

# Building and Plumbing Newsflash 626

## Repairs and maintenance to existing buildings after a natural disaster event – livable dwellings and grading to floor wastes

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### Purpose

To inform industry and the community about the application of current and former building compliance requirements when undertaking building repairs and maintenance or renovations after a natural disaster event, particularly for:

- Class 1 and Class 2 buildings and the requirements associated with:
  - livable housing design standards
  - the grading of floors to floor wastes with showers and other wet areas.

This newsflash explains when the National Construction Code (NCC) 2022 and Queensland Development Code Mandatory Part 4.5 – Livable dwellings and grading to floor wastes (QDC 4.5) provisions must be met, and the circumstances when previous building assessment provisions may apply.

### Background

On 1 May 2023, the NCC 2022, which includes the livable housing design standards and requires floors to be graded to non-mandatory floor wastes, commenced. In Queensland the NCC 2022 provisions are being implemented through a staged approach. The broader NCC 2022 provisions commenced on 1 May 2023, the livable housing design standards commenced on 1 October 2023 and the residential energy efficiency requirements are due to commence on 1 May 2024.

The livable housing design standards ensure that housing is designed to meet the changing needs of the community through the various stages of life, such as families, older people and people with a mobility-related disability. The grading of floors to floor waste requirements mitigates the risk of water from showers and other wet areas entering other areas of the home when a floor waste is installed.

The Queensland Government, in consultation with industry, has developed alternative compliance pathways, and limited exemptions for these provisions, which are contained in QDC MP 4.5.

### Building development approvals

Under the *Building Act 1975* (BA), all building work in Queensland is assessable development and requires a building development approval, unless otherwise prescribed as accepted development (self-assessable) or exempt under the Building Regulation 2021 (BR).<sup>1</sup> This applies whether it is a new building being constructed or new building work being performed on an existing building.

Generally, a building development approval is not required when the proposed building work involves repairing or replacing fixtures, kitchen cupboards, vanity units, floor coverings or repairing or replacing internal wall linings.

A building development approval will be required for more extensive repair work, such as work that involves repairing or replacing a structural component of the existing dwelling. Exemptions may apply for some minor structural work where the work does not affect more than 20 per cent of the building's structure. For example, replacing a like-for-like roof beam supporting up to 5 metres squared of roof area.

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<sup>1</sup> BR, Schedules 1 and 2

Building development approvals are issued by building certifiers and ensure buildings are constructed to the required standards, considering matters such as health, safety, amenity and sustainability. To this effect compliance with the building assessment provisions must be achieved. Building assessment provisions are outlined in section 30 of the BA and include the NCC and QDC amongst other instruments. This means that buildings are assessed against the NCC or if the QDC varies the NCC requirement, the QDC requirements.

In brief, a building development approval is required and must comply with the building assessment provisions, unless the work is accepted development (self-assessable).<sup>2</sup>

If the work is accepted development, it must comply with the current building assessment provisions. The only way for the building work to adopt previous building assessment provisions is if a building certifier is engaged and they exercise discretions under the BA<sup>3</sup>. These discretions have limitations, for example a building certifier cannot exercise discretion if complying with earlier building assessment provisions would unduly reduce the building's existing level of general safety and structural standards.

Even though discretion exists, building certifiers are required to apply the BA in order to achieve the health, safety, amenity and sustainability objectives of the NCC and QDC.

## Repairs and maintenance

Natural disasters occur throughout Queensland and can have lasting effects long after the event has passed. If you live in an area affected by natural disasters, repairs and maintenance of your property is likely to be required after a natural disaster.

To assist in understanding whether work may be considered either a repair or maintenance and therefore required to meet the requirements of the NCC or the relevant QDC it is helpful to understand the defined meanings of the term 'maintenance' under the [National Dictionary of Building and Plumbing Terms](#) (the dictionary) and adopted through the QDC 4.5. The following are the definitions from the dictionary.

**Maintenance** means “regular routine technical and administrative actions, taken during an item’s service life, aimed at retaining it in a state in which it can perform its required functions.

**Repairs** mean returning an item to an acceptable condition by the renewal, replacement or mending of worn, damaged or degraded parts”.

Maintenance occurs on a regular occurrence and generally involves some form of regular inspection, cleaning, or adjustment, whereas a repair involves the restoration or reconstruction returning the part or feature of a building to a useable condition like an operating condition which existed prior to the part or feature being damaged or made unusable.

Noting the distinction, maintenance work would not need to comply with any new or recent NCC or QDC requirement.

For repair work generally, where the repair was intended to make good an existing part or feature of the building which is non-structural then it is likely impracticable to make a repair compliant with current requirements. Therefore, it is acceptable to reinstate the part or feature of a building to a useable condition similar to an operating condition which existed prior to the part or feature being damaged or made unusable.

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<sup>2</sup> BR, Schedule 1

<sup>3</sup> BA, section 61

However, where a NCC or QDC provision expressly requires the part or feature to meet a current requirement as part of any repair, that requirement would prevail. An example of this would be where a hot water unit is being replaced due to storm damage, and it did not have installed a temperature control device prior to being damaged. In this situation, the hot water unit would require a temperature control device to be installed as part of the heater replacement as per the requirements of the Plumbing Code of Australia (NCC, Volume 3).

For more extensive repair work, such as work that involves repairing or replacing a structural component of the existing dwelling, then it would be expected that the repair was undertaken compliant with all current NCC and QDC requirements. This is to ensure the health and safety of its occupants as well as the building's resilience to future natural disaster events.

Regardless of whether a building development approval is required, building owners may choose to upgrade aspects of the home to the current NCC and QDC requirements to improve its resilience. This can also help them to remain in or return to their home faster following a natural disaster. For example, if the wall sheeting needs to be repaired, consideration could also be given to using a more resilient material, such as fibro cement type sheeting.

If repair work being undertaken to a building impacted by natural disaster is accepted development (self-assessable), the building work will need to meet the current NCC and QDC requirements, including the grading of floors to floor waste in wet areas such as showers, bathroom and laundries.

Where builders, tradespersons or homeowners wish to adopt earlier building assessment provisions (e.g. earlier editions of the NCC and/or QDC), they must obtain a building development approval from a licensed building certifier. This is because, building certifiers have a discretionary power to apply earlier building assessment provisions.<sup>4</sup> As mentioned previously, this discretion does however have limitations and therefore the engagement of a building certifier does not guarantee the application of former provisions.

It is recommended homeowners engage or consult with a building certifier early about any intended repair and maintenance work if there is any doubt about the need for a building approval is required and the building compliance requirements. A building approval can be arranged by engaging a building certifier or the local council.

Note: Before 1 May 2023, the requirement to grade floors in wet areas only applied where mandatory floor wastes were installed (not voluntary floor wastes). Alternative compliance pathways in QDC MP 4.5 will assist with compliance without needing to grade the floor of the buildings constructed under the former standards.

## Renovation and alteration requirements

It is important to distinguish between what is required to restore the home to its state before the natural disaster (repairs or maintenance) and renovations that improve the state of the home.

This section of the Newsflash focuses on renovations and alternations. While these are not necessarily a consequence of natural disasters, they may be triggered following a natural disaster.

Building design and construction standards continue to improve and modernise over time. An existing approved building continues to be lawful even though relevant building codes and standards change. However, there are circumstances where the building work will need to meet the current requirements, and this should be considered whenever undertaking renovations or alterations to avoid the risk of making the building no longer compliant.

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<sup>4</sup> BA, section 60

A renovation to an existing dwelling can involve an alteration, addition or extension, which is different to undertaking a repair or maintenance. Building assessment provisions apply to the design and construction of proposed building work on a property, including a home renovation.

As stated above, when a building approval is required for alterations or repairs to a building, particularly because of a natural disaster, a building certifier may exercise discretion about the building assessment provisions that will apply to the existing part of the building. For any proposed alteration or renovations to an existing building, this may include assessing the works under building assessment provisions that were in force at the time the building was originally designed and built.<sup>5</sup> A building certifier cannot exercise this discretion in respect of alterations to an existing building if the alterations would unduly reduce the building's existing level of general safety and structural standards.<sup>6</sup>

Even though this discretion exists, building certifiers are required to apply the BA in order to achieve the health, safety, amenity and sustainability objectives of the NCC and QDC.<sup>7</sup> The exercising of discretion by a building certifier in relation to the existing part of a building should recognise the extent of work being undertaken to the building and the potential benefits derived from the requirements of the NCC and QDC.

For example, if more than 50 per cent of a building is being changed, the building certifier may require all or part of the whole building to be upgraded to comply with the current code requirements.<sup>8</sup> Building certifier discretion may allow all or some of the current code requirements of the NCC or other relevant codes to be applied to the existing fabric of buildings being altered. This is provided they have a suitable basis for applying the requirement either in relation to compliance of the new work or as a result of the concessional powers under the BA.<sup>9</sup>

In summary:

- Renovations and alterations are required to comply with the current building assessment provisions (which includes the NCC 2022 and the QDC) unless certifier discretion is applied.
- Where builders, tradespersons and/homeowners wish to carry out self-assessable works in accordance with earlier building assessment provisions, a building development approval from a private certifier is required.
- Building certifiers have discretionary powers as to whether building work is to comply with the current building assessment provisions or earlier building assessment provisions.

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<sup>5</sup> BA 1975 s61(2)

<sup>6</sup> BA 1975 s61(1)(b)

<sup>7</sup> ABCB Handbook - upgrading existing buildings - QLD section published 2020

<sup>8</sup> BA 1975 s81(1)(a)

<sup>9</sup> ABCB Handbook - upgrading existing buildings - QLD section published 2020

## Application of QDC MP 4.5

### Livable dwellings design requirements

Under QDC MP 4.5, repair and maintenance works are not required to comply with the NCC 2022 Livable Housing Design Standard, provided the part of the class 1a building or sole-occupancy unit being repaired and maintained was not previously required to comply with this Standard.<sup>10</sup>

A building certifier will also continue to have a discretion to allow building work to comply with earlier building assessment provisions in accordance with section 61 of the BA.

### Requirements for the grading of floors to floor wastes

The purpose of the grading to floor waste provisions in the NCC 2022 is to:

- (a) safeguard occupants from illness or injury and protect buildings from damage caused by—
  - (i) internal water from wet areas; and
  - (ii) the accumulation of internal moisture in the building; and
- (b) protect other property from damage caused by redirected internal water from wet areas.

The NCC 2022 requires that where a floor waste is installed:

- the minimum continuous fall of a floor plane to the waste must be 1:80
- the maximum continuous fall of a floor plane to the waste must be 1:50.

These requirements apply regardless of whether the floor waste installation is mandatory (e.g. showers) or voluntary (e.g. laundries and bathrooms),

The QDC MP 4.5 provides alternative compliance pathways that include options to have a floor waste without requiring the grading of the floor.

These acceptable solutions are detailed in QDC MP 4.5 A5.

Under A5(2)(e), where a floor waste is installed all:

- (i) vessels (such as a basin or bath) in the wet area must be provided with in-built overflow protection; and
- (ii) water closet cisterns in the wet area must incorporate an internal overflow which directs any overflowing water to the water closet pan; and
- (iii) flexible hose assemblies used for the connection of fixtures contained in the wet area must be fitted with flood stop safety valves approved under WMTS-479.

Under A5(3) if all vessels and fixtures comply with A5(2)(e), the floor does not have to be graded.

Under A5(4) if each entrance to the wet area has a linear drain or a complying weir, the floor does not have to be graded.

Note: - Exclusions within P5 and A5 in QDC MP 4.5, Section 2 do not apply to:

- (a) each sole-occupancy unit located above the ground or entry level of a class 2 building; or
- (b) a room containing a urinal; or
- (c) a part of a floor that provides drainage for a shower area.

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<sup>10</sup> QDC MP 4.5

Where a floor waste is present, if only floor finish (tiles, vinyl) needs to be repaired, the removal and replacement of the floor finish is required to meet current Australian Standards and NCC installation requirements for the relevant materials. In situations where removal of flooring and substrate is required, the application of grading to floor wastes is considered applicable unless discretion is applied by a building certifier. Any works requiring the removal, repair and replacement of a waterproofing membrane will require floor grading to comply with NCC 2022, AS 3740:2021 – Waterproofing of domestic wet areas and QDC MP 4.5.

When replacing plumbing fixtures or fittings (such as a basin or bath) in the wet area, consideration should be given regarding if they are provided with in-built overflow protection and flood stop safety valves to achieve alternative compliance pathway to have a floor waste without requiring the grading of the floor.

## More information

- [QDC MP 4.5 - Livable dwellings and grading to floor wastes](#)
- [Building and Plumbing Newsflash 622 - National Construction Code 2022 – requirements for the grading of floors to floor wastes](#)
- [Permit requirements for rebuilding after a natural disaster](#)
- [ABCB Handbook - upgrading existing buildings - QLD section published 2020](#)
- [NCC Resource Library](#)

## Contact us

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