



**Submission by  
Australian Network for  
Universal Housing Design  
to the  
The House of Representatives Standing  
Committee on Tax and Revenue  
on the  
Contribution of tax and regulation on housing  
affordability and supply**



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**Contact:**

Margaret Ward PSM

David Brant

**Convenors**

[www.anuhd.org](http://www.anuhd.org)

[anuhd@anuhd.org](mailto:anuhd@anuhd.org)

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## Introduction

The Australian Network for Universal Housing Design (ANUHD)<sup>1</sup> represents people from industry, government, the community sector and academia who want the homes we build to be fit for all Australians. To this end, we successfully advocated for a national Livable Housing Design standard (Silver level) to be mandated in the National Construction Code (NCC) in September 2022 for all new housing. A Livable Housing Design standard (Gold level) will also be published as an optional technical provision.

We maintain that until the Livable Housing Design standard (Gold level) is mandated in all new and extensively modified housing, we will not meet the purpose of a mandated standard; that is, **to ensure that [all] new housing is designed to meet the needs of the community including older Australians and others with mobility limitations.**

## Terms of reference: our focus

Our submission focuses on accessibility in housing within the second of the terms of reference:

- Identify and assess the factors that promote or impede responsive housing supply at the Federal, State and Local Government level.

## Assumptions

In responding to the terms of reference we make the following assumptions:

- ‘Supply’ is understood in the context of the supply of housing that maximises the welfare of the people who will use that housing, and prioritise that over the pecuniary interests of the housing industry.
- The welfare of people using the housing is enhanced by their social inclusion and economic participation.
- Housing that is not accessible is, in effect, not available to households that include a person with physical disability, or households that wish to be visited by people with physical disability.
- When analysing supply, housing that is built to sell and built to rent should be included. Built to rent is the housing most likely to be occupied by households with people with disability over the economic lifetime of the dwelling.

## Background

Significant achievements have been made in the development of non-discriminatory public spaces and places world-wide<sup>1</sup>. In Australia, the enactment of the Access to Premises Standard<sup>2</sup> and its implementation through the National Construction Code has set an enviable prescriptive benchmark for non-discriminatory public premises. Accessibility in public spaces built since 2011 is the norm.

Australia's obligations to provide accessible and affordable housing as a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) are interpreted in the 2010-2020 National Disability Strategy in the following policy directions:

- Improved provision of accessible and well-designed housing with choice for people with disability about where they live; and
- Improved access to housing options that are affordable and provide security of tenure.

Notwithstanding this obligation, the design of housing is not included in anti-discrimination legislation, and until recently, access requirements into and within private spaces in housing were not included in the National Construction Code (NCC). The 2022 iteration of the National Construction Code will now include a minimum access standard for all new housing (here called the NCC Livable Housing Design standard (Silver level)).

## Need for accessibility in housing

The lack of accessible and affordable housing is recognised as a major contributor to the marginalisation and exclusion of many people with disability and their families<sup>3-5</sup>. The Australian Government acknowledges this in its National Disability Strategy 2010-2020<sup>6</sup> (the Strategy):

The Strategy explains how both affordability and poor housing design create barriers to inclusion and participation:

*There is evidence that people with disability experience substantial barriers in finding a place to live, especially in the private market. Barriers are often presented by designs which do not allow the building structure of the home to change without significant expense, to meet the needs of a person who is ageing or who has a disability.*<sup>6</sup>

Comprehensive studies in the USA<sup>7,8</sup> estimate that there is a 60% probability that a newly constructed single-family dwelling will house at least one resident with a long-term physical limitation during its lifespan. When similarly disabled visitors are taken into account, the probability rises to 91%.

## Accessibility and affordability in housing

Accessibility in housing is inextricably linked to affordability and supply. Strategies that improve affordability and supply must also consider accessibility or those households most likely to need affordable housing (households with older people and people with disability) will be further marginalised. More specifically:

- Households with a person who needs accessibility and care are typically poorer than other households and their search for affordable housing is exacerbated by inaccessibility. Informal care is a significant saving for government but financially costly for a household. Half of all carers live in a household in the lowest two

equivalised gross income quintiles (due to the loss of paid work), twice that of households without caring responsibilities<sup>9</sup>.

- The biggest factor in the current high cost of housing, especially of free-standing houses, is the high cost of land. Objections that mandatory accessibility standards would increase the cost of housing, focus on an issue that only relates to a tiny proportion of the cost of housing; that is, if the cost of access features increased the cost of construction by \$1,000, it would represent one sixth of one percent (.167%) of a \$600,000 home.
- The affordability of a dwelling should be assessed over the lifetime of the dwelling and not just on its initial selling price. Modifications to housing cost nineteen times more than if they were included in the original design<sup>10</sup>. Home modification outcomes are typically inconsistent and inadequate with regard to their purpose<sup>11</sup>. Accessibility built into housing from the start make common modifications (such as ramped entries and step-free hobless showers), at best, unnecessary and, at worst, much easier and cheaper to install.
- One in three households are renters. Rental affordability continues to decline nationally. Households with a person with mobility difficulties not only find that rental properties don't meet their needs, but also current welfare and income support payments are too low to allow them to rent a home that does<sup>12</sup>.
- Investors in private rental housing generally do not consider households with a person with mobility limitations as preferred tenants<sup>4</sup>. They have no incentive to pay more to have new housing built with accessibility, particularly when rentals are in high demand, as is currently the case. Renters are legally obliged to pay for modifications and to make good any changes to the property at the end of the lease. Further, they have no certainty in the current housing market that they could remain renting a home long enough to justify the cost of installing and later removing the accessibility modifications.

## Disability and affordability

Affordability of homes available for purchase should not be assessed in terms of some mythical 'average' home buyer. One needs to focus on affordability for particular groups (such as, people with disability, indigenous people, older women). The following comments refer to households with a person with disability (including older people):

- The age when a person acquires a disability will affect not only the capacity of their household to acquire housing but also the type of housing they need<sup>4</sup>.
- Households with younger people with disability are significantly poorer than those without disability, due to lack of work opportunities, added costs of living, and caring responsibilities. So these households are likely to be asset poor<sup>4</sup>.

- Older people who acquire their disability later in life are likely to have acquired some assets, including housing, before they acquired a disability. Most rely on a government pension, so, although they may be asset rich, they are likely to be income poor<sup>13</sup>.

## Factors that promote accessibility in housing supply in Australia

Accessibility in housing has been traditionally considered in two ways: a social justice imperative supporting social inclusion; and net economic benefit to society.

### Social justice

Australia's obligations under the Convention on the Rights of Persons with Disabilities with regard to the design of housing were interpreted in the policy direction in the 2010-2020 National Disability Strategy to *"improve the provision of accessible and well designed housing with choice for people with disability about where they live"*<sup>6</sup>.

The failure to act on this policy direction led to the UN Committee's 2019 recommendation<sup>14</sup> that Australia's governments intervene to *"amend the federal (sic) law by including mandatory rules on access for all new and extensively modified housing"* (p. 5).

### Net economic benefit to Australian society

Any government intervention is to have a net economic benefit to Australian society<sup>15</sup>, which is assessed through a Regulatory Impact Statement (RIS). The findings of the Decision RIS and the community-based responses differed significantly.

The Decision RIS found that there was no economic case for regulation<sup>16</sup>, while the majority of the submissions, and in particular the submissions by Melbourne Disability Institute<sup>17-19</sup>, found that regulation would result in a net economic benefit to Australian society. In this regard, the majority decision by the Building Ministers to mandate an access standard for housing in the NCC was based on community advice as well as formal government policy analyses.

There are three pathways through which the take-up of accessible design is typically promoted in Australia. They are regulation, incentivisation, and market capacity development.

### Regulation

Regulation is the most successful in promoting accessible housing supply because accessibility becomes part of normal practice, rather than the exception. A mandated minimum access standard (here called the NCC Livable Housing Design standard) will be included in the National Construction Code in September 2022. All jurisdictions except for NSW and South Australia support this reform. We envisage basic accessibility in over 90% of new housing in the jurisdictions that implement the code.



The Productivity Commission's report on building regulation<sup>20</sup>, explains why regulation works best with regard to accessibility:

*Governments sometimes intervene in the market for the social purpose of ensuring certain minimum standards of accommodation (including access to buildings) for all. It is most unlikely that certain building qualities, such as access for people with disabilities, would be delivered widely in the absence of government intervention.*<sup>20</sup>

The report warned that regulation typically causes a reductionist response (and Livable Housing Design standard (silver level) is just that). At the same time, the report is realistic about the limitations of incentivisation and voluntariness within the industry, given the impediments listed below.

### Incentivisation

The use of incentives by Australian governments to increase the supply of accessible housing is less common and less successful than regulation. Incentives tend to be in the form of:

- access to grants and low-cost loans for new housing (NRAS funding No 5<sup>21</sup>, NSW Government's Land and Housing Corporation<sup>22</sup>);
- planning consent advantage for housing developers who include a percentage of accessible housing in new developments (NSW's State Environmental Planning policy<sup>23</sup>, Queensland's Economic Development policy<sup>24</sup>).

We calculate that basic accessibility is achieved in less than 10% of new housing in NSW, where the most incentives are in place<sup>25</sup>.

When incentives are used within a social justice framework, there is an inherent risk. There are some things that market-forces simply cannot achieve, and money cannot buy. The use of incentives requires careful thought to ensure that incentives do not erode or undermine the social-policy objectives they ostensibly seek to achieve.

A further concern for incentives is its lack of certainty for builders, buyers and renters. Builders often must navigate a complex maze of guidelines, incentives, requirements and interpretations and usually only a small portion of the dwellings are required to comply. Rarely are there mechanisms to track these accessible dwellings after they are sold. Buyers and renters simply do not know where to find them when they need them.

### Market capacity development

Market-capacity development means supporting the capacity and willingness of the housing sector to provide well designed housing. Design guidelines supported by education and awareness strategies are the most common approach. A quality assurance system is necessary in the absence of regulatory requirements. This separate system certifies builders and assures buyers and renters that a dwelling has reached an agreed access standard.

This strategy has had little success in Australia. The Livable Housing Design agreement<sup>26</sup> in 2010 quickly demonstrated its ineffectiveness within a few years. We calculated that, using the market-capacity approach, basic accessibility was achieved in less than 5% of new housing across Australia<sup>27</sup>.

One positive outcome was the increase of trained certifiers of accessible housing across Australia. Further, the housing industry adopted a number of the individual access features of the Livable Housing Design standard (such as step-free showers, wide front doors) though in an inconsistent and unreliable manner<sup>28</sup>. It also alerted the housing industry to the possibility of regulation, which is now underway. Regardless, it failed in its original purpose to increase the supply of accessible housing.

## Factors that impede accessibility in housing supply in Australia

There are many factors that impede accessibility in housing. These can be summed up by three broad assumptions. The first is that providing access in housing is too difficult and too expensive to do. The second is that people with disability should be or are likely to be living elsewhere, and the third is that builders and designers simply forget to consider the needs of the people who will use the dwellings<sup>29</sup>. These assumptions underpin more tangible factors that impede accessibility in housing.

### Lack of mandated requirement

Noted above, a mandated access standard for housing in the NCC makes access the norm rather than the exception. Noted earlier, we anticipate that 90% of new housing in jurisdictions that implement the NCC Livable Housing Design standard will comply.

Incentives and capacity development are far less successful. When there is no commitment to regulate, as in NSW and South Australia, accessibility in housing plummets to less than 10% of new housing stock.

### Lack of buyer-demand

The need for accessibility in housing does not immediately translate into an equivalent demand at the point-of-sale of new construction. This phenomenon is used by the housing industry to argue that there is not a need and intervention is not necessary<sup>30</sup>. Many studies have examined this phenomenon and suggest that both buyers and builders of new housing are complicit in the lack of demand.

Rarely do buyers and builders consider their probable vulnerability, ageing or illness or that of a future resident as a sales feature<sup>31</sup>. Further, most buyers have little interest in paying extra for features they consider have no immediate and personal benefit to them<sup>32</sup>.

Volume builders are reluctant to change their plans to cater for one-off structural requests—most of these major decisions have been made long before the buyer comes

along. (Minor choices, such as colour and quality of finishes, are common in the sales pitch.) Sales personnel are also poorly equipped to respond to requests regarding accessibility, and can give little assurance that these requests will be carried out in the final product<sup>33</sup>.

### Risk avoidance within the housing industry

Builders have good reason to be reluctant. The housing industry in Australia is a complex and interdependent system, connected to a broader network of suppliers, financial institutions, public and private infrastructure providers, and land developers<sup>33,34</sup>. Its fragmented, dependent nature risks a domino-style effect when one trade or supplier is asked to change his or her practice. Such a change poses a risk to the whole group, such that they all might be affected<sup>33</sup>.

### Focus on building cost

The cost issue is two-fold. The first is the additional cost of accessibility, which was generally acknowledged to be small in relation to the total cost of the house and land package (see earlier on p. 6); the second is the cost incurred in changing current practice.

Noted earlier, the housing industry has adopted some of the individual access features of the Livable Housing Design standard as aspirational features. In the absence of regulation, they have not provided them reliably or consistently<sup>28</sup> to provide the resident or visitor useful accessibility.

## Conclusion

Policies on accessibility and affordability in housing are inextricably linked. Acting on one without the other further marginalises those households the policies are meant to benefit.

The Australian housing industry, with its complexities and interdependence, is structured to benefit from regulation. Change to established building practice means risk, and risk means cost in unforeseen problems and time-delays. Regulation provides certainty for both the housing industry and for those who will use the dwellings through their life cycle.

Educating and incentivising the Australian housing industry to provide social justice outcomes in housing has, in the main, had poor results. Providing accessible, affordable housing cannot be left to the housing industry through market forces, even with incentives and education. Government intervention through regulation based on clear social justice reasons as well as in a manner that has net economic benefit to society will achieve the best results.

## References

1. Prideaux S, Roulstone A. Good practice for providing disabled people with reasonable access to the built environment. *International Journal of Law in the Built Environment*. 2009;1(1):59-81.
2. Australian Government. Explanatory Statement: Disability (Access to Premises—Buildings) Standards 2010. In: Department AGs, ed. Canberra; 2010.
3. Saugeres L. (Un)accommodating disabilities: housing, marginalization and dependency in Australia. *Journal of Housing and the Built Environment*. 2010;26(1):1-15.
4. Beer A, Faulkner D. 21st century housing careers and Australia's housing future. *AHURI Final Report No. 128*. 2009; [http://www.ahuri.edu.au/nrv/nrv2/NRV2\\_Assoc\\_Docs.html](http://www.ahuri.edu.au/nrv/nrv2/NRV2_Assoc_Docs.html). Accessed July 21, 2010.
5. National People with Disabilities and Carer Council. Shut Out: The Experience of People with Disabilities and their Families in Australia. In: Commonwealth Department of Families H, Community Services, and Indigenous Affairs. Canberra: Australian Government; 2009.
6. COAG. 2010–2020 National Disability Strategy: An initiative of the Council of Australian Governments. In. Canberra: Australian Government; 2011.
7. Smith S, Rayer S, Smith E. Aging and disability: Implications for the housing industry and housing policy in the United States. *Journal of the American Planning Association*. 2008;74(3):289-306.
8. Smith S, Rayer S, Smith E, Wang Z, Zeng Y. Population Aging, Disability and Housing Accessibility: Implications for Sub-national Areas in the United States. *Housing Studies*. 2012;27(2):252-266.
9. Australian bureau of Statistics. 4430.0 - Disability, Ageing and Carers, Australia: Summary of Findings, 2019-Key findings: Household characteristics 2019.
10. Victorian Government. Accessible Housing: Public consultation on the visitable and adaptable features in housing regulatory impact statement. 2010. ;
11. KPMG. *Review of Home Modification and Home Maintenance services under the HACC Program: Data analysis and jurisdictional mapping report* Department of Social Services 2014.
12. Anglicare Australia. *Rental Affordability Snapshot*. Anglicare Australia;2021.
13. Judd B, Liu E, Easthope H, Davy L, Bridge CE. *Downsizing amongst older Australians*. Australian Housing and Urban Research Institute Melbourne; 2014.
14. Committee on the Rights of Persons with Disabilities. *Concluding observations on the combined second and third periodic reports of Australia*. United Nations; 2019.
15. COAG. Best practice regulation: A guide for Ministerial Councils and national standard setting bodies. In: Department of Prime Minister and Cabinet, ed. Canberra: Commonwealth of Australia; 2007.
16. Centre for International Economics. *Proposal to include minimum accessibility standards for housing in the National Construction Code: Consultation Regulation Impact Statement*. Sydney: Australian Building Codes Board; 2021.
17. Melbourne Disability Institute. *Accessible housing-the way forward: Response to the Australian Building Codes Board consultation RIS*. Melbourne: The University of Melbourne; 2020.

18. Melbourne Disability Institute. *Accessible housing-the way forward: Supplementary information provided to the Australian Building Codes Board Consultation RIS*. Melbourne: The University of Melbourne; 2020.
19. Melbourne Disability Institute. *Position Statement on the cost-benefit analysis of the proposed regulation for accessible housing*. Melbourne: The University of Melbourne; 2021.
20. Productivity Commission. Reform of building regulation. 2004; <http://129.3.20.41/eps/othr/papers/0506/0506007.pdf>. Accessed July 24, 2010.
21. Australian Government. National rental affordability scheme policy guidelines. In: Department of Housing CSaIA, ed. Canberra2011.
22. NSW Government. Land and Housing Corporation: Dwelling Requirements. In: Department of Planning Industry and Environment. Sydney 2020.
23. NSW Government. State Environmental Planning Policy No 5—Housing For Older People or People with a Disability under the Environmental Planning and Assessment Act 1979 In: Department of Environment and Planning. Sydney2015.
24. Economic Development Queensland. Accessible Housing: PDA guideline no. 02 In: Queensland Government, ed. Brisbane; 2015.
25. ANUHD. Further information required on NSW’s strategies to increase supply of accessible housing. In: The Hon Kevin Anderson MP, personal letter; 2021.
26. NDUHD. Strategic plan. 2010; [https://www.dss.gov.au/sites/default/files/documents/05\\_2012/national\\_dialogue\\_strategic\\_plan.pdf](https://www.dss.gov.au/sites/default/files/documents/05_2012/national_dialogue_strategic_plan.pdf). Accessed January 20, 2015.
27. ANUHD, RI Australia. Report on the progress of the National Dialogue on Universal Housing Design 2010-2014. Sydney; 2015.
28. Winkler D, Martel A, Chen Y, Greaves T. Audit of accessible features in new houses, apartments and townhouses. 2021.
29. Gleeson B. Can technology overcome the disabling city? In: Butler R, Parr H, eds. *Mind and body spaces: geographies of illness, impairment, and disability*. London: Routledge; 1999:98-118.
30. Housing Industry Association. Accessibility in residential buildings. 2018; Policy Statement on accessibility in residential buildings. Available at: <https://hia.com.au/-/media/HIA-Website/Files/Media-Centre/Policies/accessibility-in-residential-buildings.ashx>.
31. Spanbroek N. Design profession and ageing in place. In. Vol 24: Wiley-Blackwell; 2005:69-70.
32. Crabtree L, Hes D. Sustainability uptake in housing in metropolitan Australia: An institutional problem, not a technological one. *Housing Studies*. 2009;24(2):203-224.
33. Bringolf J. Barriers to universal design in housing. *Urban Research Centre, College of Health and Science*. [(Doctoral dissertation)]. 2011; <http://handle.uws.edu.au:8081/1959.7/506910>. Accessed September 16, 2012.
34. Dalton T, Wakefield R, Horne R. *Australian suburban house building:industry organisation, practices and constraints*. Melbourne2011.