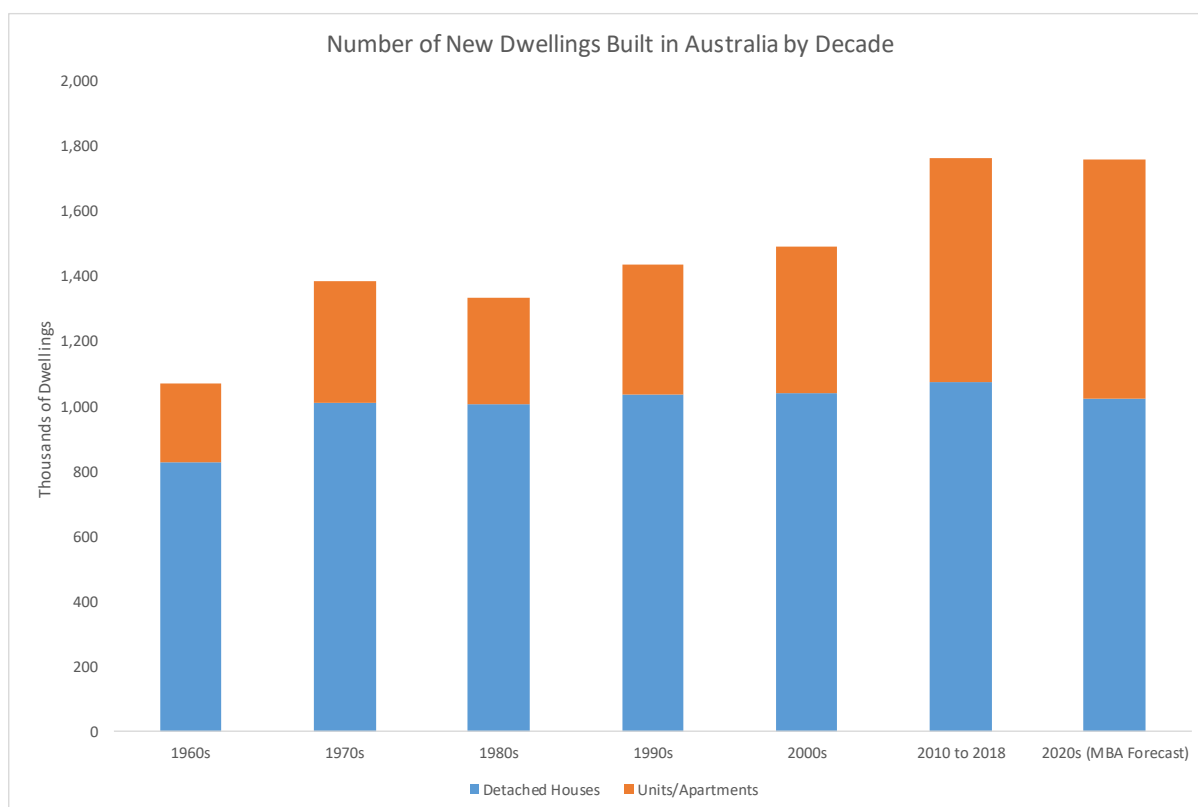
52. In making our submission, Master Builders Australia believes that a number of key issues are worthy of consideration by the ABCB with respect to the energy efficiency provisions for residential building in the 2022 NCC. These are:

- a) The greatest gains in terms of energy efficiency will be made by targeting the existing dwelling stock.
- b) The effects on emissions of the previous changes to building regulations made in the 2019 National Construction Code have not yet been established.
- c) By increasing the cost of building new homes, tighter regulations will hurt housing affordability and depress new home building activity.
- d) Any new regulatory changes must be practical and workable.
- e) Additional changes in regulations will inflict disproportionate pain on smaller businesses.
- f) Consumers need to become more aware of the financial benefits of energy efficiency.
- g) Regulatory changes have been shown to have unintended consequences.
- h) The strength of the enforcement regime must match any regulatory changes.

53. These issues are elaborated on in the paragraphs below.

The greatest gains in terms of energy efficiency will be made by targeting the existing dwelling stock

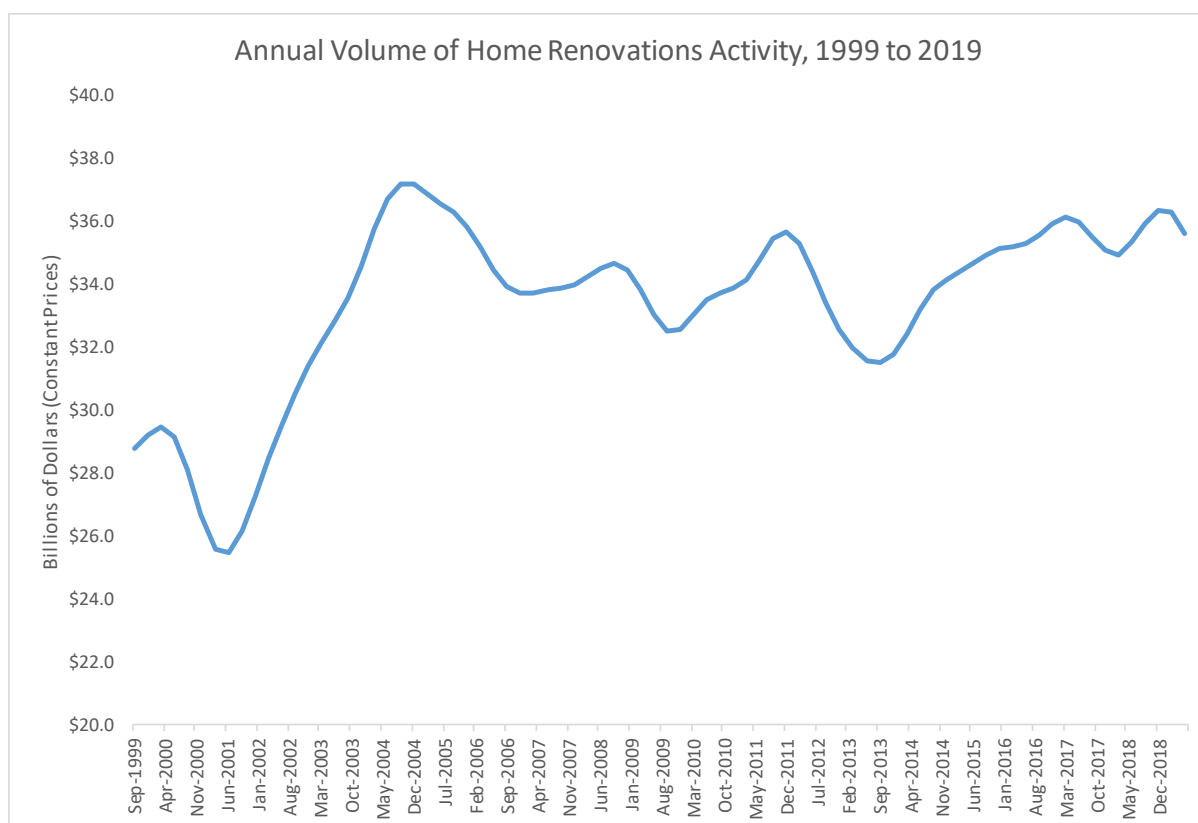
54. Compared with changing the energy efficiency requirements of new buildings, the gains to be made by targeting the existing dwelling stock are simply enormous. The 2015/16 financial year marked the all-time high point for new home building - with work starting on 234,000 dwellings. Even then, this record level of output was equivalent to just one fortieth (2.5%) of the total dwelling stock at the time. **Because the volume of new home building activity is small relative to the size of the total dwelling stock, efforts to improve the energy efficiency of Australia’s housing stock would best be concentrated on existing homes, which vastly outnumber newly-built dwellings.** The chart below gives some sense of the size of the existing dwelling stock compared with the amount of new stock projected to come on stream over the next decade. The data in the chart are based on past dwelling completion numbers from the ABS as well as Master Builders’s latest forecasts for new home building.



55. **Identifying the poorest performing cohorts of Australia’s housing stock in terms of energy efficiency and supporting remediation work is the course of action that would lead to the greatest improvements.** The substantial differences between the existing dwelling stock and new homes mean that the benefits of ramping up the performance of existing dwellings in terms of their energy efficiency would provide a far higher return than tighter measures aimed exclusively at new homes. We are advocating for a much greater emphasis on the gains to be made by improving the energy efficiency of the existing dwelling stock.

The effects on emissions of the previous changes to building regulations made in the 2019 National Construction Code have not yet been established

56. It is too early to determine how the newly-implemented 2019 National Construction Code has affected aggregate emissions from the Australian economy. The new NCC took effect on 1st May 2019 and involved very substantial changes to commercial buildings alongside more modest energy stringency changes for residential buildings.
57. It may be that **these changes have ‘over’ achieved** in terms of their contribution to enhancing Australia’s performance as regards energy productivity and greenhouse gas reductions. Equally, the opposite may be the case. It is simply too early to be able to establish what the situation is and until we do, we are not well placed to prescribe future steps.
58. **Until we have reliable data around this, it may be possible that further stringency measures are unnecessary in terms of meeting Australia’s emissions reduction targets.** Until we know the effects on emissions of the previous changes and the likely impact of the proposed changes, further stringency measures should be delayed. Early estimates that we have on additional cost ranges from \$5,000 to \$20,000. This cost estimate does not include costs for administration, redraws, processing and assessments, time delays, retraining, use of expert consultants and condensation-related risks.



59. From the point of view of Australia’s residential building sector, energy efficiency enhancing renovations work would provide a welcome boost to activity. The chart above illustrates the annual volume of renovations work done on Australian homes over the past twenty years. It shows that the renovations market has struggled over the past decade: in fact, latest data show that the size of the home renovations market is smaller now than it was 15 years ago. **A stimulus program targeting the energy efficiency of the older dwelling stock would push the renovations market in the right direction at a time when the new home building side of residential building is still in reverse.** In this respect, we note that the Department of Energy is already compiling a trajectory for improving the energy efficiency of the existing dwelling stock.

By increasing the cost of building new homes, tighter regulations will hurt housing affordability and depress new home building activity

60. The introduction of **more stringent regulations will cause the cost of building new homes to rise.** This is because changes to regulations must be absorbed and implemented by new home builders. This involves altering the way the relevant building firms do their work, with costs arising from staff having to be retrained in the new methods. Builders may also need to switch to different types of materials and suppliers as a result of changed regulations and that adds to procurement costs.

61. Regardless of their intent, changes in the regulatory environment will increase the cost of building new homes and this means that the final ticket price paid by the homebuyer will be forced higher. The linkages between the markets for new and existing homes means that increases in new home prices also cause the prices of existing homes to go up. Either way, **this will hurt housing affordability** both for those wishing to purchase a home or those relying on the rental market. While the bulk of home building costs are generated by labour and materials, the burden of regulation and indirect costs is considerable and has a detrimental impact on the

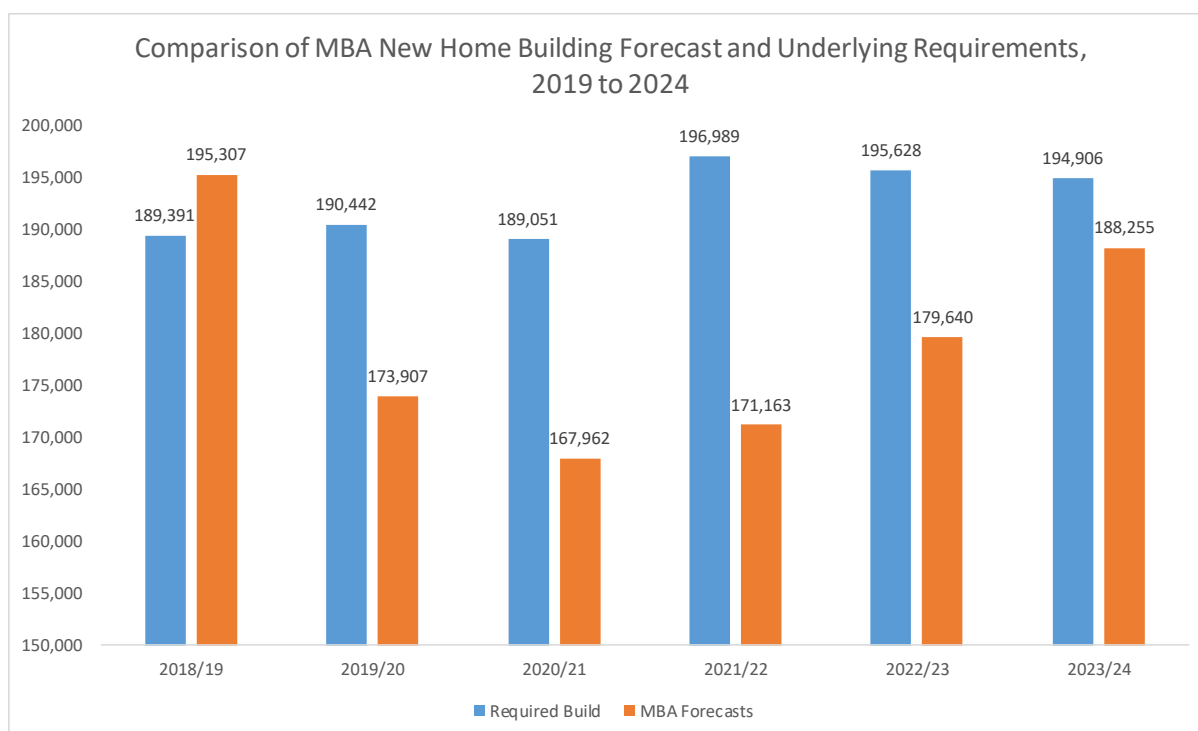
capacity of the industry. There has been some previous research done on estimating the cost of regulations and other ancillary costs on new home building including:

- Tax, regulatory costs and shortages of 'shovel ready' land can amount to 30% to 40% of the cost of a new home³;
 - Analysis by Sustainability Victoria showed the average cost of increasing the performance of existing houses to an equivalent 5-Star rating was between \$11,405 and \$24,742 depending on the building shell upgrades applied⁴;
 - Research by Master Builders NSW found that Home Building Compensation Premiums for a \$500,000 dwelling were estimated at between \$3,158 (Victoria) and \$5,695 (NSW) during 2017/18⁵.
62. The chart below summarises Master Builders's forecasts for new home building activity over the period up to 2023/24. Also shown is the number of new homes that will be required each year to accommodate future population growth and replace dilapidated housing stock. In each year over this horizon, we are set to fall significantly short of our new home building requirements.
63. These forecasts do not take account of any changes to the National Construction Code in 2022. Generally, **increasing the cost of creating something results in less being produced**. This model applies to new home building and what this means is that any further tightening of energy stringency will result in an even bigger shortfall in new home building activity relative to need than that illustrated in the chart below.
64. As we have seen in the past, failing to produce enough new homes to fully meet demand will cause housing affordability to deteriorate further and increase the risk of localised housing shortages in particular geographic markets.

³ Master Builders Australia (2017) *Unlocking Supply: Keeping Home Ownership within reach of all Australians* (p7)

⁴ Sustainability Victoria (2015) *Energy Efficiency Upgrade Potential of Existing Victorian Houses* (p6)

⁵ Master Builders Association NSW (2019) *Build Better: A blueprint for delivering better building outcomes in New South Wales* (p6)



Any new regulatory changes must be practical and workable

65. There are often difficulties in terms of how regulatory changes actually function on the ground compared with their original intent. In consultation with industry, proposed new regulations should be road tested and trialed in order to fine tune them and identify any issues or problems that arise from implementation. This should not be dictated by an ambitious policy plan. **A shared commitment to effectively working up and testing options should be the driver of the reform process, not timeframes prescribed in a theoretical policy plan.** In short, new regulations must pass the 'common sense' test and blend with the operating model of firms in the building industry in a workable fashion. There also needs to be industry feedback regarding regulation allowing industry to gauge their performance against regulatory settings.

Additional changes in regulations will inflict disproportionate pain on smaller businesses

66. Regulatory **changes tend to inflict greater pain on smaller businesses** in the building industry. A very large number of businesses in the residential building sector operate as sole traders or with only a very small number of staff. When new regulations are introduced, smaller firms often lack the resources to adequately absorb and implement them. This is in contrast to larger firms which have employees or even whole departments dedicated to managing and acting on regulatory issues.

67. The result is that when regulatory changes are introduced, the competitive position of smaller businesses comes under much more pressure compared with bigger firms. At the individual level of the sole trader, this might involve having to divert their time from doing income-generating work to getting across the new regulations. They may also have to spend money on external expertise and consultants, and work much longer hours to implement changes. For some firms, the cost burden may tip them beyond the point of economic viability and force them to cease trading altogether.

68. **The heavy squeeze on small building businesses caused by new or changed regulations tips the competitive balance in favour of larger firms.** Over time, this is likely to bring

about a considerable diminution of competition in the sector to the detriment of consumers as well as economic welfare generally.

Consumers need to become more aware of the financial benefits of energy efficiency

69. Energy efficient homes save their occupants money over a very extended period through lower bills for heating and power. As a result, **homebuyers should be willing to pay higher prices for homes which perform better** in terms of energy efficiency – especially if there is no regulation regarding appropriate solar orientation of the block of land that the dwelling will be built on. If so, this would mean that the builders of such homes would be adequately compensated for the additional costs involved in improving energy efficiency. In turn, this would allow the homebuilding market to continue operating in an effective manner whereby the amount paid to the homebuilder covers all costs as well as allowing for a reasonable profit margin. Similarly, an ideal situation would see homeowners who upgrade the energy efficiency of their homes being rewarded for this through a higher price should they sell.
70. In reality, there is evidence that many homebuyers significantly underestimate the financial benefits that flow from living in energy efficient homes. This situation has created a 'market failure' whereby tighter energy efficiency regulations which add significantly to building costs are not matched by a willingness by homebuyers to pay higher prices. One of the results is that homebuilders' (often tight) profit margins are further squeezed when more stringent regulations come into force – undermining the economic viability of such businesses. As described above, this could force smaller building firms to cease operating and lead to unfavourable outcomes in terms of competition in the homebuilding sector. Programs aimed at **educating consumers on the financial benefits of living in more energy efficiency homes** and the creation of relating tools for calculating the monetary savings, etc could partly alleviate this problem.

Regulatory changes have been shown to have unintended consequences

71. Experience has shown that tighter energy efficiency standards have been shown to have unintended consequences. For example, **problems relating to condensation and mould** have directly resulted from previous stringency measures around increased insulation and energy efficiency. Addressing these issues has required costly solutions such as more elaborate air flow systems. We therefore recommend the regulatory impact assessment considers both the cost of condensation impacts as well as thermal comfort improvements in the one process. We also recommend consideration be given to Government indemnifying the cost of condensation risks.
72. Any proposed new regulations should be subjected to an in-depth, rigorous risk analysis in consultation with industry in order to assess the likelihood of any unfavourable consumer consequences arising and the cost of any corrective action needed. All potential problems must be identified before new regulations come in – not afterwards. This will rely upon gathering 'real world' evidence on the possible effects of new regulations and the proper consultation with industry, and 'road testing' new regulations in terms of the logistics of their delivery and operation.

The strength of the enforcement regime must match any regulatory changes

73. As described above, changes in regulations around energy efficiency result in higher operating costs for building firms and may require that their organisational structure is adapted. In the past, failures to match tighter regulations with stronger enforcement regimes have placed builders who honour new rules at a serious financial, economic and competitive disadvantage to those businesses opting to ignore new regulations – and which end up successfully escaping any sanction or punishment.
74. A **detailed plan for properly communicating, enforcing and reporting any new regulations** must be developed in advance of their introduction. This will guarantee a level

playing field for all businesses operating in the industry and not lead to firms which do the right thing, obeying the new rules, being penalised for doing so. New regulations need to be accompanied by adequate alterations to the enforcement regime.

8. Conclusion

75. Master Builders Australia is grateful for the opportunity to make a submission to the ABCB on these important issues and appreciates the ABCB's efforts in reviewing and considering each of the elements in our submission. We are happy to provide any further details or clarification required by the ABCB and Master Builders is available to meet with the ABCB to discuss our submission further if required.