

From: [NSW Government](#)
To: [Flood Inquiry](#)
Subject: Floods Inquiry
Date: Monday, 9 May 2022 11:11:58 AM
Attachments: [Submission - Regulating Flooded housing restoration and new builds 2022.docx](#)

Your details

Title Mr

First name DAVID

Last name CHANDLER

Email

Postcode 2000

Submission details

I am making this submission as Other

Submission type I am making a personal submission

Consent to make submission public I give my consent for this submission to be made public

Share your experience or tell your story

Terms of Reference (optional)

The Inquiry welcomes submissions that address the particular matters

identified in its [Terms of Reference](#)

1.2 Preparation and planning My submission addresses the issue of building compliant homes and how that can be done. It is attached

1.4 Transition from incident response to recovery My submission addresses this and it is attached

1.6 Any other matters My submission addresses compliance (in repairs and prefabricated homes or home components) with affordable insurability and finance also being considered. It addresses how the reforms to class 2 buildings that are being implemented can be adapted to the Flood Recovery program so that the resulting buildings are suitable for occupation. The role of industry skills and approach is also considered.

Supporting documents or images

Attach files

- [Submission - Regulating Flooded housing restoration and new builds 2022.docx](#)

SUBMISSION

Regulating Flood Recovery Housing Build back better – Build back right

The recent floods in Northern NSW have affected over 3000 dwellings. It is estimated that over 60-percent of this stock will need to be replaced and or relocated, while as many as 90-percent of homes are uninsured.

3 PHASES OF HOUSING RECOVERY

In my view, the housing recovery will involve 3 phases:

- I. Emergency housing with a potential need of up to 2-years
- II. Remediation of existing housing within the flood affected areas to allow re-occupation, most of which may need relocation is due course
- III. Rebuilding of new housing away from flood affected areas

AGE OF HOUSING STOCK AND COMPLIANCE TO STANDARDS

The average age of flood effected housing is likely to be +25-years. Most of the older stock is unlikely to be compliant with current building standards. It would not be viable to retrofit this stock to meet modern standards. The key aspect of making these dwellings habitable is to focus on minimizing potential harms such as:

- a. mould infestation,
- b. compromised electrical and drainage, and
- c. structural stability for
 1. ground subsidence,
 2. wind, and
 3. extreme weather.

Points about Prefab housing

Emergency housing will need to ensure seasonal and functional habitability. If this is not achieved, then community dissatisfaction will diminish any short-term good will.

A builder's licence is required for all *residential* construction work in NSW valued at more than \$5000 (labor and materials incl GST): *Home Building Act*.

The establishment of new settlement lands to allow rebuilding in non-flood affected locations may take 3 to 5 years, with short term planning relief enabling for medium term housing solutions.

Much of the emergency and short- or medium-term accommodation will involve the use of prefabrication. Prefabricated housing in NSW is not currently covered under the *Home Building Act* as it is considered to be a product not housing. If Prefabricated housing is to play a role in the medium to long term re-build it should be covered under the HBA. Banks and insurers will require this.

Longer term prefabricated housing involves more than temporary donga type pods. Prefabricated housing can help shift as much as 60 to 80 percent of the work force to the place of manufacture, thus lessening the load on local infrastructure and competition for scarce housing stock.

Prefabricated housing in Australia and NSW has not been regulated. There are increasing amounts of prefabricated dwelling components such as bathroom pods already on the market. Most often these are found in Class 2 buildings. Until recently there has been little regulatory awareness of this stock, or in-fact regulatory oversight capability.

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Construction these days draws from a global market. Potentially 50 to 60 percent of all construction inputs come from other than local jurisdictions. Modern regulators need to have capability to observe long supply chain inputs to ensure compliance and harm minimization. A block chain supported assurance solution is available shortly in NSW and the Department of Customer Service Better Regulation Division has worked with private sector to procure its development.

While the embodied and operational carbon impact of construction may be consigned to a secondary role in crisis circumstances, this does not need to be the case. The Resilience challenge for an industry that draws up to 40 percent of the world's natural resources each year should not be deferred. Reducing embodied carbon impact can start now and provide positive example to an industry that must now come into the 21st Century.

Irrespective of the potential for prefabricated dwellings to play a meaningful role in the housing recovery it should be anticipated that at least 50-percent of building works will involve traditional building (stick-build) practice. This will create a substantial demand for products like timber, plasterboard, and electrical wiring. Ensuring that these products are compliant with Australian Standards (Supply and Install) should involve careful market oversight.

The role of the informal construction workforce will have a significant impact in the housing flood recovery. Most informal players will simply do what they feel needs to be done. Many may have little knowledge of good or compliant building practice. The formal housing industry has long expressed concerns that stock built through arrangements such as Homeowner Building Licences do not result in compliant construction, and often embed serious defects that a future owner will be unaware of and have to deal with.

The NSW flood recovery challenge provides NSW construction industry and regulator with a onetime opportunity to modernize its practices, to embrace digitization as a means of reducing waste while building new capabilities. It is paramount that the now, and the future find a common workspace so the massive investment in this recovery is not wasted. A modern Australian construction industry that enables small and medium sized players to thrive must be integral at this time.

Rebuilding should have regard to compliance of the emergency housing, the temporary housing and any repairs. The Department of Customer Service – Better Regulation Division including Fair Trading and Safe Work can play an important role in mitigating many of the harms that could become embedded in flood recovery stock created formally, informally or involving prefabrication. 'Build back Right' is the essential thematic that should underpin all new construction including recovery stock.

The role of the regulator in achieving good outcomes for occupiers, the industry, insurance and compliance

The Department of Customer Service approach

The NSW Department of Customer Service (DCS) has demonstrated its value proposition across government and the community during the various crises over the last 3 years including implementation of Construct NSW reforms relating to Class 2 design and building phases. DCS has a proven customer facing and digitally enabled culture and capability.

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Changing the regulatory dial in NSW apartment construction involved a new balance of mentoring (carrot) and enforcement (stick). New legislation such as the *Design and Building Professionals Act*, the *Residential Apartment Building (Enforcement and Compliance Powers) Act* and the *Building and Developer Certifiers Act* have helped reshape the delivery and trustworthiness landscape with the eventual homeowner benefiting from a home in which the key building elements have fewer serious defects.

This has been recognised by the insurance industry who are now showing strong interest in providing a 10-year warranty insurance product for new buildings while reporting a declining NSW risk and premium in the professional indemnity insurance space.

These achievements have involved unprecedented industry stakeholder collaboration and consensus building. This approach could benefit NSW Class 1 detached and attached residential market to the mutual benefit of consumers in flood recovery, the industry and the NSW government¹.

Using the approach in relation to the NSW Flood Recovery program

The NSW flood recovery program while focusing on providing housing for affected people, could also be used as a collaborative lever to incrementally modernise the Class 1 housing industry.

Key opportunities include:

- a) Helping to reorganise the industry's supply chain to improve efficiency, reduce waste and support demonstrably better quality,
- b) Deploy digital construction technology to raise the baseline industry capability deploying a 'good for one – good for all' initiatives.
- c) Improving the credentialling of players to raise the standard of commercial practice, to ensure an orderly industry entry pathway for new small and medium sized entrants and innovators, to place a value on adequate enterprise capability and capitalisation and to lower insolvency incidents.
- d) Positioning the Department of Customer Service – Better Regulation Division, NSW Fair Trading regulator as a working partner to promote improved industry practice, compliance, and accountability. The achievements in the Class 2 reforms could be simply transferred to Class 1 and the building and repair under the Flood Recovery Program and future programs.
- e) Capability improvement could be achieved using the existing Learning Platform established for class 2 which can be expanded to provide necessary courses for class 1 building work. These capabilities are established, repeatable and have momentum. A rapid roll out of best practice learning modules for class 1 could be delivered over the next 6 months to builders, manufacturers, certifiers, Local Government, educators and informal constructors. This would leave a lasting legacy of improved capability for industry involved in this work.

Suggested next steps

- Establish a Prefabrication compliance working group, tasked with guiding planning and associated legislation to bring these buildings into a regulated asset class. This would also provide for future demands for rebuilding.

¹ A measure of how much the performance of the Class 1 residential market may be reformed is evidenced in the cost of iCare's last resort Homeowners Warranty Insurance Scheme (HOW) which is at the time of this submission is operating at a substantial loss. The scheme in effect perpetuates the sectors inefficiency, lack of accountability and productivity

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- Consider mobile, digitally enabled delivery vans to take support services into the field to offer program and project compliance guidance and training
- Seek industry collaboration partners like Bunnings, Standards Australia, professional design association, and Natspec (a similar collaboration conversation was commenced and went on hold with COVID). This collaboration could engage all flood regional stores to create a platform to access free Australian Codes and Standards, reinstatement workshops, advice on compliant building materials and potentially a jointly funded shopping voucher to incentive consumer participation.
- Work with the Insurance Council of Australia and financiers to establish a recovery support collaboration to ensure as many new builds as possible are eligible for *insurance and finance* at a preferred cost to homeowners.
- Establish a display village for industry to showcase suitable construction products and assemblies – including a prefabrication resource hub.
- Establish a Build it Right Flood recovery team in the Department of Customer Service and perhaps also a BRD Housing Recovery Regulatory and Industry support Hub in the Region. This would include new BRD compliance team members to support the Hub drawn from FT/OBC/SafeWork/TAFE and DCS to deliver the “Build it Right” initiative to complement the “Build Back Better Recovery Strategy.”
- Train field inspectors/ collaborators to actively work with builders and certifiers to guide compliance and good practice