



Accessible Housing Options Paper Consultation Report

April 2019

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Contents

Preface.....	7
Executive summary.....	8
1. Introduction.....	10
Report structure.....	10
Terminology.....	11
References to the NCC.....	11
2. Background.....	12
Accessible Housing Project.....	12
Options Paper.....	13
National Consultation Forums.....	14
About the ABCB.....	14
About the NCC.....	14
3. Policy context and objectives.....	15
Project objective.....	15
Australia’s international obligations.....	16
National Disability Strategy 2010-2020.....	18
National Dialogue on Universal Housing Design.....	18
Planning policy.....	19
Aged care reform.....	20
Principles of Universal Design.....	21
Policy evolution and cultural change.....	21
Alternatives to regulation.....	22
Related matters.....	23
4. Terminology.....	28
Use of the term ‘accessible’.....	28
Alternatives proposed by stakeholders.....	30
Related matters.....	30
5. Framing the issues.....	33
Defining the ‘problem’.....	33
Focus of the Options Paper.....	33
Focus on mobility-related issues.....	34
Related matters.....	34
6. Assessing the need for accessible housing.....	37
Assessing current need / demand.....	37

Assessing potential future need	40
Carers.....	43
Young people in residential aged care	46
Visitability	47
Related matters	48
7. Role of the planning system	49
Proximity to local amenities.....	49
Rural and regional areas	50
Mining and other workers' accommodation.....	50
Small, narrow, and unique allotments	50
Use of planning regulations to apply the LHDG	51
Allocation of accessible dwellings	52
Related matters	53
8. Role of the residential tenancies system	54
Renters seeking accessible housing.....	54
Potential discrimination	56
Restrictive lease terms	57
Related matters	58
9. Home modifications	61
Costs of home modifications	61
Application of an accessibility standard to home modifications.....	61
Demand for home modifications.....	62
Maintenance, monitoring and certification.....	62
10. Step-free entry path	64
Importance	64
Practicality.....	65
Design choice and diversity.....	66
Site gradient / topography	67
Areas affected by termites.....	67
Drainage and water ingress	67
Flood hazard areas	67
Concessions / exemptions	68
Related matters	68
11. Room sizes and circulation space.....	70
Dwelling sizes generally	70
Apartment sizes.....	70

Circulation space	70
Related matters	71
12. Structural features	72
Structural features as the 'priority'	72
Rooms on ground/entry level	73
Bathrooms and toilets	73
Doorways	73
Window sill heights	73
Lifts / stair lifts	74
Balconies and outdoor areas	74
Utility and service areas	74
Emergency egress	75
Related matters	75
13. Non-structural features	80
Lighting	80
General power outlets	80
Door hardware	81
Heating and cooling controls	81
Slip resistance	81
Design features for people with sensory disability	81
Involvement and choice	82
Related matters	83
14. Potential benefits	85
Health benefits	85
Community participation and inclusion	85
Qualitative and societal benefits	86
Averted costs of home modifications	88
Standardisation	88
Realisation of benefits	88
Related matters	88
15. Potential costs and regulatory burden	90
Comments on the preliminary costings	90
Cost and regulatory burden and proportionality	94
Regulatory burden	95
Housing costs/affordability	96
Related matters	96

Appendix A – List of submissions	98
Organisations	98
Individuals	100
Appendix B – Methodology	102
Recording of the National Consultation Forums.....	102
Collection of submissions on the Options Paper.....	102
Review of submissions and forum notes/transcripts	102
Appendix C – Bibliography.....	104
Appendix D – Acronyms and abbreviations	114
Appendix E – Glossary of terms	117

Preface

This report documents the outcomes of consultation on the Accessible Housing Options Paper, which was released for public comment between September and November, 2018. This was supported by a series of consultation forums held in each capital city in October and November of the same year.

The consultation process was intended to gather information and insights about the possible inclusion of a minimum accessibility standard for housing in the NCC, rather than as a way of gauging the level of support for one or another of the proposals discussed in the Options Paper. Accordingly, the content of this report is qualitative, rather than quantitative.

While every effort has been made to capture all of the issues and ideas put forward, not all can be specifically mentioned in this report, which is intended as a summary.

Executive summary

This report has been developed to document, in summary form, stakeholder feedback on the Accessible Housing Options Paper. In so doing the report identifies considerations that will shape the next stage of this project — the Regulation Impact Statement (RIS).

The purpose of this report is to set out some of the complexities inherent in the subject of accessible housing. This is an important step in the development of a RIS.

It is not the role of this report to make a recommendation for or against the regulation of housing accessibility in the National Construction Code (NCC). The ultimate decision on whether or not to regulate will be made by governments, having regard to the recommendations of the ABCB, following development of the RIS.

The Options Paper, released for public comment in September 2018, provided a preliminary menu of options and costings on the possible inclusion of a minimum accessibility standard for housing in the NCC. A total of 179 submissions were received, with many of these also providing data, research papers and other evidence to support their views.

The Options Paper was supported by a series of consultation forums, which were held in each capital city. The forums attracted a broad cross-section of delegates from many sectors including disability support and advocacy groups, occupational therapists, State/Territory and Local Government representatives, and members of the building industry.

Some of the key issues raised in the submissions on the Options Paper are summarised below:

- There is a need to consider aligning the project objectives to the concepts of equity and independence, and consideration of the principles of universal design.
- Previous government commitments, including the UN Convention on the Rights of Persons with Disability and the COAG National Disability Strategy, were generally interpreted as commitments to regulate accessible housing.
- The prevalence of households with an occupant with a disability and the future impact of the population ageing need to be properly taken into account in establishing the need for regulation of accessible housing.
- Consideration should be given to the application of accessible housing provisions on difficult sites, where local planning policies may also impact upon the feasibility of an access standard applied to housing.
- Consideration should be given to residential tenancies legislation that may be restricting some groups from obtaining suitable housing or modifying rental housing to improve its accessibility.
- The importance of a step-free path to the dwelling entry door, and conversely, the practical difficulties associated with mandating such a feature in 100 per cent of circumstances.
- Whether or not features that are more difficult to retrofit — generally referred to as ‘structural features’ — should be prioritised in the design of possible NCC changes.

- Qualitative, or intangible, benefits should be identified and given due consideration in the RIS, as well as ensuring that it goes beyond consideration of people with a disability. Generally, stakeholders suggested that such benefits include reduced social isolation, and increased community participation and inclusion.
- It is important that costs are accurately quantified and the distribution of costs and regulatory burdens between industry and consumers is clearly identified.
- Although outside the scope of the NCC, non-regulatory options — including financial incentives and the further development and promotion of voluntary guidelines — should still be assessed against regulatory options and considered by governments.

1. Introduction

This report has been developed to document, in summary form, stakeholder feedback on the Accessible Housing Options Paper (hereafter, 'Options Paper'). In turn, this will shape the next stage of this project — the Regulation Impact Statement (RIS).

The purpose of this report is to set out some of the complexities inherent in such a significant proposal. This is an important step in the identification of feasible options that a RIS will assess. The RIS needs to provide meaningful analysis of options that are informed by early consultation with all interested parties. This report provides such a foundation.

It is not the role of this report to make a recommendation for or against the regulation of housing accessibility in the National Construction Code (NCC) — that is a role for the RIS. The ultimate decision on whether or not to regulate will be made by Governments, having regard to the recommendations of the ABCB following completion of the RIS.

As is indicated by this report, the potential inclusion of a minimum accessibility standard for housing in the NCC is more complex than simply deciding whether or not to regulate, and if so whether such a standard should be based on the 'Silver' or 'Gold' Level specifications set out in the Livable Housing Design Guidelines (LHDG). There are many other factors at play, each of which was identified by stakeholders and will be explored in this report. These include:

- the role of planning regulation in applying accessibility standards for housing, both now and into the future;
- whether issues within the residential tenancy system are contributing to some people experiencing difficulties in finding suitable housing;
- technical issues between the LHDG and the current NCC;
- whether exemptions and concessions are necessary to reduce the likelihood of unintended consequences from the application of an accessibility standard to housing; and
- whether there is still a role for non-regulatory measures.

Report structure

This report is divided into fifteen chapters, accompanied by five appendices, set out according to the following structure:

- Chapters 1 and 2 are introductory and provide background information.
- Chapters 3 to 15 summarise stakeholder feedback on the Options Paper.
- The Appendices (A to E) provide additional information and helpful references.

The stakeholder feedback summarised in Chapters 3 to 15 is documented on an 'as is' basis, which includes substantial use of quotes so as to ensure that feedback is documented as accurately and in-context as possible. This 'as is' approach also means that there may be cases where stakeholder feedback contains comments that appear contradictory, or which may stray beyond the scope of the project. Such feedback has been included in the interests of completeness, noting that it was not possible to include in this report each and every issue raised in submissions on the Options Paper.

The summaries provided in these chapters do not include any expression of opinion by the ABCB and the inclusion or quoting of any submissions should not be interpreted as in any way endorsing the views expressed therein.

Terminology

As will be discussed in the section on ‘Terminology’ in this report, the word ‘accessible’ may not be the most appropriate term to describe what is being proposed. Issues around using that term, as well as several possible alternative terms were proposed in response to the Options Paper, are addressed in Chapter 4.

However, it is worth noting from the outset that the title of the project will remain unchanged, so as to ensure consistency and continuity in project documentation and communications.

References to the NCC

In this report, unless otherwise stated, any reference to the NCC is a reference to the 2016 edition, which was current at the time the Options Paper was published and when this report was compiled. For Volume One, this also includes Amendment 1. There may be some differences between these references and the recently published NCC 2019 edition.

2. Background

This section outlines background information regarding the Accessible Housing Project, along with information about the development of this report. It also provides general background information about the ABCB and the NCC.

Accessible Housing Project

In response to a proposal from the Building Ministers' Forum (BMF) in 2017,¹ then Prime Minister the Hon Malcolm Turnbull MP, wrote to Council of Australian Governments (COAG) First Ministers seeking agreement for the ABCB to undertake a Regulation Impact Assessment (RIA) on the costs and benefits of applying a minimum accessibility standard to all new residential dwellings in Australia. All COAG First Ministers responded supporting the preparation of an RIA.

In October 2017, the BMF agreed that a national RIA would be undertaken by the ABCB, in consultation with Disability Ministers through the Disability Reform Council (DRC), regarding accessible housing. It was also agreed that the RIA would examine the LHDG Silver and Gold specifications as possible options for a minimum accessibility standard; use a sensitivity approach; and be informed by appropriate case studies.²

The DRC provides a forum for member Governments to discuss matters of mutual interest and progress key national reforms in disability policy including the *National Disability Strategy 2010-2020* (NDS).³

The NDS was developed by the Commonwealth, State and Territory Governments under the auspices of COAG. The NDS sets out a ten year national plan for improving life for Australians with disability, their families and carers. It covers, among other things, policy towards achieving an inclusive and accessible physical environment, including in buildings and housing.⁴

The NDS is currently being reviewed, however that review⁵ is a broader process that is separate to the work of the ABCB. Further discussion of the NDS is also provided in Chapter 3 of this report.

As with any other potential change to the NCC, a minimum accessibility standard for housing must be underpinned by a rigorously tested rationale, be effective and proportional to the

¹ Building Ministers Forum, *Communique*, 21 April 2017.

² Building Ministers Forum, *Communique*, 6 October 2017.

³ Department of Social Services (Commonwealth), *Disability Reform Council*. Online: <https://www.dss.gov.au/our-responsibilities/disability-and-carers/programmes-services/government-international/disability-reform-council> (accessed January 2018).

⁴ Council of Australian Governments, *National Disability Strategy 2010-2020*, February 2011, p 8.

⁵ The review of the NDS is being undertaken by the Social Policy Research Centre at the University of New South Wales, on behalf of the Commonwealth Department of Social Services. For information about the review, see: <https://www.sprc.unsw.edu.au/research/projects/review-national-disability-strategy-2010-2020/>.

issue, and must generate a net societal benefit. This is made clear by the ABCB's IGA⁶, as well as the COAG Principles for Best Practice Regulation (hereafter, 'COAG Principles').⁷

In this respect it is important to note that the initiation of this work is not a commitment to change the NCC, but rather a commitment to undertake a thorough process to determine if changes to the NCC are warranted, and if so, to what extent.

It is also important to note that it is not the intention of the Accessible Housing Project to attempt to resolve any potential issues that might exist with the National Disability Insurance Scheme (NDIS), residential aged care system, or State/Territory housing services through a change to the NCC. The objective of the project is simply to identify whether or not the inclusion of a minimum accessible housing standard to the NCC would yield a net societal benefit and meet regulatory principles. Any flow-on benefits to other areas of government policy would be incidental, rather an explicit part of the project objective.

The Accessible Housing Project was included on the ABCB's Work Program in 2017-18 and is to be completed in time to consider whether or not any change should form part of the next edition of the NCC in 2022.

Options Paper

In 2018, the ABCB developed the Accessible Housing Options Paper. The Options Paper provided a preliminary menu of options and preliminary estimate of costings on the possible inclusion of a minimum accessibility standard for housing in the NCC. The Options Paper was developed with input from the DRC.

In August 2018, the BMF agreed the Options Paper would be used for broad stakeholder consultation on feasible options for the possible inclusion of minimum accessibility standards for housing in the NCC.⁸ The purpose of the Options Paper was to seek broader community and industry input and refine the details of the objectives, options and terminology that will be considered in a formal RIS.

The Options Paper included three possible options for NCC amendment, based on the Silver and Gold specifications set out in the LHDG.⁹ The list was not intended to be definitive or to in any way limit the range of possible options to be considered by a RIS, which must also consider business-as-usual and non-regulatory approaches.

Submissions on the Options Paper were collected between 19 September and 30 November, 2018, by email or post. A total of 179 submissions were received — these are listed in Appendix A. Many submissions also referenced documents such as journal articles to support

⁶ *An Agreement between the Governments of the Commonwealth of Australia, the States and the Territories to continue in existence and provide for the operation of the Australian Building Codes Board (ABCB IGA)*, 2017.

⁷ Council of Australian Governments, *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, October 2007.

⁸ Building Ministers Forum, *Communique*, 10 August 2018.

⁹ Livable Housing Australia, *Livable Housing Design Guidelines*, fourth edition, 2017.

their views. The most relevant of these references have been listed in the Bibliography at Appendix D of this report.

Details about each of the Options originally proposed in the Options Paper can be found in that document. Technical detail is contained in the LHDG (fourth edition, 2017).

For a copy of the LHDG, see: www.livablehousingaustralia.org.au.

National Consultation Forums

In October and November 2018, the ABCB held a series of consultation forums in each capital city. These forums provided an opportunity for stakeholders to have their say on accessible housing in-person, and have questions answered directly by representatives of the ABCB.

The forums were open to the general public and attracted a broad cross-section of delegates from many sectors including disability support and advocacy groups, occupational therapists, State/Territory and Local Government representatives, and members of the building industry.

The dates and locations of the forums were as follows:

- Canberra: 15 October
- Adelaide: 16 October
- Perth: 19 October
- Sydney: 25 October
- Hobart: 26 October
- Brisbane: 30 October
- Melbourne: 31 October
- Darwin: 1 November

A webcast was also made available on the ABCB website.

About the ABCB

The ABCB is a COAG standards writing body that is responsible for the development of the NCC. The ABCB is a joint initiative of all three levels of government in Australia. It was established by an IGA that was first signed by the Commonwealth, States and Territories on 1 March 1994, and has been updated from time to time since. The ABCB is also a regulatory reform vehicle for COAG, and reports to the Commonwealth Minister and State and Territory Ministers responsible for building and plumbing regulatory matters, also known as the BMF.

About the NCC

The NCC provides the minimum necessary requirements for safety and health, amenity and accessibility, and sustainability in the design, construction, performance and liveability of new buildings (and new building work in existing buildings) throughout Australia. It is a uniform set of technical provisions for building work and plumbing and drainage installations throughout Australia whilst allowing for variations in geological or geographic conditions, such as climate.

The NCC is freely available online and can be accessed through the ABCB website.

3. Policy context and objectives

This section summarises stakeholder views on the policy context in which the Accessible Housing project is situated. The term ‘policy context’ was used to describe relevant policies and agreements made by Governments, including internationally, as highlighted through many of the submissions made on the Options Paper.

Project objective

The Options Paper included two sections that set out the foundations of a project objective and some guiding principles for refining it.

This was expressed in the Options Paper as follows:

If the objective of setting an accessibility standard is so that people have access to housing with a minimum level of accessibility features necessary, across a greater choice of accommodation options, the following considerations will be relevant:

- (1) That a clear definition of 'accessibility' is agreed upon at an early stage. That is, does accessible housing mean housing that is accessible primarily to those with limited mobility, or should it also cater to those with other impairments, such as hearing or vision impairments?*
- (2) That any specification adopted addresses accessibility features that are essential, not just desirable or best practice, to meet that agreed definition.*
- (3) That such a specification is applied in a way that achieves a positive cost-benefit to home buyers and the community.¹⁰*

The discussion above was set in the context of the following extract from the ABCB IGA, which also appeared in the Objective section of the Options Paper:

[E]nsure that, in determining any change to the code and the level of requirements:

- A. there is a rigorously tested rationale;*
- B. the proposals are effective and proportional to the issues being addressed such that the code will generate benefits to society greater than the costs (that is, net benefits);*
- C. there is no regulatory or non-regulatory alternative that would generate higher net benefits; and*

¹⁰ Australian Building Codes Board, *Accessible Housing Options Paper*, September 2018, p 13.

D. the competitive effects of the code have been considered; and the code is no more restrictive than necessary in the public interest.¹¹

The project objective received mixed responses in submissions to the Options Paper. While some supported the objective as stated, others expressed concerns or offered suggestions as to how it may be improved. These included—

- that the objective should also take into account the need to minimise costs to the community (i.e. increased housing construction costs);
- including affordability, equity and fostering independence, as additional objectives;
- making homes safer and easier to use (consistent with the LHDG); and
- considering the housing needs for an ageing population.

The Housing Industry Association (HIA), in its submission, stated their view on the importance of policy direction — in this case the ABCB IGA — not being interpreted in such a way that it would pre-determine a regulatory outcome on housing accessibility:

Whilst it is acknowledged the 2017 IGA for the ABCB includes accessibility as part of the goals of the NCC. However, the HIA does not believe that this in itself should justify proposals for private housing going forward.

Australia's international obligations

The submission by the Australian Human Rights Commission (AHRC), among others, highlighted certain international conventions to which Australia is signatory, and that the AHRC believe to have some bearing on the issue of housing accessibility. According to that submission, the two most relevant conventions are the —

- International Convention on Economic, Social and Cultural Rights (ICESCR); and
- Convention on Rights of Persons with Disability (CRPD).

According to the AHRC submission:

Article 11 of the ICESCR, to which Australia is a party, recognises that the right to housing is more than simply a right to shelter. It is a right to have somewhere to live that is adequate. Whether housing is adequate depends on a range of factors including...accessibility.¹²

Article 3 of the CRPD, clauses (c) to (f) highlight key principles relevant to the provision of housing:

(c) Full and effective participation and inclusion in society.

¹¹ ABCB IGA, above n 6, [6.1.b] p 12.

¹² Australian Human Rights Commission, *Housing, Homelessness and Human Rights*, 2009, webpage: <https://www.humanrights.gov.au/our-work/rights-and-freedoms/projects/housing-homelessness-and-human-rights>.

- (d) *Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity.*
- (e) *Equality of opportunity.*
- (f) *Accessibility.*¹³

*Article 4(f) of the CRPD also promotes universal design in the development of standards and guidelines. Article 9 (Accessibility) requires governments to ensure premises, including housing, are accessible for people with disability on an equal basis to others. Article 9 also mandates that governments take measures to establish minimum standards and guidelines to achieve accessibility. Further, Article 19 of the CRPD promotes the rights of people with disability to live independently in the community, including the right to choose their place of residence and not be forced into a particular living arrangement.*¹⁴

While most submissions cited these obligations as evidence of a need for regulation, others saw regulation of accessibility features for housing as something that would infringe upon people's right to housing by increasing the cost of housing.

Other submissions reflected a broader interpretation of the CRPD, that to meet the obligation requires housing that meets the needs of the population; housing that is fit for purpose. Such an interpretation could broaden the objective beyond the needs of people with disability, although it should also be noted that the NCC is not an appropriate vehicle for resolving each and every issue that affects the availability of housing.

Nonetheless, several submissions noted aspects of life that are affected by the availability of accessible housing, including—

- choice of living arrangements (including the issue of younger people being forced to live in aged care facilities due to a lack of appropriate housing);
- ageing in place;
- opportunities for family and friends to visit (or to visit facility and friends); and
- the link between greater choice of housing and access to community amenities and employment opportunities.

The Centre for Universal Design Australia (CUDA) in its submission highlighted the emphasis placed on housing as a basic human need in the World Health Organisation's (WHO) Housing and Health Guidelines, in which CUDA noted that 'accessibility is listed as one of the five key areas for attention and improvement, and is linked with home safety and injury prevention, another of the key areas.'¹⁵

¹³ United Nations, *Convention on the Rights of People with Disabilities*, [2008] Australian Treaty Series 12.

¹⁴ *Ibid.*

¹⁵ World Health Organization, *Housing and Health Guidelines*, 2018, pp 65-74.

National Disability Strategy 2010-2020

In relation to the international conventions discussed above, Australia, though COAG in 2011 established the National Disability Strategy (NDS). As was outlined in the submission by the Australian Network on Universal Housing Design (ANUHD), and others, the NDS contains a number of elements ANUHD considers relevant to the issue of accessible housing:

Outcome 1 is “People with disability live in accessible and well-designed communities with opportunity for full inclusion in social, economic, sporting and cultural life”, with Policy Direction 2 as “Improved accessibility of the built and natural environment through planning and other regulatory systems, maximising the participation and inclusion of every member of the community” and Policy Direction 3 as “Improved provision of accessible and well-designed housing with choice for people with disability about where they live”.¹⁶

The Options Paper highlighted the commitment within the NDS to an ‘aspirational target’ that had been set by COAG for all new homes to be of agreed universal design standards by 2020. The Options Paper also noted concerns raised by some stakeholders, in response to a 2017 Senate inquiry, that this target is unlikely to be met.¹⁷ These concerns were reiterated in several of the submissions made in response to the Options Paper.

National Dialogue on Universal Housing Design

The implementation of the NDS, as it relates to housing, was primarily through the National Dialogue on Universal Housing Design (NDUHD), which in 2009 brought together representatives of all levels of government, key stakeholders from the disability, ageing and community support sectors and the residential building and property industry. It was through this process that the LHDG were first developed.

Some submissions suggested that the Dialogue, while initially productive, has faltered, and that they would like to see a strengthening of the ‘aspirational’ target. According to the CUDA:

It is worth noting that the National Dialogue on Universal Housing Design has not reconvened for several years or produced one progress report (as promised) and cannot be regarded as having any input into current policy... Indeed the [Livable Housing Australia] website lists members of the dialogue in past tense.

Referencing an “aspirational target” of an agreed universal design standard [LHDG] by 2020, understates the extent of the commitments made under the NDS. The evidence overwhelmingly shows that a voluntary approach will not take us to the 2020 target. It needs to be a commitment, not an aspiration.

¹⁶ *National Disability Strategy 2010-2020*, above n 4, pp 29-35.

¹⁷ *Accessible Housing Options Paper*, above n 10, p 7, citing: Australian Senate Community Affairs References Committee, *Delivery of outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible communities*, Inquiry Report, November 2017, [3.26, 3.27] pp 33-34.

However, other submissions suggested the voluntary approach initiated through the NDUHD is making progress and should not be written-off. As noted in the submission by Master Builders Australia (MBA):

We are seeing progress on the voluntary LHA model with most apartment developments and some housing developers adopting a 20% LHA silver target into their housing developments.

We are also seeing a steady increase in the number of people undertaking LHA assessor training with an average of two assessors being registered every week. There was a 58 per cent increase in the number of students completing the course in 2017-18. This raises awareness and helps build knowledge in the community about existing standards available to consumers.

Planning policy

Several submissions highlighted other policy areas that should be considered in setting the direction of the project. Key among these was the role of State/Territory planning policies. For example, the Western Australian Local Government Association (WALGA) suggested that if housing accessibility was viewed only as a 'building' matter, there would be potential for increased misalignment with planning policies.

The Property Council of Australia (PCA) also highlighted what they see as a need to avoid potential duplication or conflict between building and planning policies on housing accessibility. In doing so, the PCA provided a list of 14 examples of existing State, Territory and Local Government planning policies that applied a variety of different technical standards to increase housing accessibility in their jurisdictions. This list, which was not intended to be exhaustive, covered all jurisdictions except for Tasmania and the Northern Territory.

To address the potential for conflict and duplication between an NCC accessibility standard (for housing) and existing planning policies, as perceived by the PCA, its submission made two relevant recommendations which are extracted in the quote below:

- v. *The ABCB advises the Building Ministers' Forum [that] it is essential to conduct a review of their respective jurisdiction's accessible housing guidelines and planning requirements prior to progressing a [RIS] for a potential minimum standard to be included in the NCC.*
- vi. *The ABCB advises the Building Ministers' Forum to commit to aligning any state or local government accessibility guidelines or planning requirements to any potential minimum standard embedded into the NCC.*

The submission by the HIA, also suggested there may be potential for conflict with existing planning requirements:

Although nationally consistent planning regulation is not common throughout Australia, it may be reasonable in this instance that any potential changes to the NCC with regard to accessible housing be drafted and managed such that they take into consideration the impact these may have

across multiple planning jurisdictions with direction and provision[s] provided as a platform for planning agencies to respond accordingly.

The need for clarity on the future of State/Territory and Local Government accessibility guidelines and planning requirements, should an NCC standard proceed, was also raised at the consultation forums.

Aged care reform

Council of the Ageing (COTA) NSW noted that the Options Paper lacked any reference to current government policy in relation to ageing in place. COTA NSW stated:

The Commonwealth Government's 'Living Longer, Living Better' (2012) aged care reform recognised the demographic change that is occurring in Australia and the need to provide greater supports to deliver services to people in their homes and local communities. To enable this, governments at both commonwealth and state levels have espoused the importance of creating an environment that allows older people to 'age in place'.

The ACT Disability, Aged & Carer Advocacy Service (ADACAS) also highlighted the relevance of current policy on aged care to the issue of housing accessibility. The ADACAS submission noted:

The Living Longer Living Better reforms in aged care have identified that the home will be the predominant place where people age, age for many years longer than is currently the case, and will also receive services. This reflects the preference of the vast majority of people, and also the fiscal reality, that it is simply too expensive to accommodate people in congregate care nursing homes. The reforms to aged care are not currently as progressed as those in the disability [sector] (through the NDIS), but similar to the "choice and control" principle of the NDIS the "consumer-directed" initiative in future aged care will establish the home as the place where services are principally delivered, and thus requires a level of suitability of housing to ensure the wellbeing and functional independence of older people, and the health and safety of workers who will deliver their support there.

Also in relation to the idea of 'ageing in place', Women with Disabilities ACT (WWDACT), in their submission, noted the need for a broader understanding of that term:

Most current definitions of 'ageing-in-place' refer to the ability to remain in your own home for as long as possible rather than being forced into an assisted living facility. This is a narrow conceptualisation of the term. The 'place' refers not only to the home itself, but to the entire community.¹⁸

What was being conveyed through the WWDACT submission was a proposition that ageing in place can include moving house within one's local community, for example 'downsizing' from a large family home after children have grown up and moved out. According to

¹⁸ M. Hanley, *Ageing in Place, Redefined*, GenslerOnCities, 2014, webpage: <http://www.gensleron.com/cities/2014/2/24/aging-in-place-redefined.html>.

WWDACT, downsizing can be hampered by a lack of accessible housing, even for people who can afford to buy in their preferred local area.

Principles of Universal Design

In addition to the objective outlined in the Options Paper, several submissions suggested that the Accessible Housing Project adopt the principles of universal design in formulating technical specifications for potential inclusion in the NCC.

According to these submissions, the principles of universal design are:

The design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design.^{19 20}

Universal design is the priority to ensure all in society are included as one—all inclusive. A home designed under new Australian Universal building codes does not discriminate and can be built to include everyone's needs, whether now or in the future.²¹

The 7 principles of universal design: equitable use, flexibility in use, simple and intuitive use, perceptible information, tolerance for error, low physical effort, size and space for approach and use.²²

Policy evolution and cultural change

Some stakeholders, in outlining their views on policy objectives, made reference to the idea that policy should 'evolve' over time rather than attempting to meet all relevant objectives all at once. The suggested ways this could occur were as follows:

- Through collaboration across States and Territories.
- Reflecting changes in technology as new construction practices and technologies become available in the future.
- Increasing the level of required accessibility over time (as opposed to a single NCC amendment).

Related to the idea of policy evolution, discussed above, is that of regulation as a driver of cultural change, both within the housing industry and the community more broadly.

In one submission, it was suggested that setting an accessibility standard for housing through the NCC would promote a cultural change towards the acceptance of the diversity of needs in the community and therefore the provision of housing suitable for a broader range of people.

¹⁹ *National Disability Strategy 2010-2020*, above n 4, p 30.

²⁰ Centre for Universal Design, webpage: https://projects.ncsu.edu/ncsu/design/cud/about_ud/about_ud.htm, 1997.

²¹ Individual submission.

²² Sub. *Occupational Therapy Australia*. p 5.

In another submission, the introduction of the BASIX scheme²³ in NSW was used as an example of regulation that raised the bar for the housing industry and therefore, according to the submission, drove an improvement in building design and construction practices that otherwise may not have occurred.

Alternatives to regulation

The COAG guide to best practice regulation²⁴, which governs how the ABCB conducts RIS processes, requires that consideration of any proposed regulation also includes consideration of non-regulatory alternatives.

On this basis, some submissions suggested non-regulatory alternatives (in addition to the existing LHDG) that should be included in the RIS (even where outside the scope of the ABCB); these were:

- **Financial incentives:** grants, subsidies or the like, potentially targeted toward incentivising the uptake of accessibility features on projects where it is feasible and, in cost terms, proportionate to do so. This suggestion was made on the basis that the clients in such projects may be more willing to include access features if they don't have to pay, and such features would have little impact on their original design intentions.

A further development of this idea was the suggestion that such incentives also be made available to owners corporations to fund upgrades to common areas in existing strata developments affected by post-construction accessibility modifications in one or more units.

- **NCC Explanatory information referencing the LHDG**, based on an approach used in New Zealand whereby the housing provisions of their building code include a commentary section that refers users to a New Zealand Standard (NZS 4121) that covers universal design for housing, which can be adopted on a voluntary basis by industry and/or their clients.
- **ABCB Non-mandatory Handbook** that covers accessibility for housing. This suggestion was made on the basis that such a publication may see greater uptake as a result of being exposed to the approximately 200,000 people currently subscribed to the NCC.
- **Pilot projects**, that could be used to test market appetite and minimise additional cost for builders.
- **Better resourcing of existing voluntary approaches.** Taken to be a suggestion that LHA could be better resourced.

²³ The BASIX scheme (Building Sustainability Index) is used in NSW to regulate the energy and water efficiency of new housing. The scheme “aims to make all residential dwelling types in NSW energy and water efficient”. For further information see: <https://www.planningportal.nsw.gov.au/planning-tools/basix>.

²⁴ *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, above n 7.

Related matters

The purpose of seeking stakeholder input on the project objective was to help refine that objective, within the framework of the ABCB IGA and role of the NCC. It is not within the scope of this project to recommend changes to the remit of the ABCB or the role of the NCC, as these are already set out and agreed by Governments through the ABCB IGA.²⁵

Housing affordability

It is outside the scope of the NCC to set standards aimed at improving housing affordability, as this is not mentioned in the ABCB IGA. However, housing affordability would be a relevant consideration for the RIS in its assessment and quantification of the potential impact of regulating accessible housing through the NCC.

As noted in the Options Paper, the ABCB IGA requires that changes to the NCC generate benefits to society greater than the costs (that is, net benefits).²⁶ Therefore, if such a change were found to be necessary and desirable, any adverse impact on housing affordability (cost) would likely need to be outweighed by the potential benefits.

Equity and fostering independence

The objective of 'equity' was not well defined in the submission that mentioned it. However, a definition can be gleaned from the existing NCC provisions that address accessibility of public buildings. One of the objectives of those provisions is to provide people with 'safe, equitable and dignified'²⁷ access to buildings. In that context, the use of the term 'equitable' is explained as follows:

One of the primary intentions of the [Disability Discrimination Act] is to provide people with a disability with the same rights as the rest of the community.

The word 'equitable' refers to concepts of fairness and equality. It does not mean that all people must be able to do the same thing in the same way. However, if some people can use a building for a particular purpose, then most people should be able to use the building for that purpose.²⁸

The objective of 'fostering independence' was also not well defined in the submissions that mentioned it. However, it could reasonably be inferred, on the basis of the broader body of literature on the subject,²⁹ that this objective refers to the potential for accessible housing to lead to increased ability for people (with disability) to minimise their dependence on others to

²⁵ ABCB IGA, above n 6.

²⁶ *Ibid.* [6.1.b.B] p 12.

²⁷ Australian Building Codes Board (ABCB), *Guide to the NCC Volume One*, 2016, [DO1].

²⁸ *Ibid.*

²⁹ See the Bibliography at Appendix C of this report, especially the papers published by the Australian Housing and Urban Research Institute (AHURI).

carry out households tasks. For example, a more accessible kitchen may enable a person to cook for themselves rather than relying on a carer or meal delivery service.

Equity and fostering independence can both be considered as relevant objectives. The objective of equity has a precedent in the existing NCC, as discussed above. The objective of fostering independence relates to the NCC objective of ‘amenity’ which, although not formally defined in the NCC Volume One or Two, is defined in Volume Three as ‘an attribute which contributes to health, physical independence, comfort and well-being of people’.³⁰ While Volume Three is not within the scope of this project, it is a part of the NCC³¹ and as such its definition of amenity is nonetheless relevant and useful.

Homes that are safer and easier to use

Safety is one of the goals of the NCC as defined in the ABCB IGA,³² and it may be relevant here in the sense that a home that is unsuitable for its occupant may also be unsafe for its occupant. Previous research has already suggested links between the design and construction of the home and the incidence of slips, trips and falls.³³

However, the objective of ‘ease of use’ would differ between individuals, and as such is difficult to measure and codify within a technical standard such as the NCC. Further research would be required to establish whether a quantifiable metric exists, or can be devised, for measuring ‘ease of use’.

International obligations

The signing and ratification of international conventions and protocols, such as the *United Nations Convention on the Rights of Persons with Disability* (CRPD), is a responsibility of the Commonwealth,³⁴ whereas building regulation is a responsibility of State and Territory Governments.³⁵ Therefore, there is a distinction to be made between the operation of these conventions and protocols in Commonwealth legislation such as the *Disability Discrimination Act 1992* (DDA), and the role of the NCC, which is predominantly adopted and applied by State/Territory building legislation.³⁶

³⁰ *National Construction Code*, Volume Three, [A1.1—amenity].

³¹ *ABCB IGA*, above n 6, [2.1] p 7.

³² *Ibid.* [6.1.a] pp 11-12.

³³ J. Ozanne-Smith, J. Guy, M. Kelly and A. Clapperton, *The Relationship Between Slips, Trips and Falls and the Design and Construction of Buildings*, report prepared by the Monash University Accident Research Centre for the ABCB, April 2008.

³⁴ Department of Foreign Affairs and Trade (n.d.), *Treaty Making Process*, online: <https://dfat.gov.au/international-relations/treaties/treaty-making-process/Pages/treaty-making-process.aspx>.

³⁵ It is not listed in ss 51 or 52 of the *Australian Constitution*, nor captured under any of the powers listed therein.

³⁶ Australian Building Codes Board, *Regulatory Framework*, n.d., online: <https://www.abcb.gov.au/ncc-online/Regulatory-Framework>.

While the DDA does provide for the regulation of some aspects of building, such as access to premises³⁷, this applies only to public buildings.³⁸ Section 25 of the DDA, which concerns discrimination in the provision of accommodation, does not apply if the accommodation is also the home of the person providing it, and it is provided for no more than 3 people.³⁹ The DDA gives effect to and defines the application of the CRPD in Australia,⁴⁰ and given that the DDA does not apply to private homes, the accessibility or otherwise of private homes therefore may not be within the scope of Australia's obligations under the CRPD.

This interpretation is consistent with Article 9 of the CRPD, which applies to buildings etc. that are 'open or provided to the public',⁴¹ and is not in conflict with any other articles of that convention.

However, in addition to giving effect to the CRPD via the DDA, the Commonwealth in conjunction with the State and Territories (as COAG) has also committed to a *National Disability Strategy (NDS) 2010-2020*, consequent to the Commonwealth's ratification of the CRPD in 2008 (and the *Optional Protocol* in 2009).⁴²

As was noted in many submissions, the NDS includes a policy direction that specifically refers to improving the provision of accessible housing, and an 'aspirational target' that all new housing would meet an agreed universal design standard by 2020.⁴³ Many submissions suggested that this implied a commitment to use regulation to meet the aspirational target if a voluntary approach was unsuccessful.

However, the NDS also does not include within it any explicit statement to the effect that a commitment made under the NDS would affect COAG's previous commitment to carry out regulatory impact assessment (including a RIS) of all regulatory proposals.⁴⁴ Therefore, it is arguable that COAG has acted upon its NDS commitment by endorsing the BMF's proposal for a RIS on accessible housing.

Planning Policy

The views put forward in submissions indicate a desire to avoid conflict or overlap with State/Territory planning policies, many of which appear relevant to housing accessibility.

The submission by the PCA provided a list of State/Territory and Local Government planning policies that it considers relevant, noting that the list was not intended to be exhaustive. A full

³⁷ *Disability (Access to Premises—Buildings) Standards 2010* (Commonwealth).

³⁸ *Ibid.* s 23(a).

³⁹ *Ibid.* s 25(3).

⁴⁰ *Ibid.* s 12(8)(ba).

⁴¹ *Convention on the Rights of People with Disabilities*, above n 13, art 9.

⁴² *National Disability Strategy 2010-2020*, above n 4, pp 16-17.

⁴³ *Ibid.* pp 32-34.

⁴⁴ *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, above n 7, p 1.

literature review identifying all relevant planning policies may be helpful in better understanding their implications.

This would form a part of the definition in the RIS of ‘business as usual’ (sometimes also referred to as ‘status quo’). That is, in the absence of any change to the NCC, planning policies on accessible housing would continue in their current form. Business as usual must be considered as part of any RIS and is used as the benchmark for measuring any other options considered.⁴⁵

The ABCB IGA also requires that the States and Territories, through their Building Administrations, should advise the ABCB on the implications of proposals that affect or are affected by existing State/Territory legislation.⁴⁶ Such advice could include the implications of current planning policies on a proposal to regulate housing accessibility through the NCC.

Aged care reform

Several submissions noted potential synergies between the Commonwealth Government’s aged care reforms — specifically the increased support for ageing in place — and the potential inclusion of accessibility standards for housing in the NCC.

To better understand and explore this area, consultation could be undertaken with the agencies responsible for designing and implementing the Commonwealth aged care reforms.

Principles of universal design

The NCC’s performance-based approach is based on hierarchy or requirements that includes a set of Objectives and Functional Statements that provide guidance in support of each of the mandatory Performance Requirements.

Given their broad nature and application, the principles of universal design could form an appropriate basis as Objectives and Functional Statements to provide guidance on Performance Requirements for accessible housing, for further examination and refinement of the scope and content of such Performance Requirements.

This would be consistent with the current structure of the LHDG, the objectives of which appear to be based on universal design principles that support its technical ‘performance statements’.⁴⁷

Policy evolution and cultural change

The idea that policy should ‘evolve’ over time rather than attempting to meet all relevant objectives all at once is not inconsistent with the approach used in other policy areas covered by the NCC. For example, the energy efficiency provisions, have evolved (i.e. increased in stringency) since they were first included in the Building Code of Australia (BCA) in 2003,

⁴⁵ *Ibid.* p 4.

⁴⁶ ABCB IGA, above n 6, [7.1] p 14.

⁴⁷ *Livable Housing Design Guidelines*, above n 9, p 11.

following the announcement in 2000 that building energy efficiency requirements would be mandated through the BCA.⁴⁸

The performance-based structure of the NCC enables changes in technology to be adopted as and when they arise, through using a Performance Solution, thus reducing the potential for regulation to stifle innovation.⁴⁹

Alternatives to regulation

The *COAG Principles for Best Practice Regulation* provide for the consideration of non-regulatory options as part of any RIS process⁵⁰, and this can include consideration of options such as financial incentive schemes and pilot projects.

⁴⁸ Australian Building Codes Board, *NCC Volume One Energy Efficiency Provisions*, non-mandatory handbook, 5th edition, 2018, [fig 3-1] p 21.

⁴⁹ The Centre for International Economics, *Benefits of Building Regulation Reform*, Final Report, prepared for the ABCB, December 2012, pp 13-14.

⁵⁰ *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, above n 7, p 4.

4. Terminology

This section describes the issues raised by stakeholders regarding the terminology used in the Options Paper, in particular the use of the term ‘accessible’, as well as possible alternative terms as proposed by stakeholders.

Use of the term ‘accessible’

Many of the submissions on the Options paper raised issues around the use of the term ‘accessible’, as in ‘accessible housing’. These are described under the subheadings below.

Public perceptions

This refers to the potential for the term ‘accessible housing’ to cause the general public to believe that this is something they don’t need to worry about, or can defer to some future date. This situation comes about as a result of the perception that ‘accessibility’ is specifically about people with disability.

A further issue raised relates to the connotations attached by stakeholders to the word ‘accessible’. According to the submission by COTA NSW:

For many people, the term ‘accessible’ has connotations of access relating to disability and the perception that ‘accessible’ design and construction is limiting and clinical...[I]t is essential that the wider community understands that the introduction of the LHDG Gold level specifications will be of benefit to everyone across all life stages. The use of the term accessible as a descriptor for these changes hinders this.

A similar concern was raised in the submission by Shelter WA:

The term ‘accessible’ is currently used in building legislation specifically for people with a disability in the public domain. Similar assumptions are underpinning the proposed review of accessible housing by the ABCB, it is simply focussed on people with a disability.

The Options Paper is discussing the issues in terms of a problem that might or might not be resolved rather than a community need that benefits everyone.

Confusion with other terms

Some submissions suggested that the use of the term ‘accessible housing’ to refer to what was proposed in the Options Paper (the adoption of the LHDG specifications into the NCC) may cause confusion with other, similar but not identical terms already in use; these include the following:

- ‘Accessible’ as defined in the NCC⁵¹ and AS 1428.1⁵² (means having features to enable use by people with a disability).
- ‘Adaptable’ as in the three classes of adaptable housing set out in AS 4299.⁵³
- ‘Livable’ as in the three levels of design set out in the LHDG.⁵⁴
- ‘Visitable’ as in a home that may be suitable for visiting but not occupation by a person with a disability.

Some submissions also argued that the use of ‘accessible’ as an “umbrella term” for ‘visitable’, ‘adaptable’, ‘livable’ and ‘universal’ was flawed on the basis that— as was noted in the Options Paper⁵⁵ — those terms each have different meanings.

Many submissions also suggested that the term ‘accessible’ should only be used if it is proposed to apply the requirements of AS 1428.1 to housing. Otherwise, it was suggested that another term should be used so as to distinguish housing specifications from those applied to public buildings.

Basis in wheelchair dimensions

Some submissions noted that the dimensions to define accessibility within the NCC Deemed-to-Satisfy (DtS) Provisions are based on the 80th/90th percentile wheelchair and user. It was suggested that if proposed requirements for housing do not accommodate the same dimensions, this would need to be made clear in the drafting of such provisions.

Consistency with LHDG

The LHDG does not describe its specification as ‘accessible’, and what is proposed in this project is the potential adoption of those specifications into the NCC. An inconsistency could arise if, once included into the NCC, specifications that were called ‘livable’ were deemed to be ‘accessible’ within the meaning of that term as it is currently used in the NCC (i.e. to denote buildings or parts of buildings having features to enable use by people with a disability).

As was noted in the submission by the Property Council of Australia (PCA):

It is unclear whether the problem the ABCB is seeking to address is solely the provision of accessible housing for Australians with disability or relates to the provision of housing that addresses the broader requirements for which the LHDGs were created [see LHDG, p 8].

⁵¹ National Construction Code, Volume One, [A1.1—accessible].

⁵² Standards Australia, *Australian Standard 1428 Design for access and mobility Part 1: General requirements for access—new building work*, including Amendments 1 and 2, [4.1] p 6.

⁵³ Standards Australia, *Australian Standard 4299 Adaptable Housing*, [1.2] p 7.

⁵⁴ *Livable Housing Design Guidelines*, above n 9, p 12.

⁵⁵ *Accessible Housing Options Paper*, above n 10, p 4.

Application to multi-story dwellings

Some stakeholders believe the term ‘accessible’ should not be applied to dwellings with two or more storeys that do not include a lift, on the basis that the upper storey(s) may only be reached by climbing/descending stairs. Yet, such a house could be called ‘livable’ on the basis that the LHDG does not actually preclude the installation of stairs within the dwelling (although it does require certain rooms to be on the ground/entry level).

Alternatives proposed by stakeholders

While many submissions raised issues around the use of the term ‘accessible’, many also offered suggestions as to an alternative term. These included:

- ‘**Livable**’ housing, on the basis that the options proposed were derived from the LHDG.
- ‘**Liveable**’ housing, reintroducing the ‘e’ so as to delineate between the NCC and the term ‘Livable’, and its related intellectual property which, according to the submission by CUDA, is trademarked by Livable Housing Australia.
- ‘**Lifetime**’ housing. This term is used in the UK under their Lifetime Homes scheme.
- ‘**Inclusive**’ housing.
- ‘**Australian**’ housing, on the basis that the NCC applies to buildings in Australia, and references Australian Standards.
- **No specific term**, on the basis that if specifications were to be included in the NCC, and therefore applied to all housing, it would just be ‘housing’.

However, there was also some opposition to the use of the term ‘livable’ / ‘liveable’ on the basis that it may not provide a clear understanding, in a technical sense, of what it means; that all housing is to some extent ‘livable’.

Related matters

Use of the term ‘accessible’

Although there is a concern among stakeholders that the use of the term ‘accessible’, as in ‘accessible housing’, puts the project in a context of being specifically about people with disability, there are also a number of arguments that support retaining the use of the term in this project:

- The definition of ‘accessible housing’ given in the Options Paper is not, strictly speaking, inconsistent with the stated intent of the LHDG. The Options Paper defined accessible housing as ‘*any housing that includes features that enable use by people either with a disability or transitioning through their life stages*’.⁵⁶ The stated intent of the LHDG is that a ‘livable home’ is ‘*designed and built to meet the changing needs of occupants across their lifetime*’, which includes ‘*people with a disability, ageing Australians, people with temporary injuries, and families with young children*’.⁵⁷

⁵⁶ *Accessible Housing Options Paper*, above n 10, p 4.

⁵⁷ *Livable Housing Design Guidelines*, above n 9, p 8.

- Although the definition given in the Options Paper is broader than the NCC definition of 'accessible', both refer to features that enable use by people with disability.
- Technically, the NCC does not require a building to comply with AS 1428.1 in order to be considered 'accessible'. Compliance with AS 1428.1 is only required when using the NCC's DtS Provisions. Other specifications and designs can be used in place of the standard, provided they can be shown to meet the relevant Performance Requirement. For example, Performance Requirement DP1 in NCC Volume One deals with accessibility, yet does not actually mention 'disability', or 'people with disability'. It simply refers to 'people', because 'the required access is for people, including people with a disability'.⁵⁸
- It is possible for an 'accessible housing' specification to exist without necessarily following the specifications given in AS 1428.1, as this would simply be a case of the NCC setting a common Performance Requirement but with different DtS Provisions for housing and public buildings, respectively. Such an approach has precedent within the energy efficiency provisions of the existing NCC.⁵⁹
- It is worth noting the importance of clear, descriptive terminology. The ABCB, on the basis of independent research, has identified a need to improve the useability and readability of the NCC, so as to improve practitioner understanding and competency with the code, in light of the significant increase in the NCC's users as a result of it becoming freely available online.⁶⁰

'Livable/Liveable'

This term may not be sufficiently descriptive of the technical requirements it refers to. As was noted in one submission, all housing is to some extent 'livable'.

Re-instating the 'e', as in 'liveable' may not be sufficient as a means of distinguishing it from the trademarked term 'Livable'.⁶¹ Evidence suggests the two spellings of 'livable' are used interchangeably.⁶²

'Lifetime'

Given this term is already used by an accreditation scheme for housing in the UK,⁶³ use of it in the NCC may imply that Australia has joined the UK scheme.

⁵⁸ *Guide to the National Construction Code Volume One*, above n 27, [DP1] (Underlining in original).

⁵⁹ For example: *National Construction Code*, Volume One, Section J and Parts J0 to J8 *cf.* Volume Two Parts 2.6 and 3.12.

⁶⁰ For further detail on this initiative, see: <https://www.abcb.gov.au/Initiatives/All/Improved-Useability>.

⁶¹ IP Australia, *Trade Marks Office Manual of Practice & Procedure*, as at 15 January 2019, Part 22, Section 10 (Phonetic equivalents, misspellings and combinations of known words).

⁶² S. Easton, 'The first new edition of the Commonwealth Style manual since 2002 is in the works', *The Mandarin*, 14 January 2019, online: <https://www.themandarin.com.au/102797-the-first-new-edition-of-the-commonwealth-style-manual-since-2002-is-in-the-works/>.

⁶³ See Lifetime Homes UK website: <http://www.lifetimehomes.org.uk/pages/lifetime-homes.html>.

'Australian'

Adopting this term is considered problematic on the basis of its generality, i.e. that any housing built in Australia is by definition 'Australian' and, conversely, its implication that housing not meeting a new specification called 'Australian Housing' is therefore 'un-Australian', a term that has significant negative connotations.⁶⁴

'Inclusive'

This is potentially a suitable term, although the lack of a precedent for its use in the NCC may mean that additional practitioner and public education is necessary to support its use (as opposed to the adoption of an existing one). It is also noted that the term 'inclusive' is used to refer more broadly to social differences, e.g. race, religion, etc. outside the context of the NCC.

While it could be argued that the term 'inclusive' is unclear about who is being included, the same argument could also be levelled at the existing NCC term 'accessible' — i.e. accessible to who? The answer to either of these questions would be 'people, including people with a disability'.⁶⁵

No specific term

One way to mitigate the issue of terminology may lie in how an accessibility standard would be drafted into the NCC, should Governments decide to proceed. If the various technical requirements of such a standard were integrated into existing NCC parts and clauses, as opposed to creating a new, separate part/clause or referenced document, then they would be more discrete — a series of small amendments scattered throughout the code rather than one large amendment. This could increase public acceptability while also alleviating the need to adopt a specific title for the standard, therefore rendering unnecessary any further debate about the most appropriate terminology.

⁶⁴ *Macquarie Dictionary*, fourth edition, 2006, p 1329. See also: T. Dick, "'UnAustralian' is a lazy insult that really needs to be retired", *Sydney Morning Herald*, 24 January 2016, online: <https://www.smh.com.au/opinion/unaustralian-is-a-lazy-insult-that-really-needs-to-be-retired-20160124-gmcsnv.html>.

⁶⁵ *Guide to the NCC Volume One*, above n 27, see esp. [DP1].

5. Framing the issues

This section outlines stakeholder feedback on how the Options Paper framed its discussion of the issue of housing accessibility, its focus and its definition of the problem.

Defining the ‘problem’

Several submissions queried the Options Paper’s apparent characterisation of accessible housing as a ‘problem’, as illustrated by the submissions quoted below.

COTA NSW, in its submission stated:

COTA NSW would prefer that the Options Paper did not frame the need to design housing for all ages and abilities as a ‘problem’ that needed to be identified and justified by evidence.

The submission by the Victorian Council on Social Service (VCOSS) made a similar comment about the characterisation of housing accessibility as a ‘problem’:

Accessibility is not a niche benefit. It should not be considered as a “fix” to a problem experienced by a specific cohort of people. Every Australian will feel the positive effects of minimum housing standards, particularly as the population ages. If nothing is done to deliver minimum accessibility standards in housing now, society will bear the negative effects well into the future.

Focus of the Options Paper

Further to the issues raised about the Options Paper’s use of the term ‘problem’, some stakeholders felt that the tone of the Options Paper was overly negative, in the sense that it was too heavily focussed on issues and problems rather than solutions and how to help make a change to the NCC happen. One example of this concern can be seen in the following comment from a participant at the Forums:

I’m also curious as to whether [the ABCB] have an ideological position when you write the Options Paper because it seems to me it’s overwhelmingly negative in terms of identifying in your supposedly preliminary analysis of the issue what might be involved in making this happen and I found it very disappointing that there wasn’t a more positive attitude towards how we can make this happen because it’s been done in lots of other countries like the UK which has been doing it for over a decade. So I find it puzzling that there’s not more of a ‘yes, let’s do this’ kind of attitude and there’s more of an attitude of ‘oh, you know, it’s going to be very difficult because of this, this and this reason. I understand you have to identify obstacles but it just seems to be a very negative kind of mindset from the ABCB in the Options Paper.

More specifically, the following points made in various submissions also help illustrate the concerns raised about the tone of the Options Paper and how it framed the issues it discussed:

- The approach should be focussed on universal design rather than disability access.
- LHDG Silver and Gold specifications are not intended to be only for people with disability.
- The problem is framed as a ‘social welfare’ issue, thus implying that people without disability would have their rights infringed upon if they were forced to include accessibility features in their homes.
- The Options Paper reflected an unconscious bias that minimum accessibility standards would benefit only those with a disability and would be a burden on the rest of the community.
- The Options Paper included a disproportionate amount of information on potential costs, but little coverage or discussion of potential benefits or how these would be assessed.
- The discussion should be about going beyond ‘minimum necessary’ and achieving best practice.

Focus on mobility-related issues

Several submissions argued that the Options Paper demonstrated a lack of understanding of disability and a need to consider disability other than physical disability / mobility issues.

One suggested approach was to provide a categorisation of disability types related to respective ergonomic requirements and allow people to select appropriate solutions.

Others suggested that mobility is a very broad term, and that it is unclear whether the term refers to mobility for wheelchair users only, or if it also includes people able to walk but with limited mobility.

In contrast, many other submissions agreed with the Options Paper’s proposition that mobility-related issues should be the focus. This was based on the perception that mobility has the biggest impact on design given it affects floorspace and wall locations, and as such is more difficult and expensive to adapt for post-construction.

Related matters

It is important to note that the role of the ABCB in relation to the proposed inclusion of an accessibility standard for housing in the NCC is to assess the merits of the proposal and provide recommendations to the Board and BMF and, should intervention be found to be necessary and desirable, determine NCC provisions. This is consistent with the description of the role of the ABCB set out in the IGA.⁶⁶

⁶⁶ ABCB IGA, above n 6, [6.3] pp 12-13.

Defining the ‘problem’

Under Principle 2 of the *COAG Principles for Best Practice Regulation*, which also form a part of the IGA, the RIS process must be based on a presumption against regulation.⁶⁷ This is not the same as opposing regulation. Rather, the presumption is simply used as a starting point to assess whether or not different proposed options would achieve the policy objective.

The policy objective also should be framed in such a way that avoids pre-justifying a preferred solution. That is, government regulation shouldn’t be considered to be an objective of government action — regulation should be considered a means to an end, rather than an end in itself.⁶⁸

Stakeholder concerns around the definition of the ‘problem’ in the Options Paper could be allayed by clarifying what is meant by ‘problem’ and how it is defined for the purposes of a RIS.

In the RIS process, as well as much of the preliminary work that precedes it, the term ‘problem’ is used to refer to a potential deficiency in the market or current regulations (i.e. the current NCC). This is not the same as saying there is a problem with people, or that ageing or disability is a ‘problem’. In other words, evidence of a problem is a necessary precondition and is used in an assessment of the case for regulation or its alternatives.

As regulation brings with it potential compliance costs along with potential benefits, the definition of the problem will tend to be quite specific. That is, it is not enough to simply argue that a change to the NCC would benefit ‘everyone’ even if that is true. Rather, evidence should be used to show who is potentially disadvantaged by the status quo. This can lead to a perception among some stakeholders that the idea of accessible housing is being framed as a ‘social welfare issue’ or ‘only for people with disability’, or that there is an unconscious bias in how different aspects of the proposal are discussed.

Related to this is the matter of ‘minimum necessary’ as opposed to ‘best practice’, in reference to the kind of standards that could be set within the NCC. While some stakeholders understandably advocated for the NCC to go beyond the ‘minimum’, the scope of the NCC needs to be considered.

The ABCB IGA contains a statement to the effect that the role of the ABCB is to set standards that are the minimum necessary to achieve its objectives (i.e. safety and health, amenity and accessibility, and sustainability).⁶⁹ This is also reflected in the COAG Principles, which limit the scope of regulation to only that which is ‘effective and proportional to the issue [‘problem’] being addressed’.⁷⁰ Evidence therefore has a key role in establishing the nature and extent of the problem (with the status quo) and the extent of regulatory options under consideration. While the regulated standards set in the NCC are minimum standards, there is nothing in the

⁶⁷ *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, above n 7, p 4.

⁶⁸ *Ibid.* p 10.

⁶⁹ *ABCB IGA*, above n 6, [6.1] pp 11-12.

⁷⁰ *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, above n 7, p 4 (esp. Principle 8).

NCC that would preclude anyone from exceeding that regulated minimum, should they choose to do so.

Focus of the Options Paper

This issue has been addressed through the consultation on the Options Paper, which as well as revealing important aspects of how it was received by stakeholders, has also yielded ‘new’ information — information that could not have been obtained by simply ‘Googling’ it.

Focus on mobility-related issues

Submissions on the Options Paper varied on the question of whether the Accessible Housing Project should focus principally on mobility-related issues or should be broadened to also address other issues such as vision or hearing impairment.

Inclusion of features to address mobility would be most likely to affect the structure of a home. Whereas features to address sensory impairments are more likely to be achievable through non-structural means, such as adjustments to natural or artificial lighting, or the use of paint to improve colour contrast between surfaces. These points are discussed further in Chapters 12 and 13.

As was noted in some submissions, certain modifications primarily intended to address mobility can also be useful for people with sensory impairments. One example of this type of cross-over benefit is the step-free entry path. While intended to help people who have difficulty climbing stairs, it is also considered by some stakeholders to be safer for people with vision impairment.

6. Assessing the need for accessible housing

This section outlines the feedback and information provided by stakeholders on how the need for more accessible housing should be assessed and the information currently available that may support such an assessment.

Assessing current need / demand

According to submissions on the Options Paper, people who can be disadvantaged by current housing stock can include:

- People with disability.
- People affected by another's disability.
- Seniors.
- Parents with infant children.
- People recovering from injury or surgical procedures.
- Carers and support workers.
- Taxpayers funding home modifications under the NDIS or other government schemes.

Stakeholders also noted the research from the United States that suggests there is a likelihood that throughout the life of a dwelling, it will, at some point in its life, be occupied or visited by a person with disability.⁷¹

It was also noted in some submissions that providing accessibility features can maximise the choice for people to be able to stay in their current home as their health or circumstances change.

In relation to people with disability, and the broader population, the ANUHD submission offered the following explanation of what they describe as the need for accessible housing:

Most people live in the community. Currently, 36% of households have a person with a disability (including older people) yet accessibility is required by a much broader cohort. Disability impacts on the household, especially carers, who are mainly women and children. Eighty percent of older people and people with disability rely on informal support from family, friends and neighbours. Pregnant women, parents with prams, toddlers, and people with illness or injuries also need accessible housing.

That submission also argued that the specialist housing system only covers a minority of people with a disability, and therefore that the majority live in the community in 'regular housing'.⁷²

⁷¹ S. Smith, E. Smith and S. Rayer, 'Aging and Disability: Implications for the Housing Industry and Housing Policy in the United States', *Journal of the American Planning Association*, 74(3), 2008, pp 289-305.

⁷² Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers*, Summary of Findings, cat. no. 4430.0, 2012 (as at 19 November, 2013).

Others noted that it is difficult to ascertain what the demographics would be, for want of a better term, the ‘immediate users’ of accessibility features or the extent to which such features would be used once installed.

The submission by Dr. Penny Galbraith offered some statistical information that she considered would help refine the estimated level of need for accessibility features in housing:

- *Over 1/3rd of Australian households contain a person with a disability.*
- *45% of all Australian households contain a person living with a long term health condition.*
- *1 in 5 Australian reported living with a disability; mostly a physical condition.*
- *40% of the population either identify with disability or have a long-term health condition, such as arthritis or back problems.^{73 74}*

Nonetheless there is some uncertainty over the time it will take for benefits to be realised, as explained in the individual submission quoted below:

According to the referenced research⁷⁵ [in the Options Paper], the benefits will crystalize in 60% of dwellings at a point in time after construction. For the other 40%, there will be no material benefit. For the 60% research is needed to identify the spread in points in time. For some it will be the day after construction, for others, weeks, months or years will elapse before the benefit is realised.

According to the submission by the CUDA, using the concept of demand to determine the need for accessible housing is a flawed approach, on the basis that such an approach assumes that accessible housing would be specialised rather than mainstream, and therefore would need to be somehow reserved for people with disability. The CUDA argues that:

By taking a disability-only approach to the issues misses an opportunity to consider designing homes that will be fit for purpose for the whole population into the future.

The CUDA submission also questioned the concept of ‘unmet demand’ as a measure of the current need for accessible housing:

Market demand for universal design features cannot be reliably measured because ageing and disability are not aspirational.... This is one reason why industry struggles to accept universal design features — they cannot be

⁷³ Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers*, Summary of Findings, cat. no. 4430.0, 2015.

⁷⁴ Australian Bureau of Statistics, *Census of Population and Housing*, 2016.

⁷⁵ ‘Aging and Disability: Implications for the Housing Industry and Housing Policy in the United States’, above n 71, cited in: *Accessible Housing Options Paper*, above n 10, p 12.

promoted or highlighted without drawing attention to the issues of ageing or disability which are not part of the dream future of the dream home.

This discussion was expanded upon in the submission by Dr. Penny Galbraith:

Demand implies this ‘problem’ is a market orientated issue, e.g. ‘there is no demand for my product’. Need is a necessity.

Market-based demand is problematic because ageing and disability are not aspirational. Whereas purchasing a home is aspirational; the entertaining deck; the stone bench tops; the media room; dual vanities; place for the boat...all aspirational. People do not aspire to be old, frail or disabled, and most people don’t believe it will happen to them. Market demand for ‘accessible/liveable’ features is [therefore] not a reliable measure of the need for these features in dwellings.

The same submission also suggested that demand/need for accessible housing would be more accurately determined on the basis of households, as opposed to individuals. The logic underpinning this suggestion is that relying on data for individuals may understate the extent of demand by assuming each individual represents a separate household. This is set out in the table below:

Table 1 (extracted from Dr. Penny Galbraith’s submission)

Australian Bureau of Statistics 2015⁷⁶	Individuals	Households
Identify with a disability	18.3%	35.9%
Have a long term health condition	22.1%	45.2%
Total maximum	40.4%	81.1%*

* There may be some overlap in households.

The following quote, from an individual submission on the Options Paper, also offers some anecdotal evidence of frustration being experienced by some people with a disability in relation to finding suitable housing:

As a person who has been confined to a wheelchair since 1993, I find it unbelievable that these questions [about the need for regulation] are still being discussed in 2018. As a person who is in a wheelchair I have seen so many people over the years have to spend so much money on having to modify a house to accommodate their needs or having to start all over again and build a new house if they have the money to do it. This adds more stress to the person having to worry about the cost of modifying their house or having to build a new house, stress that they don’t need to have. ABCB needs [to] recognise that it is critical that people with disability can live within their home that accommodates their needs now and into the future instead of having to move house.

⁷⁶ Survey of Disability, Ageing and Carers, above n 73.

Finally, the submission by ADACAS highlighted what they perceived as the potential consequences of a lack of suitable housing for people leaving hospital:

In the ACT ADACAS can report that that three of its clients have died of infection in hospital whilst waiting for placement in appropriate housing, which needs to be built from scratch, and still is not available. Of the original five people with disability and complex health/medical needs, only two remain one in residential aged care and the other in hospital. Given the fate of the three previous clients we are concerned that one or both of our remaining clients will pass away before they are afforded the choice of a suitable housing option. Please reread this paragraph and appreciate that people, Australian citizens, have died wholly and solely because of the lack of suitable housing.

Assessing potential future need

There was a view among some stakeholders that the assessment of future need should reflect the fact that disability could happen to anyone; that no one ‘plans’ to have a disability. This can make future need for accessibility features difficult to quantify accurately. Nonetheless, submissions on the Options Paper highlighted two measures that some stakeholders believe offer a reasonable proxy for level of future demand for accessible housing. These are:

- Population ageing.
- The prevalence of requests for access features made by people building or buying a home.

Population ageing

Several submissions offered statistical information on population ageing in Australia and its potential implications for the housing sector. The submission by the Australian Association of Gerontology (AAG) offers a consolidation of these statistics, taken from a variety of sources, and is replicated — including Figures and Tables — in the extract below:

What types of changes happen to our bodies as we age?

There are many different conditions and diseases that we are more likely to experience as we age. Many of these will negatively affect our muscle strength, stamina, and ability to perform tasks around the home such as moving between sitting and standing positions, opening doors, climbing steps, and safely navigating uneven, cluttered or obstructed areas (such as door jambs and shower recesses).

Figure 1 shows that over 80% of Australians aged 65 years and older report having a disability or long-term health condition. Table 1 provides an overview of the proportion of Australians aged 65 years and older who experience common health conditions that would affect a person’s ability to function at home. For primary chronic diseases that are likely to affect a person’s ability to function at home, 85-99% of Australians aged 65 years or older report having 2 or more chronic diseases (Table 2).

Figure 1 (extracted from AAG submission)

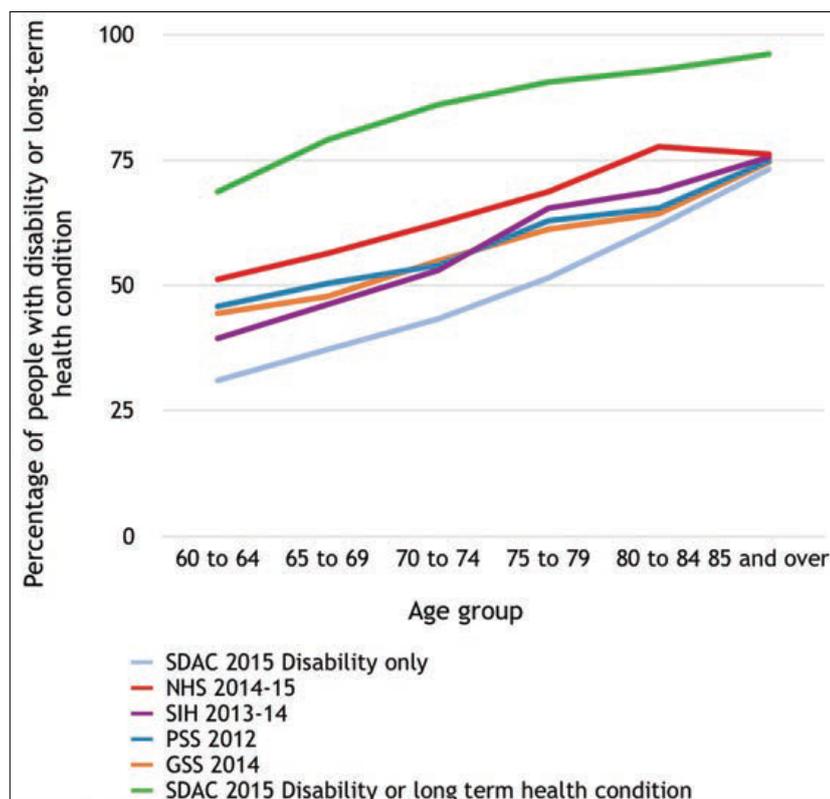


Figure 1: Percentage of people with disability or long-term health condition based on selected Australian surveys for different age groups. SDAC: Survey of Disability Ageing and Carers; SIH: Survey of Income and Housing; GSS: General Social Survey; NHS: National Health Survey; PSS: Personal Safety Survey. Based on data from Australian Bureau of Statistics (2018) Prevalence of disability and/or long-term health condition by Age group for selected surveys – G1 Disability.

Table 2 (extracted from AAG submission)

Condition	Age 65-74	Age 75-84	Age ≥ 85
Total diseases of the eye and adnexa	93.4	93.7	93.0
Stroke	2.1	6.0	2.3
Total arthritis	48.6	54.6	49.0
Rheumatism	2.5	3.4	4.5
Back problems (dorsopathies)	27.2	26.6	16.7
Osteoporosis	11.9	18.3	15.2
Other diseases of the musculoskeletal system and connective tissues	5.2	4.1	5.7

Table 2: Percentage of Australians aged 65 years and over with chronic conditions that are likely to affect a person’s ability to function at home without any accessibility modifications.

Based on data from Australian Bureau of Statistics (2015) National Health Survey: First Results, 2014-15 – Australia, Table 3.3 Long-term health conditions(a), Proportion of Persons – Persons.

Table 3 (extracted from AAG submission)

Primary chronic disease	1 (primary chronic disease only)	2 or more chronic diseases
Arthritis	14.3	85.6
Asthma	8.3	90.1
Back problems (dorsopathies)	11.2	88.4
Chronic obstructive pulmonary disease	3.5	98.9
Diabetes mellitus	3.5	90.7

Table 3: Percentage of Australians aged 65 years and over with multiple chronic diseases that are likely to affect a person's ability to function at home without any accessibility modifications. Based on data from Australian Bureau of Statistics (2015) National Health Survey: First Results, 2014-15 – Australia, Table 19.3 Comorbidity of chronic diseases(a), Proportion of Persons.

In addition to the overview provided by the AAG submission, others submissions suggested a tendency exists among older Australians to avoid planning for retirement and ageing to proactively make changes to their living arrangements. The submission by the ANUHD offered the following explanation of this tendency:

Older people should be potential buyers of accessible housing, given their high incidence of home-ownership; however, many people wish to remain in their existing housing and communities for as long as possible. As the design of most housing does not cater for the ageing process, investment in modifications is often the preferred solution over buying a new dwelling.⁷⁷

Imminent retirees, or “baby-boomers”, typically want to stay in the community, live well and for a long time⁷⁸, but they are yet to show signs of planning for the realities of old age, illness or disability; caring for an ageing or ill partner; or for the costs of home modifications that may be necessary.⁷⁹

⁷⁷ B. Judd, E. Liu, H. Easthope, L. Davy, and C. Bridge, *Downsizing amongst older Australians*, Final Report No. 214, Australian Housing and Urban Research Institute at the University of NSW, January 2014.

⁷⁸ E. Ozanne, ‘Negotiating identity in later life among Australian baby-boomers’, *Australian Social Work*, 62(2), 2009, pp 132-154.

⁷⁹ A. Jones, D. de Jonge and R. Phillips, *The role of home maintenance and modification services in achieving health, community care and housing outcomes in later life*, AHURI Final Report No. 123, Australian Housing and Urban Research Institute – Queensland Research Centre, November 2008.

The submission by National Disability Services (NDS), citing the Australian Bureau of Statistics (ABS) 2015 Survey of Disability, Ageing and Carers (SDAC), provided the following outline of population ageing over the last forty years, and projected into the future:

In 1977, 9% of Australians were aged 65 years or over; in 2017, this had increased to 15%; by 2057, it will be 22% or an estimated 8.8 million people.⁸⁰

The submission by COTA NSW provided further information on the link they see between population ageing and the need for accessible housing, based on their research:

COTA NSW conducted a survey in 2014 that explored older peoples needs and wants in relation to housing. Respondents were asked to rate features for a future house purchase. The largest requirement was for a single storey house (62%), with an easy access bathroom and shower the 3rd most important feature (60%). An easy access kitchen & storage and minimal steps into the home were rated 5th and 6th most important features.⁸¹

Requests for access features

The Options Paper, in its discussion of ‘identifying the problem’ (pp 11-13), noted the role of individual choice in determining the provision of accessibility features in housing. This was picked-up on by several submissions that expressed the view of accessibility features as items that can easily be requested by clients when engaging a designer or builder — no different to requesting a second storey or an indoor swimming pool.

Other submissions noted that even when a person does request (and can pay for) accessibility features to be included in their home, this does not necessarily mean the design and construction of such features will occur as requested. The same submissions also noted that inclusion of access features does not always occur in a coherent and logical manner, and alleged that in some cases costs may have been inflated.

Carers

The Options Paper received a number of submissions that described housing accessibility issues from the perspective of carers, as distinct from people with a disability or otherwise transitioning through life stages.

According to the Victorian Council of Social Service (VCOSS) submission:

Informal carers help older people every day. The majority of carers provide older people with help to get around and for self-care, including bathing and showering.⁸² These activities would be made considerably easier — and safer — in an appropriately designed home.

⁸⁰ Survey of Disability, Ageing and Carers, above n 73.

⁸¹ Council on the Ageing (COTA) NSW, *50+ Report, with a focus on how and where older people are living*, COTA NSW Consumer Survey, COTA, 2014.

⁸² Australian Institute of Health and Welfare, *Australia’s Welfare 2017*, 5.1: Ageing and aged care, 2017, p 3.

Inaccessible housing, particularly inaccessible bathrooms, increases injury risks for people caring for someone with an illness or disability.⁸³ Over two-thirds of carers have a physical injury.⁸⁴ Step-free home access and hobless showers reduce the physical burden of carers and minimise injury risks.

Australia has approximately 2.7 million informal carers.⁸⁵ Carers' health and safety improves if accessible housing becomes commonplace. Benefits to carers, including impacts on the health system due to injuries and reduced productivity due to avoidable injuries that are sustained while providing care, should be considered in the [Regulation Impact Statement].

The submission by Carers Victoria, provided the following socio-economic snapshot of Victorian carers:

- *55% are women and 45% are men.*
- *72% live in major cities, 23% live in regional areas and 5% live in rural Victoria.*
- *10% are young carers (<25 years), 68% are aged 25-64 years and 22% are aged 65 years and over.*
- *31% report living with a disability themselves.*
- *58% participate in the workforce.⁸⁶*

Primary carers in Victoria

- *56% are reliant on a government pension or allowance as their main source of income*
- *The median gross income of primary carers in Victoria is \$455 per week, compared with \$719 [per week] minimum wage at July 1, 2018.*
- *Only 42% of primary carers participate in the workforce.*
- *Consequently 47% of primary carers have a gross household income in the two lowest quintile levels, compared to only 25% of non-carers.⁸⁷*

⁸³ Pate and Horn, *Aids and equipment for Victorians with disabilities – entitlement or handout?*, 2006, p 9 (reference details unclear in original).

⁸⁴ Cummins, Hughes et. al., *The Wellbeing of Australians – Carer Health and Wellbeing*, Australian Unity Wellbeing Index Survey 17.1, 2007, p 18. (reference details unclear in original)

⁸⁵ *Survey of Disability, Ageing and Carers*, above n 73.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

Relating this socio-economic snapshot to the potential current demand for accessible housing, the same submission stated:

Housing which does not meet universal design standards risks injury to carers, with back injury a common complaint among carers providing care in unsuitable home environments. A study by Heywood noted, ‘...many carers were finding the physical strain and risk to their backs was unsustainable, and there was a common fear that without help, admission to residential care would be unavoidable [for the care recipient]’.⁸⁸ Unsuitable housing has also been linked to interrupted sleep and increased stress for carers.⁸⁹

A further impact is continued reliance on home modifications to enable accessibility for people in care relationships. Home modifications are almost always retro-fitted to the carer’s home and before the introduction of the NDIS the onerous cost was covered by carers, unless they were eligible for State and Territory subsidies. As Saugeres (2011) research found, ‘in addition to receiving a low income, people with disabilities and family carers also had to personally subsidise the cost of disability equipment and physical adaptations as available grants only covered partial costs’.⁹⁰

However, there is no analogous funding available for people with higher support needs who are ineligible for the NDIS, either because they do not have a permanent disability or they are over the age of 65 years. This cohort is likely to be the majority of people who will benefit from housing with a minimum accessible standard for all new residential building in Australia.

Other submissions, as well as participants at the consultation forums, noted an increasing trends toward providing medical treatment in the home, rather than in hospital, also known as ‘hospital in the home’ (HITH). This was raised in the context of their view that an increase in the accessibility of housing may be one way of supporting and enabling such initiatives, thus reducing pressure on the hospital system. The scope of such home treatment programs differs from that of the NDIS insofar as it is provided to people who may not have a permanent disability (and who are therefore ineligible for the NDIS).

One estimate, cited in the submission by Amaze, put the cost of treatment through HITH programs at 73.5% of the cost of the same treatment being provided in a hospital setting.⁹¹

⁸⁸ F. Heywood, ‘Adaptation: Altering the House to Restore the Home’, *Housing Studies*, 20(4), 2005, pp 531-547.

⁸⁹ L. Davy, T. Adams and C. Bridge, *Caring for the carer: home design and modification for carers of young people with disability*, Home Modification Information Clearinghouse, City Futures Research Centre, UNSW Australia, July 2014, pp 7, 17.

⁹⁰ L. Saugeres, ‘(Un)accommodating disabilities: housing, marginalisation and dependency in Australia’, *Journal of Housing and the Built Environment*, 26(1), 2011, pp 1-15.

⁹¹ G. Caplan et. al., ‘A meta-analysis of “hospital in the home”’, *Medical Journal of Australia*, 197(9), 2012, pp 512-519.

However, other stakeholders saw these aspects of the potential demand for accessible housing from a different perspective. The submission by Queenslanders with Disability Network (QDN), described this through the 'control' aspect of their Housing Principles, which states:

The provision and management of housing is separate from the provision and management of paid support. This means:

- *Housing is primarily a person's home, not someone else's workplace.*
- *A person can change their housing without affecting their support arrangements.*

Young people in residential aged care

The Summer Foundation, in its submission on the Options Paper, sought to highlight a very specific aspect of what they see as the need for accessible housing, which is the experiences of young people living in, or at risk of entering, residential aged care facilities.

Summer Foundation's submission, which included several de-identified case studies of young people living in residential aged care, described this aspect of the need for accessible housing as follows:

As Sally, Michelle and Rachel's⁹² stories demonstrate, the implications of a lack of accessible housing for people with disability who have complex needs can be catastrophic. All too often they are forced to live in nursing homes. Severe social isolation and additional costs often result.

At the end of June 2017, there were 6242 young people in residential aged care (RAC) in Australia.⁹³ By 30 September 2018, 3128 Young People in Residential Aged Care (YPIRAC) were active NDIS participants.⁹⁴

Young people with disability living in nursing homes are one of the most marginalised and isolated groups of people in our society. Fifty-three per cent of [YPIRAC] receive a visit from a friend less than once per year and 85% seldom or never visit their friends.⁹⁵ They generally lead impoverished lives, characterised by loneliness and boredom. They are effectively excluded from society with 45% seldom or never participating in leisure activities in the community.⁹⁶

⁹² Names have been changed (in original submission).

⁹³ G. Taleporos, 'Five years on, NDIS is getting young people out of aged care, but all too slowly', *The Conversation*, 12 June 2018, online: <https://theconversation.com/five-years-on-ndis-is-getting-young-people-out-of-aged-care-but-all-too-slowly-97851>.

⁹⁴ National Disability Insurance Scheme, *COAG Disability Reform Council Quarterly Report*, September 2018.

⁹⁵ D. Winkler, S. Sloan and L. Callaway, *Younger people in residential aged care: Support needs, preferences and future direction*, Summer Foundation, 2007.

⁹⁶ *Ibid.*

Aged care admissions for young people are reducing in some areas, but increasing in others. Admissions in NDIS trial sites of Hunter [in NSW] and ACT have reduced by 5%. In Barwon [Victoria] however, admissions have risen by 37%. A lack of suitable housing is a likely reason for this increase.

The NDIS provides Specialist Disability Accommodation (SDA) funding for those participants who meet the Scheme's stringent criteria contained in the SDA Rules 2016. The NDIA estimates that a total of 28,000 NDIS participants will be found eligible for SDA funding.⁹⁷ This number represents 25% of the 110,000 people with a disability (under the age of 65 years) estimated to need alternative accommodation. This means 82,000 people will need accommodation in the mainstream (non-specialised) accommodation market. As at 30 June 2018, only 8,858 people out of 183,965 active NDIS participants, have SDA funding in their [NDIS] plans.⁹⁸ This figure gives one source of data on the current demand for accessible housing.

Only 23 of the young people living in aged care have funding for disability accommodation in their NDIS plans.⁹⁹ SDA funding is not expected to cover the needs of the majority of people with disability for accessible housing. An earlier analysis gives a range of 83,000 to 122,000 of NDIS participants who cannot get affordable and accessible housing in the social housing or private housing (rental or purchase) market and represent the size of unmet housing need nationally.¹⁰⁰

The lack of accessible housing in the community means that when NDIS participants achieve funding for support to leave [RAC], hospital or other inappropriate settings, they too often have nowhere to go.

Young people with disability and complex needs are at risk of admission to RAC when their accommodation does not meet their needs. The lack of timely access to accessible housing is one of the many reasons they are forced into unsatisfactory long-term settings. To fix this problem we need housing to be accessible and in locations that build community connections.

Visitability

Many submissions that addressed the issue of need/demand for accessible housing also raised, in that context, the importance of 'visitability'. That is, the importance of people being

⁹⁷ NDIS Market Data – Specialist Disability Accommodation, online: <https://www.ndis.gov.au/specialist-disability-accomodation/market-data.html>.

⁹⁸ *Ibid.*

⁹⁹ Senate Estimates, Budget Estimates Hearing 18019 Questions on notice (reference unclear in original)

¹⁰⁰ B. Bonyhady, *The National Disability Insurance Scheme: A catalyst for scalable, affordable and accessible housing for people with disability*, presentation, 2016. (reference unclear in original)

able to access the homes of friends and family when visiting (and vice versa) and not being limited to only their own home.

According to these submissions, the key issues that impact upon visitability are the presence of steps along the entry path to a home, along with the design and location of bathrooms (i.e. bathrooms located upstairs).

Submissions described their respective authors' experiences, usually first-hand, of feeling socially isolated and frustrated by being unable to access the homes of friends and family, to attend events such as barbeques, parties, Christmas, Easter, or just dropping in. Others described a sense of despair at being unable to invite friends or family who have a disability into their home, due to it being non-accessible.

These stakeholders argued that the focus of any assessment of the need for accessible housing needs to be expanded beyond simply addressing the accessibility of one's own home.

Related matters

The submissions summarised above indicate there is data available regarding issues such as the prevalence of disability, population ageing, carers and young people living in residential aged care facilities. In general, this data was put forward in support of using regulation to better enable people to obtain housing suited to their needs.

Assessing the need for accessible housing is also closely related to defining the objective. Noting that the objective has already been discussed earlier (Chapter 3), the submissions received suggest that there remains a need to be more specific in identifying the objective of (and therefore, need for) regulation of accessible housing.

The LHDG is not a specification for specialist housing, as is provided under the NDIS Specialist Disability Accommodation (SDA) program.¹⁰¹ While LHDG compliance may enable some young people to move out of residential aged care, it may not result in accommodation that is suitable for those with more complex needs. It is also worth noting that the issue of young people in residential aged care has also been captured by the terms of reference for the recently announced Royal Commission into Aged Care Quality and Safety.¹⁰²

Also, while the NDIS provides funding for 'mainstream' home modifications¹⁰³, the NCC's role primarily concerns new building work, whereas the NDIS home modification program, by definition, primarily applies to existing buildings.

¹⁰¹ National Disability Insurance Agency, *Specialist Disability Accommodation*, brochure, n.d.

¹⁰² HRH Queen Elizabeth II, *Letters Patent for the Royal Commission into Aged Care Quality and Safety*, [2018] Register of Patents 53, 6 December 2018, p 49.

¹⁰³ National Disability Insurance Agency, *Mainstream Interface - Housing*, brochure, n.d.

7. Role of the planning system

This section describes the information and insights gained from stakeholders on the role of the planning system in influencing the current availability of accessible housing, as well as suggestions on how this system could play a role in addressing housing accessibility into the future.

Submissions discussed planning from a wide range of perspectives and levels of knowledge about the role of planning regulation as distinct from building regulation, including the NCC.

Key issues and ideas about the role of the planning system are delineated according to the sub-headings below.

Proximity to local amenities

The location of accessible housing, in relation to local services and amenities, such as public transport, was raised in some submissions as an issue that could impact upon the realisation of the potential benefits of accessible housing.

The submission by the HIA explained the issue in relation to the location of most new housing stock:

New home building in a given year typically represents 2 per cent of the total stock of housing. In particular, new detached (and similarly low density) home building tends to be concentrated on greenfield developments where infrastructure and services (including those relevant to people with disabilities or requiring additional aged care services) tend to be very limited or at best in very early development.

Until adequate and appropriate services and infrastructure are established in such areas, changes to the NCC that will provide (limited) additional supply of accessible housing is unlikely to be appropriately matched with current demand (i.e. in locations closer to adequate and appropriate services and infrastructure). Benefits will remain unrealised...

Often development sites that are selected for the provision of accessible housing, either the entire development or part thereof, is based on proximity to a good public transport network and community services. This is a fundamental component that underpins accessibility for people with a disability or transitioning through their life stages.

The submission by ADACAS outlined the relationship between accessible public buildings and the corresponding potential benefits of accessible housing:

State and Territory Governments across Australia are increasingly taking on the mantle of achieving greater community inclusion and cohesion, in recognition that all public buildings need to be easier to access and have a role to play in contributing to health and wellbeing of our diverse and ageing population. And there needs to be a corresponding contribution by the building and development sectors to ensure that suitable homes are built proximate to these facilities...

Although the issue of housing location is a matter outside the regulatory scope of the NCC, it is within the scope of local planning schemes that regulate where housing may be located within towns and suburban areas. The submissions quoted above suggest that, if a net benefit is to be realised, this may be subject to the location of housing, not just its design and construction.

Rural and regional areas

Related to the issue of housing location, discussed above, is the implications of a housing accessibility standard being applied to housing in rural and regional areas, outside of the capital cities.

Stakeholders expressed concerns that the cost of complying with such a standard could be greater for rural and regional areas compared to suburban areas in capital cities. This related to potential differences in housing types and higher construction costs.

Mining and other workers' accommodation

There may be some housing types and circumstances in which application of an accessibility standard may be inappropriate; for example, accommodation provided exclusively for miners or other workers who are required to be able-bodied in order to perform their jobs. It was argued, therefore, that if an accessibility standard for housing were to be applied through the NCC, it may need to be subject to a concession to allow for these circumstances.

The submission that raised this issue also argued that these situations demonstrate the need for planning regulations to retain some level of control over the application of an accessibility standard for housing, rather than it being controlled solely through building regulations (including the NCC).

Small, narrow, and unique allotments

Several submissions flagged concerns about the application of an accessibility standard for housing on small, narrow or otherwise unique allotments. Primarily, these concerns relate to aspects of the LHDG that affect the building footprint, such as hallway widths and the location of a bathroom and bedroom on the ground (or entry) level, as required by the LHDG:

- **Maximum site coverage:** many local planning regulations limit the proportion of each allotment that can be covered by structures (examples cited were between 40% and 60% coverage). In these situations it was argued that such limits would prevent the building footprint being increased to meet accessibility requirements, thereby meaning that room sizes may need to be reduced, or rooms deleted, so as to keep the building footprint within existing site coverage limits. Some stakeholders suggested that, for a housing accessibility standard to be workable, planning authorities would need to consider relaxing or modifying site coverage limitations.
- **Inner city areas:** allotment sizes in these areas are already very restrictive with higher building costs. This could primarily affect construction of new dwellings in established areas ('knock-down/rebuild' projects and small sub-divisions).
- **Allotment sizes are getting smaller:** decreasing allotment sizes, and the consequent increase in construction of two-storey dwellings, may limit the ability to meet some aspects of the LHDG, for example providing a bedroom on the ground (or entry) level.

- **Unique and marginal allotments:** there may be cases where the site is shaped in such a way that conventional design and construction is not feasible; this may be exacerbated if an accessibility standard were applied in these situations. The implication being that an accessibility standard, if applied too bluntly, may render unique or marginal allotments less suitable for housing.
- **Larger parking spaces:** the LHDG specifies the minimum size of parking spaces on the allotment (covered or uncovered) which form part of the step-free path of entry. Although the NCC does not require parking spaces for residential buildings, planning requirements may do so. Such planning requirements may become more difficult to comply with on small, narrow or unique allotments where there is limited space to increase the area used for parking.

Use of planning regulations to apply the LHDG

Given the planning-related issues that can affect the application of the LHDG on certain sites, as discussed above, many submissions offered suggestions on how the planning system could also be used to provide a mechanism to optimise the application of the LHDG on sites where it may be impractical or unreasonable. These suggestions are summarised as follows:

- **Larger sites only:** Planning schemes could be used to limit the application of the LHDG to larger sites where increases in building footprint would be less problematic.
- **Single dwelling exemption:** This could exempt single dwellings or dual-occupancies that are not part of a larger development from meeting the LHDG, on the basis that unlike apartments or houses in larger developments, there are already sufficient opportunities for clients to specify features to meet their own personal requirements, potentially lessening the need for a uniform, minimum standard.
- **Larger developments only:** Related to the idea of a single dwelling exemption is the idea that planning schemes may limit the application to only 'larger' developments, the suggested threshold was 100 or more dwellings in the development (houses or apartments).
- **Quotas:** Some jurisdictions already use quotas within their planning schemes to apply the LHDG (or other accessibility standards) to a given proportion or percentage of dwellings in new housing and/or apartment developments. If housing accessibility was specified through the NCC, it could be agreed on as the national technical standard, but applied through existing State/Territory quota arrangements. Suggestions as to an appropriate quota ranged between 1 in 5 (20%) and 1 in 10 (10%) dwellings per development. It was also noted that a quota system is currently used to apply an accessibility standard to houses and apartments through a South Australian addition to the NCC (Volumes One and Two — SA Appendix).
- **NCC as 'default' standard:** The LHDG Gold Level would be applied through planning regulations where considered appropriate by State/Territory or Local Governments, with the LHDG Silver Level to be applied as a 'default' standard through the NCC in any other situations.

It was also suggested that there could be benefits in the NCC setting a consistent baseline technical standard to be applied through planning regulations, as opposed to differing technical standards currently applied through planning jurisdictions.

- **Site assessment ‘checklist’:** The LHDG would be applied on the basis of a checklist that could be used by developers, designers and certifiers to determine which houses would be required to be accessible.
- **Zoning:** zoning could be used in planning regulations to designate certain areas within each town/suburb as being subject to an accessible housing standard. This would enable application of the standard to be determined through existing, localised processes which could take into account local land characteristics, nearby services, etc. It would also enable existing processes to determine exemption or variation requests for specific sites/projects.

However, other submissions raised potential problems with using the planning system to optimise application of the LHDG:

- Need for each State/Territory, and potentially also Local Governments, to separately agree to make changes to their planning regulations, given that planning is not within the scope of the NCC.
- Potential need for amendments to legislation, which may add complexity and delay implementation.
- Potential for inconsistencies to emerge within individual States/Territories, or at the Local Government level.
- Quota arrangements must be designed to minimise the risk of being manipulated, or gamed, by developers seeking to minimise or avoid compliance with an accessibility standard.
- Quotas, particularly in apartment buildings, can be problematic when the provision of accessibility features is limited to only some of the available layouts, sizes and price-points of apartments within the development overall.

Many submissions also emphasised a need to minimise the use of exemptions and concessions, with some submissions insisting that no exemptions or concessions should be provided — i.e. that any standard should apply to 100% of new dwellings. This is in contrast to submissions that considered application of an accessibility standard to 100% of new dwellings to be unreasonable.

Allocation of accessible dwellings

Several submissions, as well as participants at the forums, raised the question of how accessible housing would be ‘allocated’ to people who need it, should a specification be incorporated into the NCC (assuming it were applied to less than 100% of all new dwellings).

Stakeholders were concerned that the benefits of accessible housing might be diminished without some way of ensuring accessible homes were available to those with a need for such features, before other potential buyers and/or tenants. It was noted that under the current situation, accessible (LHDG compliant) homes can be bought by anyone, potentially disadvantaging those who have a specific need for more accessible housing.

This issue was captured within the ADACAS submission, quoted below:

With the exception of scarce community and public housing across Australia people access housing via market mechanisms which do not “allocate”

[housing] based on individual need, but rather are prone to cycles of demand which result in any stock that may have been built or modified to an accessible standard being occupied by the highest bidder. There is an argument for players in the housing market to link people who have specific requirements to available housing in the private purchase and rental markets, but currently this is very difficult to achieve given the paucity of properties that meet any level of accessibility, which seems to be reflected in the inability of real estate brokers to recognise and inform customers currently when these requests are made.

The solution proposed in submissions was the creation of a centralised, national register that would track the completion and location of accessible homes, and enable people to identify and locate homes suited to their needs. It was also suggested that the proposed register would most likely be managed at a Local Government level.

Related matters

Overall, the issues raised in relation to the planning system suggest a need to consider a legal mechanism to resolve potential difficulties in the application of NCC requirements for accessible housing, and that providing such a mechanism may be a role for the planning system within each State/Territory, possibly via the IGA's Gateway Model.

The suggestions put forward by stakeholders indicate that zoning could be used as a way of either applying an accessible housing standard (opt-in model), or granting exemptions from it (opt-out model), for specific sites or groups of sites. Zoning, other than in relation to climatic or other natural factors, is generally considered to be a role for planning systems.

There are several precedents for this approach, whereby the NCC sets the technical standard, but the application of it is a matter for planning. One example is the Parts of the NCC that relate to construction in bushfire-prone areas.¹⁰⁴ In these parts of the NCC, the technical requirements for construction are set in the NCC and agreed nationally, but only apply where a State/Territory deems an area of land to be in a 'designated bushfire-prone area'. Mapping of bushfire-prone areas, and the publication of the maps is carried out by individual jurisdictions rather than through the NCC. A similar approach is also used by the NCC for construction in flood hazard areas.

¹⁰⁴ *National Construction Code*, Volume One, Part G5; Volume Two, Parts 2.3 and 3.7.4.

8. Role of the residential tenancies system

This section outlines issues raised by stakeholders regarding the role of the residential tenancies system in influencing the availability of accessible housing. The issues raised have been included in this report because they suggest that if there is a shortage of accessible housing, it may be, at least in part, driven by factors outside of the building regulatory system.

Renters seeking accessible housing

Several submissions on the Options Paper quoted statistics on the proportion of households that are renting. These statistics were cited as a way of highlighting that the need/demand for accessible housing may be coming from renters, as much or more so than homeowners. The distinction between these groups was made on the basis that, according to some submissions, renters are less able to modify their homes and may not have the means to buy or build a new home to suit their needs.

These statistics (taken from various submissions) are summarised below:

- Generally, one third of households are renting, although this can differ in certain locations. For example, in parts of Sydney such as Parramatta, the proportion of households renting is around 70%.
- Almost 2/3rds of apartments are rented (3 times the level of renting for houses).
- Only 0.8% of the population lives in specialist housing.
- People with disability are less likely to own their own home.

The submission by ANUHD, quoted below, provides a summary of what they see as the issues faced by renters seeking accessible housing, which will be further explored in this section of the report.

When renters seek access features, they have three issues to overcome. The first is that most rental housing is inaccessible, the second is that most landlords are reluctant to have their properties modified,¹⁰⁵ even though, by law, they must allow for reasonable modifications¹⁰⁶; and the third is that the tenant must pay for these modifications and then pay again to have them removed when vacating the property.¹⁰⁷

Social rental goes some way to meeting this housing need; however, social housing stock has not kept pace with growth in either the overall national dwelling stock or the number of households.¹⁰⁸ Thus many of Australia's most vulnerable and poor households are being forced to live in dwellings

¹⁰⁵ V. Cornell, 'Will housing tenure drive unequal outcomes for Consumer-Directed Care recipients?', *Australasian Journal on Ageing*, 37(2), 2018, pp E68-E73.

¹⁰⁶ *Disability Discrimination Act 1992* (Commonwealth), s 25(2)(d).

¹⁰⁷ *Ibid.*

¹⁰⁸ Australian Institute of Health and Welfare, *Housing Assistance in Australia*, 2018.

that are unsuitable for them with resultant negative impacts on wellbeing health and independence.¹⁰⁹

The difficulties potentially faced by renters was also highlighted in the submission by the NSW Council of Social Service (NCOSS):

An important factor to consider is the powerlessness of those who most need accessible housing.¹¹⁰ The social and financial vulnerability experienced by this cohort gives people who require accessible housing less bargaining power to negotiate timely modifications with social housing providers or landlords.

[NCOSS] members emphasised that the negotiations of modifications was a significant issue for the people they work with. We heard that lack of timely modifications can mean people are forced to live in accommodation that does not meet their most basic needs (for example the ability to shower).

The submission by Women with Disabilities Victoria (WDV), described the impact on the lack of suitable, safe and accessible housing from the perspective of their work with women who have experienced family violence:

Having better access to a range of suitable, safe and accessible housing choices can prevent family violence. Women with disabilities who have physical access requirements and/or on lower incomes have reduced housing options, with many options being neither accessible, nor adaptable. This issue is evident at the response end of the family violence system, where family violence refuges report that while it is difficult to find exit options for all women leaving refuge, this is even more difficult for women and children with disabilities. Without any other accessible options, particularly in the private rental market, women are moved into hotels, rooming houses and supported residential services, which are often unsuitable and unsafe. Further, the lack of exit options also act as a deterrent for family violence refuges to accommodate women with disabilities in the first place.

Other submissions, including from individuals drawing on their own personal experience, also highlighted perceived difficulties finding accessible rental housing, including:

- A lack useful search mechanisms on real estate advertising websites, and the perception of accessibility as a 'special feature'.
- Potentially misleading advertising (e.g. stating that an apartment is wheelchair accessible when, in fact, the accessible pathway extends only to the front door, not inside the apartment).

¹⁰⁹ I. Wiesel, C. Laragy, S. Gendera, K.R. Fisher, S. Jenkinson, T. Hill, K. Finch, W. Shaw and C. Bridge, *Moving to my home: housing aspirations, transitions and outcomes of people with disability*, AHURI Final Report no. 246, Australian Housing and Urban Research Institute, University of New South Wales/RMIT University, August 2015.

¹¹⁰ Sub. *Australian Network on Universal Housing Design*, p 15, cited in: Sub. *NSW Council of Social Service*.

- Features such as step-free showers being only being included in more expensive properties.

Potential discrimination

Some submissions saw the lack of accessible rental housing as partly a product of the decisions of landlords, as well as the formulation of residential leases, which are regulated outside of the building regulatory framework. Some also alleged discrimination by landlords in the sense that prospective tenants with a disability were being rejected in favour of those without a disability.

No individuals or companies were named, and it is not the role of this report to attempt to establish facts or make any judgement about such allegations. Rather, they have been included simply because, if true, they would have a bearing on how the nature and extent of a problem could be identified in relation to accessible housing.

Citing published research, the ANUHD submission described the issue this way:

Investors in private rental housing generally do not consider people with disability as preferred tenants, nor are they willing to pay extra for the for the changes necessary to provide accessibility.^{111 112}

The submission by Carers Victoria, also citing published research, described similar issues and expanded on what they consider to be the potential reasons behind them:

Few existing houses in the private rental market have been built to universal design standards and there is no incentive for landlords of rental properties to approve home modifications which may take time, be inconvenient or aesthetically unappealing. Morden found ‘...most landlords will not agree to modification, even at no cost to them, and would most likely just choose an applicant who is able and willing to move into the property without the need for modification. Discrimination is the prerogative of the landlord as they are not bound by social responsibility and social justice principles in dealing with clients.’¹¹³

The WWDV submission described experiences of potential discrimination against women with disabilities, also suggesting a link to the formulation of the Commonwealth *Disability Discrimination Act 1992* (‘DDA’):

In the private rental market, which is not covered by the [DDA], many women with disabilities experience discrimination from private landlords and real

¹¹¹ A. Beer and D. Faulkner, *21st century housing careers and Australia’s housing future*, AHURI Final Report no. 128, Australian Housing and Urban Research Institute, Southern Research Centre, February 2009.

¹¹² A. Jones, D. de Jonge and R. Phillips, *The role of home maintenance and modification services in achieving health, community care and housing outcomes in later life*, AHURI Final Report no. 123, Australian Housing and Urban Research Institute, Queensland Research Centre, November 2008.

¹¹³ A. Morden, ‘Social housing and people with disability’, *Parity*, 27(5), p 43.

estate agents, or if they do secure rental properties, security of tenure, expensive modifications and location, are all factors of concern.

Restrictive lease terms

Several submissions noted instances where they believed the terms of a lease for a rental property were unduly restrictive in relation to tenants' ability to address accessibility issues.

In general, residential leases require a tenant to obtain the landlord's permission before making modifications to a rental property. Added to this is a requirement that the property be restored to its original condition at the end of a lease. These modifications, and their removal at the end of the lease, are usually funded by the tenant.

According to some submissions, these terms can cause issues for people seeking accessible rental housing. In its submission, the Physical Disability Council of NSW (PDCN) described the issues as follows:

Households containing people with disability tend to be poorer than their able-bodied counterparts, yet when requiring access features in their rental dwellings they encounter issues of higher cost — for the installation and removal of accessible features — and in fact, before they can even undertake access modifications, must overcome the reluctance of most landlords to allow modifications to be done.

A similar point was also made in the submission by Shelter WA, who suggested the issue may not be limited to renters in the residential tenancies system in NSW:

Having adequate regulatory measures for accessible housing in place is not only important for future home buyers, but it is also crucial for households that rent in the private rental market, as nearly one in three households in Australia rent. When renters need accessible housing, they face various obstacles in the ability to modify properties. Firstly, there is a severe lack of accessible rental properties, and secondly many landlords are hesitant about permitting to have their property modified. Finally, these modifications come with an enormous cost, as renters pay not only for the modifications but also for the removal of the modifications, once they vacate the property.

So, many households currently are forced to live in dwellings that are unsuitable and inadequate for their needs, which impacts negatively on their health and wellbeing.

The submission by CUDA also noted the lack of control that tenants have over the accessibility of rental properties, and what it sees as the flow-on effects of this situation:

Home buyers and home owners are not the only people to live in dwellings. A significant, and growing, section of the community resides in rental properties. This group has little, if any, control over the design or modification of their rental dwelling and are at the greatest disadvantage. As a consequence, they find themselves in government funded institutional care earlier than necessary. The NDIS covers a very small group of people with significant disability; the majority are left to the open market.

According to the submission by COTA NSW, the challenges faced by renters are not just limited to younger people or people with disability:

Increasing numbers of people are renting in Australia. In NSW, approximately 12% of people aged 65 and over still rent.¹¹⁴ The vast majority of these people rent in the private market and do not therefore have access to minimum design standards that are available in public or community housing and in most cases will not be able to modify their homes. The lack of availability of an accessible dwelling severely inhibits their housing choice and, in some cases, may result in early admission to aged care facilities.

Carers Victoria, in its submission, highlighted that in one state at least, legislation is being considered that is intended to improve the flexibility of tenancy agreements for people requiring home modifications as well as reducing the requirement for tenants to restore premises to their original condition at the end of a lease. However, the same submission also noted:

[T]he legislation does not require a residential rental provider to demonstrate that retaining a modification at the end of a residential rental agreement would cause them hardship before they can request the renter to remove it. Nor does it prevent a residential rental provider from delaying approval long enough before a lease expires and not providing an option to renew it in order to source a renter who will not request a home modification.

The submission by Action for More Independence and Dignity in Accommodation (AMIDA), a housing advocacy group, also discussed the Victorian legislation and its limitations, noting that, in their view:

These limitations [in the legislation] will prevent many needed modifications from being approved in existing rental stock and is another reason the growth of modified stock must come primarily from new built accommodation through a mandated code.

Overall, there was a view throughout the relevant submissions that the current restrictions on renters' ability to modify their homes may be contributing to the difficulties they face in finding accessible housing.

Related matters

It is not within the scope of the NCC to distinguish between rented and owner-occupied properties, as its role is to establish the minimum technical requirements for construction. Furthermore, it is worth noting that many of the issues described above have been discussed previously, in a 2015 Senate Inquiry into housing affordability. That enquiry made the following recommendations that may be relevant to the issues tenants face in obtaining housing that is suited to their needs, including for accessibility:

[Recommendation 18] Given that renting will be the only form of housing for many Australians, one of the key challenges for government is to change

¹¹⁴ Census of Population and Housing, above n 74.

the traditional view of renting as a short-term transitional phase. The committee recommends that the Australian Government in collaboration with the states and territories, through the recommended ministerial council on housing and homelessness within COAG, start the urgent process of turning around this acceptance of short-term insecure tenure as normal. As a first step, the committee recommends that the proposed ministerial council consider tenancy regulations in the various jurisdictions with a view to delivering greater security for long-term renters.¹¹⁵

The Senate Inquiry suggested that greater security for long term renters may help in making home modifications financed by tenants a more realistic solution for accessibility. This is on the basis that they would be better able to make use of the modifications long-term, as opposed to having to pay for the installation and removal of modifications repeatedly as result of frequent relocations from one property to the next.

The Senate Inquiry also made recommendations specific to the issues faced by older tenants, and tenants with a disability. These are quoted below.

In relation to the issues faced by older tenants, the inquiry report recommended:

[Recommendation 26] In light of the anticipated rise in the number of older Australians in the rental market, and the insecure tenancy confronting many older renters, the committee recommends that the Australian Government look closely at its aged care policy so that it takes account of the particular difficulties confronting older Australians in the rental market. The aim would be to determine how policies designed to assist older Australians to remain in their home could take better account of, and accommodate, the added difficulties for older people accessing safe and secure housing and in conducting modifications to rental dwellings, and more broadly in renting in the private rental market.¹¹⁶

This recommendation is consistent with the argument put by many stakeholders that regulation of accessible housing in the NCC is important to enabling ageing in place. That is, on the assumption the NCC only applies to new building work, it may not affect people seeking to age in place in the property they are currently living in, which by definition would be an existing building.

In relation to the issues faced by people with disability, the inquiry report recommended:

[Recommendation 28] The committee recommends that, in its consideration of current tenancy law, the proposed ministerial council also place a high priority on the obligations and responsibility of landlords when it comes to house modifications for those with particular housing needs. The committee recommends that the council look at measures, such as tax incentives, to

¹¹⁵ Australian Senate, *Out of reach? The Australian housing affordability challenge*, report of the Senate Economics References Committee, May 2015, [13.98] p 228.

¹¹⁶ *Ibid.* [16.26] p 276.

*encourage landlords to improve the energy efficiency of their properties and to make the required modifications for tenants with disability.*¹¹⁷

Similar to the recommendation quoted earlier, this recommendation suggests there is role to play for home modifications in addressing the housing needs of people with disability, and given that many rental properties are existing rather than new stock, they could fall outside the scope of the NCC.

As was noted in submissions on the Options Paper and within the Senate Inquiry report that some tenants may be facing barriers in accessing the protections under the DDA intended to ensure they can make reasonable modifications to their home.¹¹⁸

Overall, the intent behind this chapter, and its quoting of the Senate Inquiry as above, is to highlight that even if the NCC were to regulate housing accessibility, for 100% of new dwellings, there may also be benefits realised through other areas of government policy, such as residential tenancies systems.

¹¹⁷ *Ibid.* [16.91] pp 292-293.

¹¹⁸ *Ibid.* [16.59, 16.60] p 285.

9. Home modifications

This section summarises issues raised in submissions regarding home modifications. The subject of home modifications covers any situation where accessibility features are installed, altered or removed after the construction of a dwelling.

Costs of home modifications

Several submissions commented on the costs associated with home modifications, particularly in comparison with the cost of including accessibility features during initial construction.

These comments are summarised in the points below:

- **Avoided costs:** An accessibility standard, applied to new construction, would avoid the costs of accessibility modifications being made after construction; a cost which, as was indicated in the Options Paper, if required in full, may be substantially higher.
- **Long completion times:** Home modifications, where not funded by the owner, can take a long time to be funded and then completed (up to 12 months).
- **Feasibility:** In some cases, due to the nature or condition of the existing building, certain modifications may be unfeasible regardless of costs/funding.
- **Repetition:** People having to make (and fund) the same modifications every time they move house.

The submission by Occupational Therapy Australia (OTA) also highlighted that the idea of home modifications as a solution is, in their opinion, not straightforward:

There is a suggestion that minimum accessibility features aren't required because we can do home modifications, but it's not quick, easy or inexpensive to make minor home modifications (or what we would now assess as "reasonable" for the NDIA) because there is no studding in the bathroom walls, the bathroom slab would have to be re-set, or the doors and corridors aren't wide enough for any mobility products, for example.

Application of an accessibility standard to home modifications

In addition to comments about the costs of home modifications, many comments raised related issues around the implementation of an accessibility standard with respect to home modifications. These are summarised below, noting that the NCC's application to extensions, renovations and the like is determined by States and Territories through their own legislation.

- **Retrospectivity:** Many submissions expressed concern that accessibility standards might be applied retrospectively, and could cause complexity and/or legal disputes in situations where modification in one dwelling impacts upon common property. Another submission noted that accessibility standards would be particularly difficult to apply to work on heritage houses. In general, there was a view among stakeholders that an accessibility standard set through the NCC should not be enforced for work on existing buildings.
- **Certification process:** Home modifications may not be captured by the building certification process. This means that there is potentially less regulatory oversight of

accessibility features added or altered post-construction. It also means that it may be difficult for regulation to prevent later removal of accessibility features.

- **Personalisation:** Home modifications tend to reflect the personal needs of the person commissioning them, rather than seeking to achieve full compliance with a specific technical standard. This distinguishes home modifications from new builds, in terms of context. It was also noted that for many people, specific, personalised modifications can be a cost-effective solution.

Demand for home modifications

Reflecting the idea of ‘personalisation’, discussed above, the demand for home modifications is not uniform — different modifications are specific to different people. It was therefore suggested that an accessibility standard in the NCC may not entirely remove the need for some people to have their home modified in some way to suit their needs. This was not intended to say that a regulated standard should not be pursued, only that such a standard may not cover everyone’s individual needs (eg those with specialised needs).

The WA Local Government Association (WALGA), in its submission, captured this point as follows:

Trying to encompass a standard building response to all disabilities will be difficult, as a solution for one type of disability may be totally inappropriate for another disability. Providing a baseline for all could be possible, and if the majority of all disabilities in Australia is around mobility, then this could be the baseline standard, and then housing can be adapted to suit any specific requirements of an individual.

Amaze, a not-for-profit peak body representing people with autism (and their supporters) in Victoria, expressed support for a minimum accessibility standard for housing, but also noted, in its submission:

Given the varied characteristics and needs of autistic people, the barriers to accessible housing will also be varied and experienced differently. However, there is evidence that common barriers experienced by autistic people when seeking to find accessible housing can commonly relate to structural or physical features of housing, including lighting, acoustics, smells, colours, spatial features and flow, flooring and other design elements.

We emphasise again that all autistic people will experience these barriers differently.

Others suggested that a minimum standard set through the NCC would need to be implemented in a way that would not prevent people with differing accessibility needs specifying or modifying their home in a way that addresses their individual needs.

Maintenance, monitoring and certification

As noted above, home modifications (particularly minor ones) are generally not captured through the regulatory systems that monitor compliance for new building works. Accordingly, some stakeholders suggested that even with an NCC standard in place for accessible housing, it could be difficult enforcing compliance with the standard in any ongoing manner, post-

construction. That is to say, even if an access feature were included during construction (for example a specific bathroom layout), it could be difficult to prevent someone removing it later (for example by substantially renovating the bathroom), especially if the works were not required to have a building permit. Stakeholders also suggested a need to ensure adequate maintenance of accessibility features.

In attempting to address that issue, it was also suggested that any NCC standard would require additional monitoring and compliance systems, to be fully effective. One such suggestion was to establish a system of inspections and certification undertaken each time a property changes hands, to ensure that its accessibility features aren't reversed over time.

Conversely, one submission suggested that a regulated accessibility standard for new housing could have an adverse impact on the home modification sector of the building industry, particularly those engaged in carrying out works funded under the NDIS.

10. Step-free entry path

The issue that generated the most discussion in the Forums, and consequently in many submissions on the Options Paper, was the possible requirement for a step-free entry path to be provided from the property entry or parking space, to an entrance door of the dwelling (hereafter referred to as 'step-free path'). The issues raised were numerous and complex, and are summarised as follows.

Importance

Option 1, as described in the Options Paper, floated the idea of adopting the LHDG Silver Level, but omitting the step-free path requirement. This was on the basis that for houses it may not be as difficult to add later, and for apartments it would already be in place on at least one storey plus any storey served by a lift or ramp (as required by the current NCC).

This idea attracted several comments that sought to outline the importance of retaining the step-free path requirement as part of any housing accessibility standard.

Many stakeholders described the step-free path as 'essential', although opinions varied significantly about whether the path should be built to LHDG Silver, Gold or even Platinum Level.

The submission by the VCOSS outlined their view of the importance of the step-free path in this way:

The ABCB is considering a limited number of performance requirements that do not meet an adequate minimum accessibility standard (such as Option 1). People with mobility challenges can only enter and exit their homes freely if they have ramped access to the front door from the street or parking area. The weakest option (Option 1) does not allow people to enter and leave their homes, so is clearly not an acceptable minimum standard and should not be assessed. For people with mobility issues, steps are the difference between safely and independently accessing a building and being completely locked out from it.

Ramped access reduces the risk of injury and inconvenience for older people and parents with young children who use prams. It allows people to live independently without relying on other people to help them get around.

[VCOSS Recommendation] Cease assessing clearly inadequate options for access standards.

An individual submission also highlighted what its author saw as potential benefits of a step free path for people with vision impairment:

With respect to people with vision impairment a step free area is inherently less hazardous and promotes confidence and independence.

Practicality

While many submissions sought to emphasise the importance of the step-free path, many others expressed concerns about the practicality of applying such a requirement to all new dwellings through the NCC. These issues are summarised as below:

- **Small allotments / urban infill housing:** Some allotments may be too small to accommodate a step-free path; one such situation where this could occur would be urban infill housing (i.e. subdivision of an existing block in an established, built-up area).
- **Reduced setbacks:** as part of increasing housing density, setback distances (the minimum distance between the boundary and the front of the dwelling) are being reduced, consequently reducing the space available for installing a ramp up to the entry door (assuming a need for a ramp).
- **Framed sub-floors:** the application of the step-free path requirement could have the unintended consequence of restricting the construction of framed sub-floors (i.e. houses on stumps), particularly where for other reasons slab on ground construction may not be appropriate or feasible. A similar concern was also raised regarding implications for the use of 'waffle pods'¹¹⁹ to form floor slabs (as these can also result in a higher finished floor level).
- **No habitable rooms at ground level:** the step free path may be of limited use in dwelling that are designed such that there are no habitable rooms on the ground (or entry) level (assuming there is no lift installed).
- **Class 2 buildings without a lift / podiums:** if the step free path were required for all units in Class 2 buildings, this may impose a cost burden by, in effect, mandating the installation of a lift/s. The cost of providing lifts may be disproportionate to the construction cost of the building. Related to this is the concern that in some cases, planning controls currently mandate podiums for the first 2 to 3 levels of townhouse/terrace style, mixed-use developments with 'street activated' entrances, which require some steps.
- **Reliance on Performance Solutions:** it should not be assumed that a Performance Solution can always be used to offset or avoid a requirement for a step free path. Related to this is the extra administrative and verification costs than can arise when using a Performance Solution to comply with the NCC.
- **Scope of building contracts and approvals:** For Class 1a buildings (houses), typical building contracts may not cover external landscaping and external features, meaning that the inclusion of a step-free path, external to the dwelling structure, may not be captured in the contract. Similarly, such external works may also fall outside the scope of the building approval/certification systems in some jurisdictions and, therefore, would potentially be legally unenforceable under legislated definitions of 'regulated building work', even if included in the NCC.
- **Cost of site cuts / excavations:** the costs of site cuts, excavation works and waste removal is increasing. If, as a result of a step-free path requirement, the need for such

¹¹⁹ Waffle pods are lightweight shells, usually made of polystyrene, that can be used in place of compacted sand as a means of support under concrete floor slabs. Often this method of supporting the slab can result in a higher floor level depending on the height of the pods.

works is triggered or increased, this may restrict some housing construction/design methods due to cost (unless the site has a slope greater than 1:14, in which case it would be exempt under the existing LHDG¹²⁰).

- **Extensions and renovations:** if the NCC were to include the step-free path requirement, its application to extensions and renovations may need to be managed by individual jurisdictions.

These issues were raised in many submissions, including those who supported the step-free path requirement while also acknowledging that there may be practical limitations to it being applied in 100% of cases. That is, the issues discussed above were not raised solely by individuals and groups who oppose regulation for accessible housing.

Design choice and diversity

Several submissions expressed a concern that the step-free path requirement, if applied too broadly, could unduly restrict design choice and diversity, particularly for houses (approach paths to apartments are already subject to some access requirements under the NCC, and are inherently more uniform than those for individual houses).

- **Aesthetic considerations:** it is possible that a step-free path requirement might preclude the construction of certain styles of house; the main example cited by stakeholders being the elevated, ‘Queenslander’ style (assuming there are no other reasons for an elevated floor on the site, such as flood hazards). This may conflict with planning schemes that require some degree of consistency between new and historic houses in established areas (i.e. ‘knock down / rebuild sites’).

Concerns were also raised that, even for relatively low floor levels (e.g. 1.2 m) the amount of ramping required to reach the entry door could become significant (e.g. 18 m of ramps), and may have implications for the appearance of the house, and also the streetscape if the ramping is lengthy, in a zig-zag configuration, and/or visible from the street.

It was also noted that the current LHDG is unclear as to whether ramps in the step-free path would require handrails or tactile ground surface indicators, as is the case for access ramps to public buildings.

- **Diversity of design:** It was also noted that steps and level changes can provide aesthetic points of interest and are used as a design feature to express individuality; the implication being that the step-free path may impose an undue level of uniformity in housing design.
- **Undue limitation of design ‘freedom’:** Some stakeholders were concerned that a required step free path for housing would unduly limit people’s design freedom in relation to how they design their homes, not only with respect to style, but also desired layout and building form. The implication being that more weight should be placed on the importance of design freedom for homes than for public buildings, where emotional attachment and personalisation are generally less important. As one individual submission commented:

[H]ouses are the remaining domain for creative design.

¹²⁰ *Livable Housing Design Guidelines*, above n 9, p 18.

This is not to say there aren't already requirements in the NCC that in some way limit design freedom, only that some stakeholders are concerned about the potential imposition of any further limitations.

Site gradient / topography

As was noted in the Options Paper, the LHDG already contains an exemption from its requirement for a step-free entry path on sites with a gradient steeper than 1:14.¹²¹ Nonetheless, many submissions raised issues around the impact of site gradient/topography on the practicality of the step-free path requirement. These are summarised as follows:

- **1:14 exemption:** most submissions that commented on the issue of gradient expressed support for the exemption that currently exists in the LHDG allowing the omission of the step-free pathway on blocks steeper than 1:14 (i.e. 1 m rise for every 14 m of run).
- **Surrounding areas:** consideration of topography needs to be broader than just the site on which the building is to be built. It should also take into account whether the surrounding area of the site lends itself to providing easy access for people with limited mobility (e.g. is the allotment on a street that is extremely steep or has no sealed footpaths).

Overall, there is a view that issues of site gradient and topography need to be dealt with in a more detailed way than the simple concession for blocks steeper than 1:14, as provided in the existing LHDG. This also reinforces another view expressed in some submissions, which is that if exemptions or concessions are provided, they should be detailed and specific so as to prevent them being applied inappropriately, or to too many sites (i.e. gaming the system).

Areas affected by termites

Depending on how it is implemented, the step-free path requirement may conflict with existing NCC requirements regarding termite management.

(Note: the LHDG does include some suggested work-arounds to this issue in its section regarding the design of the step free entry door at the top of the path.¹²²)

Drainage and water ingress

Depending on how it is implemented, the step-free path requirement may conflict with existing NCC requirements regarding drainage and water ingress.

(Note: the LHDG does include some suggested work-arounds to this issue in its section regarding the design of the step free entry door at the top of the path.¹²³)

Flood hazard areas

Several submissions flagged concerns about the application of the step-free path requirement on sites subject to flooding. While no specific technical solutions were proposed, there was a view that the step-free path requirements would need to be formulated in such a way as to

¹²¹ *Ibid.*

¹²² *Ibid.* p 25.

¹²³ *Ibid.*

avoid conflict with local construction requirements that set minimum heights for floors in flood hazard and tidal surge areas (i.e. floors above the local defined flood level, plus allowance for freeboard).

One suggestion for such a formulation was that an exemption for the step-free path provisions apply only where the local required minimum floor height is greater than 1 metre above ground level (in other cases, ramping would still be required).

One submission also suggested that flood hazard exemptions be designed to also account for future sea level rise (where relevant).

Concessions / exemptions

The following lists potential concessions and exemptions to the step-free path requirement, as proposed through submissions on the Options Paper.

- **Class 2 buildings / large developments only:** only apply the step-free path requirement in Class 2 buildings and large developments (i.e. new housing estates).
- **Site area:** provide a concession for small sites, where there may be insufficient room to install a ramp.
- **Wherever practical / reasonable:** the step free path would be required only where practical (assessed on a site specific basis). A variation on this was the idea that an exemption would be applied wherever it could be shown that providing a step-free path is not reasonable.
- **Gentler stairs/steeper ramps:** allow gentler stairs in lieu of the step-free path; alternatively, allow ramps within the step free path to be steeper than is allowed under AS 1428.1 (a maximum ramp gradient of 1:6 was suggested, provided the ramp has handrails on each side).
- **Access from garage / parking area only:** on sites where a step-free path from the property boundary is not feasible, step free access from the garage or parking area only would be accepted.

Some submissions expressed a view that concessions or exemptions should not be provided, based on a belief that industry could or should be able to adapt.

The submission by Dr. Penny Galbraith suggested that concessions/exemptions were not necessary on the basis that the circumstances in which they are needed are “not mainstream” and therefore could be addressed through Performance Solutions.

Other stakeholders were of the view that exemptions and concessions should be controlled through State/Territory Building Appeals Boards (or similar), rather than through Performance Solutions.

Related matters

The Options Paper proposed, as ‘Option 1’, the adoption of the LHDG Silver Level, but omitted the requirement for a step-free access pathway from the property boundary or parking space,

to the dwelling entry door.¹²⁴ Responses to this idea were mixed, with strong arguments both for and against the proposed 'Option 1'. As can be seen from the summary above, the issues raised are numerous, complex and legitimate.

The importance of the step-free path should not be taken lightly; according to many submissions it is a necessary inclusion for many people to be able to access the dwelling. However, the LHDG itself, at all three Levels (Silver, Gold and Platinum) allows the step-free path to be omitted where the site has a gradient steeper than 1:14.¹²⁵ This is the only exemption in relation to dwelling access.

¹²⁴ *Accessible Housing Options Paper*, above n 10, pp 18-19.

¹²⁵ *Livable Housing Design Guidelines*, above n 9, p 25.

11. Room sizes and circulation space

This section discusses the issues raised in submissions regarding minimum room sizes. Room sizes attracted several comments, in part because room sizes are not regulated by the NCC, but also in relation to recent interventions by State/Territory Governments to regulate room sizes for apartments through planning guidelines.

This section also covers the issue of circulation space, given its close relationship with room size.

Dwelling sizes generally

Some stakeholders felt that dwelling sizes in Australia are becoming too small generally, not just from an accessibility perspective, and therefore that an accessibility standard could go some way toward addressing something that, in their view, is a broader issue.

Apartment sizes

State/Territory Governments are increasingly using their planning schemes to regulate the design and layout of apartments to improve, among other things, their accessibility. It was suggested that these regulations may conflict with, or be duplicated by, requirements for accessibility also being applied within apartments if also applied through the NCC.

Conversely, others noted that an accessibility standard may unduly limit the construction of small dwellings, such as studio and one bedroom apartments, and the like, by in effect regulating the minimum size of certain rooms.

Circulation space

The points below summarise comments and suggestions made in response to the circulation space requirements proposed in the Options Paper:

- **Doorways:** no suggested changes from specifications set out in the LHDG (Silver or Gold Level).
- **Kitchens:** the following variations to the LHDG (Gold Level) were proposed:
 - Task lighting to be required over workspaces.
 - Minimum space in front of fixed benches to be 1500 mm (rather than 1200 mm).
 - Clear circulation space of at least 1000 mm x 1000 mm to be provided.
- **Laundries:** the following variations to the LHDG (Gold Level) were proposed:
 - Minimum space in front of fixed benches to be 1500 mm (rather than 1200 mm).
 - Allow 'European' laundries (laundry installed in a cupboard rather than a room) to open onto larger rooms within the dwelling (e.g. living room).

(LHDG Silver Level does not include requirements for laundries).
- **Bathroom/Toilet:** the following variations to the LHDG were proposed:
 - Shower width to be increased to minimum 1160 mm (Platinum Level), instead of 900 mm (Gold Level), along with a clear space of 1600 mm by 1400 mm in front of the shower. Shower width is not specified in Silver Level.

- LHDG Silver Level toilet design cannot be used independently by some users. The difference between Silver and Gold in this case is an extra 300 mm of clear space between walls or between amenities if the toilet pan is located in a bathroom. Also included in Gold Level is a 1200 mm x 1200 mm clear space in front of the pan.
- **Bedroom:** no suggested changes from specifications set out in the LHDG (Gold Level). However, it was noted by some respondents that without space for a bedroom on the ground or entry level, the dwelling would be considered to be ‘visitable’ rather than ‘livable’ (accessible).

Related matters

Dwelling sizes

The issue of decreasing housing size, in terms of floor area, may be a broader issue, and it is noted there are apparently conflicting views on whether or not the size of housing in Australia is in fact decreasing.¹²⁶ In any case, limited evidence was provided in submissions to suggest that smaller (Class 1a) housing is in and of itself a problem.

For apartments, as noted in submissions, some State Governments have policies in place regarding the minimum floor areas for apartments,¹²⁷ which appear to address broader amenity issues only partially related to accessibility.¹²⁸

Circulation spaces — generally

The suggestions regarding circulation space, as summarised above, are in general derived from the circulation spaces set out in the Platinum Level specification of the LHDG.¹²⁹ While full adoption of the Platinum Level may be outside the scope of this project,¹³⁰ it is possible to consider a third technical option (in addition to Silver and Gold) that applies only the circulation space provisions of the LHDG Platinum Level.

¹²⁶ S. Andre and R. Crawford, ‘Size does matter: Australia’s addiction to big houses is blowing the energy budget’, *The Conversation*, 14 December 2016, online: <https://theconversation.com/size-does-matter-australias-addiction-to-big-houses-is-blowing-the-energy-budget-70271>, Cf. C. James and R. Felsman, ‘Australian home size hits 20-year low’, *Commsec Economic Insights*, newsletter, 17 November 2017.

¹²⁷ NSW Department of Planning and Environment, *Apartment Design Guide*, 2015; Victorian Department of Environment, Land, Water and Planning, *Apartment Design Guidelines for Victoria*, 2017; WA Planning Commission, *Apartment Design*, draft for public comment, October 2016.

¹²⁸ These guidelines cover a broad range of amenity issues, for example: functionality, storage and private open space/balcony design, that are outside the scope of the NCC.

¹²⁹ *Livable Housing Design Guidelines*, above n 9, [7, 8, 9 and 10].

¹³⁰ The relevant BMF *Communique* (6 October 2017) specifically referred to the Silver and Gold Levels but did not mention Platinum.

12. Structural features

This section sets out concerns raised, and ideas proposed, in relation to access features that could be described as 'structural'. In this context, the term 'structural' is used to refer to any feature that affects the design of the building's structural elements (walls, floors etc.), configuration or layout. Non-structural items, such as fixtures and fittings, lighting and surface treatments/colours, are discussed in the next chapter.

Structural features as the 'priority'

On the basis that structural features are usually more difficult and expensive to alter post-construction, there was support for these to be considered as the priority issues when designing regulatory options.

The submission by the ANUHD set out the following metric (re-produced as below¹³¹) as a suggested way of assigning regulatory priority to different access features:

Table of elements and priorities (extracted from ANUHD submission)

Priority Level	Element (description)	Ease of retro-fitting
Priority 1	Structure (layout of rooms, levels, corridors and doorways)	These take large outlays and months to modify
Priority 2	Fit-out (Cupboards, shelves, benches, doorhandles, light switches, grabrails, taps, hand-held showerheads)	These can be done in a day.
Priority 3	Add-ons (Non-slip mats, shower chairs, brighter lighting)	These can be sourced easily and cheaply.

It is important to note that in providing the table above the ANUHD was not suggesting that regulation be limited to structural items only, but rather that they are the first priority. The ANUHD supported regulation mandating priority 2 and 3 items where these can be included at no [additional] cost.

Other submissions also supported the prioritisation of structural items, for similar reasons as those outlined in the ANUHD submission.

An alternative proposal for the prioritisation of access features was that the bathroom, toilet and laundry should be the priority. This was on the basis that, in the experience of some stakeholders, most renovations to address mobility issues relate to these rooms.

¹³¹ Minor alterations have been made to the table to remove merged cells, so as to ensure compliance with the Web Content Accessibility Guidelines (WCAG).

Related to that proposal was the suggestion that, in dwellings with multiple bathrooms and/or toilets, only one of each be subject to accessibility requirements.

Rooms on ground/entry level

Option 3 (LHDG Gold Level) specifies that a bedroom (or a room that could be used as a bedroom) and a toilet must be provided on the ground or entry level. Options 1 and 2 (based on LHDG Silver Level) require only a toilet on the ground or entry level.

Concerns were raised by some stakeholders, mainly in relation to dwellings that for various reasons cannot include any habitable rooms on the ground/entry level (e.g. on narrow sites, where the dwelling is above its garage/carport). Many other submissions supported the inclusion of a requirement to provide both a bedroom and a toilet on the ground or entry level.

Bathrooms and toilets

The following suggestions were made regarding requirements for bathrooms and toilets:

- **Roll-in shower:** several submissions emphasised the importance of the roll-in shower. Note: this is consistent with all three options proposed in the Options Paper.
A variation on this was the suggestion that a step-down shower could also be accepted, on the basis that it could be filled in to floor-level later if required, and without damaging existing waterproofing (whereas a step-over hob is more difficult to remove).
- **Additional framing for grabrails:** several submissions supported requiring additional framing to wet areas to enable future grabrail installation (included in all three Options).
- **Sheeting for grabrails:** some submissions opposed allowing the use of extra framing/noggings to enable future grabrail installation, on the basis that it can be too difficult to find without removing wall lining, whereas sheet reinforcing (plywood) avoids this issue and provides greater flexibility for the positioning of grabrails.

Doorways

An alternative to specifying minimum door widths would be to specify wider structural framing in door openings (including lintels) in loadbearing walls, so that people have the flexibility to install a smaller door initially, which can be widened in future if needed, without altering loadbearing framing members.

Window sill heights

Options 1, 2 and 3 as proposed in the Options Paper did not include any specifications for window sill heights, which are only covered in the LHDG Platinum Level.

However, some stakeholders, while supportive of Option 3 (LHDG Gold Level), felt that it should be expanded to include the sill height requirements from the LHDG Platinum Level. Their rationale behind this was twofold: first, to provide equal amenity for wheelchair users to enjoy views through setting a lower sill height, and second, because sill heights are more difficult and costly to lower retrospectively.

Related to this was the call made in several submissions for controls that open and close windows to be made accessible and 'easy to reach'.

Lifts / stair lifts

The LHDG, although designed to enable housing to be easier to navigate for people with reduced mobility, does not actually preclude the use of stairs within the dwelling. This raised concerns for some stakeholders, who offered the following suggestions in response:

- **Provide for future lift installations:** include a requirement that, in dwellings of two storeys or higher, space be provided for the future installation of a passenger lift.
- **Deemed-to-Satisfy option for domestic passenger lift:** provide for the installation of passenger lift as an option under the DtS Provisions, so as to avoid all domestic passenger lifts being subject to a Performance Solution.
- **LHDG Gold Level requirements:** Apply the LHDG Gold Level requirement for internal stairs to be straight, and positioned against a loadbearing wall, so as to better enable future installation of a stair lift, and to preclude the use of winder stairs, which can be difficult to use for people with limited mobility who are otherwise able to climb stairs.

Balconies and outdoor areas

Several submissions highlighted that the current LHDG does not address the issue of access to balconies and outdoor areas (private open space). The step-free path currently required by the LHDG only addresses access from the property boundary or parking space to one entry door; it does not extend to any other parts of the property, or to a balcony.

While the provision and sizing of private open space is a planning matter, those regulations may not necessarily cover how private open space is accessed from within the dwelling, thus leaving a potential gap between planning regulation and the LHDG.

Stakeholders felt that, even if the LHDG were adopted into the NCC, there would still be a level of social exclusion when people are unable to access outdoor areas and balconies that are often designed to be used as entertaining areas. Access to such areas is seen as important to occupants' health and wellbeing.

As the submission from VCOSS noted in recommending that the RIA also consider access to outdoor areas:

Homes designed with backyards should include step-free access to it. There is little point having a backyard if people cannot use it.

One suggested solution (applicable to balconies rather than backyards) was to insert a requirement that the finished floor level of a balcony, terrace or the like be the same as the adjoining, internal room from which it accessed, or if this is not feasible, limit the difference in floor levels to no more than 35 mm.

Utility and service areas

Related to the issue of access to private open space was the issue of access to utility and service areas, internal or external, within the property.

Submissions highlighted the need for step-free access to these for several reasons:

- **Drying clothes**, so as to avoid depending on a clothes dryer simply because the space provided for a clothesline is not accessible.
- **Access to the letterbox**, especially if the step-free path required by the LHDG only goes to the parking space, not the property boundary.
- **Access to bins**, so as not to be dependent on another person simply to put the rubbish out (even if assistance is still required to move the bins onto the street for collection).

Emergency egress

Several responses and some forum participants raised the issue of emergency egress for occupants of accessible housing, on the basis that if more housing becomes accessible for people with reduced mobility, it would also need to provide a safe means of emergency egress for these occupants.

In particular, the question was asked as to how occupants with reduced mobility would escape from a unit in a multi-storey apartment building. The suggestion was made that the Accessible Housing project should consider this issue in light of the possibility that new NCC provisions might lead to increased occupancy of multi-storey apartment buildings by people who may be unable to use stairs to evacuate the building in an emergency.

No suggestions were put forward as to how the issue of emergency egress for occupants with limited mobility might be resolved.

Related matters

The notion that 'structural' features should be the focus when devising possible NCC requirements for housing accessibility reflects two key propositions:

- Structural features are the most expensive and difficult to modify post-construction.
- Structural features are less likely to be modified or removed by building occupants.

The first of these, however, is based on an assumption that reducing or eliminating the need for retrospective home modifications is more efficient and will be subject to further cost benefit analysis.

In addition to the statements above, the following comments are offered in relation to specific structural features:

Rooms on ground/entry level

The LHDG Gold Level specification for a bedrooms space on the ground or entry level may have implications for some types of housing configuration, particularly those with no habitable rooms of the ground level (i.e. house over garage/carport).

One way around this would be to clarify the meaning of the term 'entry level' so that it does not necessarily have to be the ground level. This would allow the bedroom and bathroom required under the LHDG to be on the 'entry' level to be logically co-located with other habitable rooms, such as the kitchen and living areas.

This could be achieved by referring to 'the lowest storey containing habitable rooms' in place of the LHDG reference to 'ground' or 'entry' level.

The LHDG does not specify whether the bedroom space on the ground/entry level must be the master bedroom, or if it could be a second or third bedroom instead (with the master bedroom being located on another level).

Bathrooms and toilets

The suggestion that step-down shower bases be allowed as an alternative to a hobless base is founded upon the proposition that the base can be easily converted to hobless without disturbing the waterproofing layer. It also reflects an assumption that such a conversion would not cause the shower space to have insufficient room height as a result of heightening the level of the shower base. According to the current NCC, the room height for a shower would be 'insufficient' if it were less than 2.1 m.¹³²

There is a suggestion that sheeting be the only allowable way of providing wall reinforcement, on the basis that it can be difficult to locate noggings once the wall has been sheeted and tiled. However, this may impose a small additional cost because sheeting would likely need to be purchased whereas noggings can be made using off-cuts from the framing timber.

Clarification could also be provided that reinforcing sheets need not be water resistant if they are located behind a required waterproofing layer or are outside of the required waterproofing areas in the NCC (i.e. in a part of a wall that is not required to be waterproofed).

Door widths

The suggestion to require wider lintels as an alternative to wider doors would provide flexibility around the design of door openings while also enabling the opening to be widened in future without altering structural elements (jamb studs and lintels) in the wall itself.

Window sill heights

Adopting the LHDG Platinum provisions for window sill heights in habitable rooms could be considered as an additional option to be considered in the RIS, although with some qualifications:

- It would need to be consistent with planning regulations that specify window sizes and locations to deal with issues such as privacy and overlooking.
- It does not apply to windows that are frosted or otherwise treated such that they are translucent rather than transparent. This is because such windows are not intended to provide a view, hence the sill height limit which is intended to provide equitable access to views, may not be as necessary.
- It does not apply in a bedroom that is not required to comply with the minimum floor area requirements discussed earlier in this chapter. This is based on the logic that if the room is not required to be accessible, then the lower sill height also may not be as necessary.

Generally, as the area of glazing in a window increases, so does the thickness of the glass, and depending on the location of the window, safety glass may be required in order for a

¹³² *National Construction Code*, Volume One, Part F3; Volume Two, Part 3.8.3.

window with a lower sill to comply with existing NCC provisions; this may increase material costs.

Also, as the size of glazed areas increases, this can affect the calculations required to achieve compliance with the NCC's energy efficiency provisions.

Provision for lifts / stair lifts

The use of lifts within individual houses or apartments is not currently provided for under the NCC's DtS Provisions, which only address the design and construction of lifts used in public buildings or common areas, but not within houses or individual apartments.

While that does not necessarily preclude the development of DtS Provisions for such lifts, the technical complexities of doing so are considered to be significant and outside the general scope of this project. The development of such provisions may be considered as a future project, if Governments decide to proceed with regulation.

If the LHDG Gold Level specification were adopted in its current form, this may help enable the later installation of a stair lift.

Balconies and outdoor areas

Overall, the provision, sizing and location of balconies and outdoor areas is a planning matter not regulated through the NCC. The NCC does not set any requirements for Class 1a buildings to have a yard, or for Class 2 building to have balconies. However, access to a balcony or outdoor space, where one is provided, may fall within the scope of a housing accessibility standard.

The current LHDG includes requirements for a step-free pathway to the dwelling (Gold Level) and a step-free entry door (all specification levels). This could be modified to address balconies and outdoor areas:

- For Class 1a buildings, the step-free pathway should reach at least one outdoor area or balcony. If the step-free pathway is between the parking space/garage and the dwelling, then the outdoor area could be reached via the parking space/garage (e.g. where the garage has a door at the rear that opens into the back yard).
- For Class 2 buildings, that at least one door opening onto a balcony or courtyard has a step-free threshold. If there is no balcony or courtyard, then this requirement would be non-applicable.

For Class 1a buildings, the accessibility of outdoor areas will also be affected, or limited, by factors outside the control of the NCC such as the topography of the site, landscaping, plant and tree locations, water and other natural features.

For Class 2 buildings, outdoor areas that are provided as common facilities are already required to be accessible under the current NCC.

Utility and service areas

For Class 1a buildings, the provision, sizing and location of utility and service areas (e.g. clothes drying areas, bin storage) is a planning matter. Although the NCC requires that clothes

washing facilities be provided, it does not mention space for drying clothes (air drying or using a dryer).

For Class 2 buildings, utility areas such as clothes drying areas or bin enclosures would likely be considered to be common facilities and therefore already captured by existing accessibility provisions. Similarly, if the building has common laundry facilities instead of a laundry within each unit, then those would also be captured under existing accessibility provisions. Note that the NCC provisions only apply to one of each type of common facility, so it is possible that only one of several clothes drying areas, for example, would be required to be accessible.

Utility and service areas that are not intended to be accessible to residents in Class 2 buildings, such as plant rooms, are exempted from accessibility requirements under the current NCC (see Volume One, D3.4) and so may not be within the scope of any housing accessibility standard.

Emergency egress

The issue of emergency egress for occupants with a disability (in Class 2 buildings) has been previously considered by the ABCB, with a RIS being completed in 2015.¹³³ Following that consideration, governments agreed not to change the NCC. It is worth noting some NCC provisions and other material that exists:

- Insertion of a new Performance Requirement, DP7, in NCC 2013 Volume One, which sets out issues that must be considered when it is intended to use a lift as a means of evacuating the building, in addition to the existing required exit stairs.¹³⁴ DP7 was unique in that no corresponding DtS Provisions were provided, meaning that in all cases, compliance must be by way of a Performance Solution¹³⁵; this is still the case.¹³⁶
- Publication of a non-mandatory handbook providing technical information to support the use of lifts during evacuation of a building.¹³⁷
- Amendment of the NCC to require sprinklers within apartments in Class 2 buildings of more than four storeys and an effective height of less than 25m. This change will appear in NCC 2019.¹³⁸ The relevance of this change is that if a sprinkler is effective in containing a fire within the unit in which it started, then evacuation of other units, or the entire building is less likely to be necessary, thus reducing the likelihood that a person with disability would need to evacuate the building (with or without assistance).

¹³³ Australian Building Codes Board, *Emergency Egress for Occupants with Disability*, Regulation Impact Statement for Decision, March 2015. This RIS has been published, for a copy see: <https://www.abcb.gov.au/Resources/Publications/Consultation/Emergency-Egress-for-Occupants-with-a-Disability-Final-Decision-RIS>.

¹³⁴ *Guide to the National Construction Code Volume One*, above n 27, [DP7].

¹³⁵ *National Construction Code*, Volume One, 2013 edition, [D1.0(c)] p 181.

¹³⁶ *National Construction Code*, Volume One, [D1.0(c)].

¹³⁷ Australian Building Codes Board, *Lifts Used During Evacuation*, non-mandatory handbook, 2013.

¹³⁸ Australian Building Codes Board, *What to expect from NCC 2019*, 4 December 2018, online: <https://www.abcb.gov.au/News/2018/12/02/What-to-expect-from-NCC-2019>.

Finally, it is worth noting that increasing the supply of accessible apartments does not necessarily mean that a new problem would arise with respect to emergency egress. Currently, there is nothing stopping a person from a disability from occupying an upper floor apartment, assuming it is served by a lift or ramp and the layout is such that they can live with it, even if it is not in fact 'accessible'.

The NCC does not include emergency egress provisions for Class 1a buildings, nor was any suggestion made in submissions on the Options Paper that such provisions should be implemented as part of this project.

13. Non-structural features

This section sets out concerns raised, and ideas proposed, in relation to non-structural items, such as fixtures and fittings, lighting, and surface treatments/colours. In most cases, the argument in support of regulating these items was based on the idea that compliance, at construction stage, would not incur any additional cost.

It also includes discussion of those submissions that suggested an accessibility standard for housing should also take into consideration the needs of people with autism or dementia.

Lighting

The following suggestions were raised regarding requirements for the provision of lighting (artificial and natural), along with the height above floor level of light switches/controls:

- **Dimmer switches:** all lighting should be fitted with dimmer switches.
- **Additional light points:** additional light points should be required (assumed to refer to additional outlets for lamps).
- **Window tinting and natural light control:** all windows should have some level of tinting, and 2-3 levels of light control (shutters, blinds, curtains, or external shade canopies).
- **Larger light switches:** light switches as specified in the LHDG Platinum Level.
- **Switch/control heights:** the height of light switches and controls should be covered, based on LHDG Gold Level (same height also applies to Platinum Level). Another suggestion was that these should be required to comply with AS 1428.1. A more general suggestion was that 'ease of use' should be the central consideration.
- **Additional wiring:** an alternative to regulating light switch/control heights would be to require that additional wiring is left inside the wall cavity to allow these to be more easily shifted in the future.

General power outlets

The following suggestions were raised regarding requirements for the provision of general power outlets (GPO), including both design and height above floor level:

- **Additional GPOs:** include a requirement for additional GPOs to be provided (suggested number: 10).
- **GPO height:** GPO heights to be in accordance with LHDG Gold Level (no less than 300 mm above floor level). Another suggestion was that this minimum should be set at 1000 mm. Submissions differed on whether this should apply to all GPOs, or only those that are used regularly (as opposed to having the same appliance plugged in long-term).
- **Larger GPO switches:** GPO switches as specified in the LHDG Platinum Level. Another suggestion was that these should be required to comply with AS 1428.1. A more general suggestion was that 'ease of use' should be the central consideration.
- **Additional wiring:** an alternative to regulating GPO heights would be to require that additional wiring is left inside the wall cavity to allow for GPOs to be more easily shifted in the future.

Door hardware

Some submissions suggested that door hardware be specified to the LHDG Platinum Level, which adds to the height limits in the Gold Level by also specifying lever or D-pull style door hardware. One submission suggested instead that door hardware be required to comply with AS 1428.1.

Heating and cooling controls

Some submissions suggested that LHDG requirement in relation to the height of light switches/controls be extended to cover heating and cooling controls.

Slip resistance

Some submissions suggested that flooring, including external pathways, should be required to be slip resistant, as is specified under the LHDG Platinum Level.

Design features for people with sensory disability

Several submissions called for the scope of the project to include design features for people with sensory disabilities. These submissions covered a very broad and diverse range of issues, including vision impairment, autism and dementia. Other issues were also mentioned, but with insufficient definition and technical detail to enable them to be further explored in this report.

- **Features to assist people with vision impairment:** general suggestion that a housing accessibility standard takes into account the needs of people with vision impairment. However, beyond the general suggestion there were few specific proposals about what features would meet the needs of people with vision impairment. Where a specific feature was proposed, these were:
 - Making intercom systems in apartment buildings usable for people with a vision impairment, particularly avoiding touch-screen based systems or those that lack tactile readability.
 - Providing yard space for assistance dogs.
- **Design for autism:** According to the submission from Amaze, design for autism should be based on the following principles (not all of which would be within the scope of the NCC):
 - Ensure safety and security.
 - Maximise familiarity, stability and clarity.
 - Minimise sensory overload.
 - Allow opportunities for controlling social interaction and privacy.
 - Provide adequate choice and independence.
 - Foster health and wellness.
 - Enhance one's dignity
 - Ensure durability.
 - Achieve affordability.

- Ensure accessibility and support in the surrounding neighbourhood.

Within the scope of the NCC, the following three areas were nominated as most relevant to achieving accessibility for people with autism:

- Sound proofing; limiting external noise to a prescribed level indoors.
 - Neutral lighting and floor covering.
 - Lighting prescriptions, including no fluorescent lighting and mandatory dimmer switches.
- **Dementia-friendly design:** Two submissions, from groups involved in environmental design and advocacy for people with dementia, suggested that an accessibility standard for housing should take into account the needs of people with dementia (dementia-friendly design). As with design for autism, discussed above, dementia-friendly design is based on a set of broad principles:
 - Unobtrusively reduce risks.
 - Provide a human scale.
 - Allow people to see and be seen.
 - Manage levels of stimulation — reduce unhelpful stimulation / optimise helpful stimulation.
 - Support movement and engagement.
 - Create a familiar place.
 - Provide a variety of places to be alone or with others — in the unit and in the community.
 - Provide opportunities for engagement with ordinary life.

In general, the suggested technical solution to achieving these principles (within the scope of building design) was to adopt the LHDG Platinum Level).

Involvement and choice

While many submissions put forward the idea of regulating the various non-structural elements of the LHDG, others saw these as matters of personal choice. As one individual submission noted:

In Option 3 [LHDG Gold Level] I see elements like kitchens & laundries [as] a more individual choice, those standing may like things higher where a chair user may like things lower, [people with] vision impairment more compact easy to navigate spaces where a wheelchair user may need more space. As a wheelchair user my preferences for kitchen and laundry area is based on function and practicality, for me there is no point in having a kitchen that is completely wheelchair (either electric or manual chair) accessible when there is no or little low storage space...

Having [said] that, although I believe the design of elements like kitchens and laundries are an individual choice, having minimum sizes between benches and islands or floor space in a laundry room, or easily removable

kitchen island would make it easier to adapt these areas for each person's individual needs.

With respect to design for people with autism, the submission by Amaze made a similar suggestion regarding the difficulty of applying standardised, uniform design requirements to the unique needs of individual people:

If the view is taken that minimum accessibility standards are not capable of providing for the needs of autistic people (due to different characteristics and/or needs across the spectrum or due to current levels of evidence), consideration should be given to whether the [LHDG] could better articulate best practice in housing design to meet the needs of autistic people. If the latter approach is taken, Amaze submits that any minimum accessibility standards should require building professionals to have regard to these guidelines. These guidelines should be developed in partnership with autistic people, their carers and autism organisations.

Lastly, it is also important to note that many submissions placed great emphasis on the need for people with disability to be involved in the development of any guidelines and standards that concern them or affect their lives. This point is embodied in the motto, quoted in several submissions, “*nothing about us without us*”.

Related matters

There are limitations on what can be regulated through the NCC. For this reason, including ‘non-structural’ features in an accessible housing standard is likely to be problematic, from an overall implementation point-of-view. The reasons for this are described as follows, with further detail on each point provided under the subheadings below:

- **Items that could be modified post construction:** height/location of switches and GPOs, door hardware, heating and cooling controls.
- **Items already covered by the NCC:** provision of natural and artificial light, sound insulation, slip resistance.
- **Items better determined through client involvement:** design for people with sensory disability (autism, dementia).

The issue raised regarding the accessibility of intercom systems in apartment buildings concerns the accessibility of a common facility. Although part of the intercom system is within the individual apartment, the design and configuration of the system, including the external call points, is determined uniformly throughout the whole building and is therefore predominantly a common facility.

The provision of yard areas for assistance dogs is outside the scope of the NCC, as the provision of open space on allotments is a planning matter.

Items that could be modified post construction

While it is possible to regulate items such as switch/GPO types and locations, door hardware and heating and cooling controls in the NCC, such items could be easily changed by building occupants after they move-in, or as part of a later renovation, even if that may involve plastering and painting works (e.g. to patch over a hole left by a relocated GPO).

Items already covered by the NCC

Natural and artificial light, sound insulation and slip resistance are already regulated through the NCC. It is possible that suggestions for regulation in these areas were at least in part driven by stakeholders’ negative experiences with older buildings that were not designed to current standards, rather than newer, NCC-compliant buildings. It is also possible that stakeholders were calling for an increase in stringency on the current requirements. This was not able to be determined conclusively from the submissions.

The relevant existing NCC provisions are outlined in the table below.

Item	Class 1a buildings (NCC Volume Two)	Class 2 buildings (NCC Volume One)
Natural and artificial light	P2.4.4; Part 3.8.4	Part F4
Sound insulation	P2.4.6; Part 3.8.6	Part F5
Slip resistance	P2.5.1; Part 3.9.1	Section D; Part D2

Note: slip resistance provisions apply only to stairways, ramps and landings.

Items better determined through client involvement

The issue of sensory disability, be it vision or hearing impairment, autism, dementia or the like is complex and highly variable between people. Although there is information available on how best to design housing to accommodate these needs, it may not be feasible to adapt that information into a single set of uniform technical requirements in the NCC. This is because such requirements may suit one group of people, but be inappropriate for another. Whereas the aim of the LHDG is to provide a set of design specifications that are more generic, which they describe as follows:

LHA acknowledges that the core design elements do not necessarily accommodate the needs and abilities of all home occupants. However, they are considered to be of most widespread benefit and use in the majority of circumstances.¹³⁹

While client involvement can be encouraged, it also tends to vary according to the type of building contract being used. For example, off-the-plan apartments and volume built housing may allow only minimal client involvement. Whereas bespoke, upmarket, architect-designed houses allow a much higher degree of client involvement in the design process.

¹³⁹ *Livable Housing Design Guidelines*, above n 9, p 13.

14. Potential benefits

This section outlines the potential benefits of accessible housing, as described in several submissions on the Options Paper.

Note: this section is not intended to be used as an assessment of benefits for the purpose of a RIS. Rather, its purpose is to document ideas put forward by stakeholders for factors that could be taken into consideration.

Health benefits

The following were suggested as potential health benefits of accessible housing:

- Improved mental health as a result of reduced social isolation through increased visitability of housing.
- Reduction in injuries incurred as a result of slips, trips and falls in the home.

These suggestions were not referenced and did not elaborate on the evidentiary basis of their claims. However, this should not prevent them from being taken into account, as noted in the VCOSS submission:

Human experience cannot, and should not, always be distilled into a dollar figure. Quantifying human experience limits an understanding of people and their place in the world. It does a disservice to people who may be living with a disability, experiencing isolation or facing barriers that impact upon their lives in complex ways.

Community participation and inclusion

The following were suggested as potential benefits in relation to participation and increased inclusiveness of the community, as a result of accessible housing:

- A stable and appropriate place of residence can help people gain and maintain employment and participate in society.
- Increased ability to choose where to live, as accessible housing becomes available in more areas.
- Reduced incidence of people being delayed leaving hospital due to unsuitable housing.
- Delaying or avoiding the disruptive effects of people being forced to move house due to changes in health circumstances (e.g. declining mobility), including as a result of the ageing process.

The CUDA submission highlighted research relevant to this point:

The cost of supporting an older person at home is approximately 15% to 23% less than supporting an older person in an institutional setting.¹⁴⁰ The AHURI research found that “As government bears a significant proportion

¹⁴⁰ C. Bridge, P. Phibbs, H. Kendig, M. Matthews and B. Cooper, *Home ownership reduces the cost of home based care among old adults*, AHURI Research & Policy Bulletin no. 132, Australian Housing and Urban Research Institute, Sydney Research Centre, October 2010.

*of residential care costs (more than two thirds), there are significant savings for government if they can help people stay in their own homes longer”.*¹⁴¹

The importance of participation and inclusion were also captured by this comment (one of many) from a participant at the Forums:

I have a disability and I find it hard to understand why we're not included in society anymore. It's 2018 now and we're out of our institutions and all that sort of stuff and we need to be included in the community and to do that we need to have houses we can live in — it's just a matter of evolution. Things have to change and so do Australian standards need to change and include people like myself.

Qualitative and societal benefits

Several submission commented on the need for the RIS to be based on an understanding of societal benefits, particularly qualitative benefits.

The submission by Architecture & Access described this as follows:

The assessment of costs and benefits must include a measure of the qualitative personal and social benefits these [proposed changes] would have to a range of people living in society including people living with a disability, parents with prams, multi-generational living, people wanting to return from hospital, the aged and young children.

A similar view was also expressed in the submission by Queenslanders with a Disability Network (QDN):

QDN...supports [an RIS] that goes beyond a quantifiable cost/benefit analysis but is extended to a commitment of successive Australian Governments to social inclusion, and measuring the economic and social benefits of this.

The submission by ADACAS also emphasised a need to consider societal benefits:

The [RIS] must take into account wider social impact consideration than just the cost/benefit to the builders and consumers of applying this requirement [LHDG Gold Level] in the future...

The submission by Shelter WA added further definition of how the RIS process might capture societal benefits:

Shelter WA commends that [the RIS] should not only focus on the costs, that are easy to measure, but also consider opportunities for savings for social service and social welfare budgets, savings for health budgets, as well as externalities such as the negative spill-over implications on the

¹⁴¹ *Ibid.* p 2.

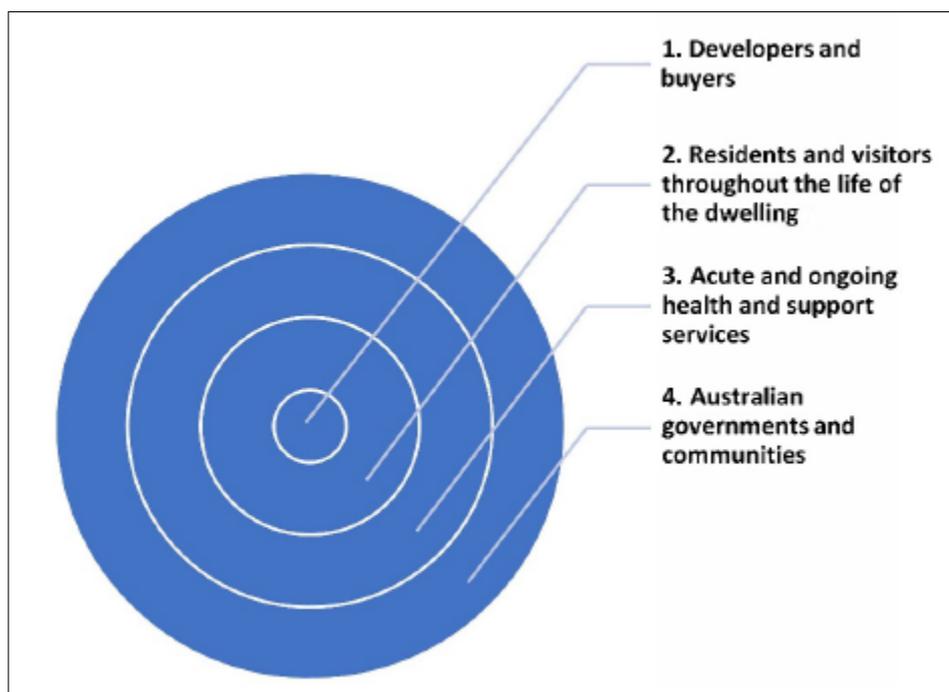
environment from retro-fits and unnecessary home modifications in the future.

Therefore, Shelter WA commends that the “costs and benefits are valued in terms of the economy and society as a whole” and not from the “vantage point of an individual, a firm, an organisation or a group”.

The submission by ANUHD proposed that costs and benefits be assessed according to four levels, which it described as follows (bold text in original):

1. **Developers and buyers** of new housing construction (the costs and benefits at the first point of sale).
2. **Residents and visitors throughout the life of the dwelling** and the industries providing home modifications and home-base assistive technology (the costs and benefits during the life cycle of the dwelling).
3. **Acute and ongoing health and support services**, including hospitals, in-home care providers, and providers of alternative specialist residential care (the costs and benefits for allied service providers and their funders as a consequence of inaccessibility in housing).
4. **Australian governments and communities** in normalising the presence of a wider range of people being included and participating in family and community life (the costs for Australian society in the resultant exclusion, such as increased demand on social housing and income support) or inclusion of households in society and the benefits of their inclusion (more citizens are employed or participating in their local community) (see Figure below).

Figure 2: Related levels of impact (extracted from ANUHD submission)



Many submissions also made reference to commitments made by COAG and the Australian Government in their description of how societal benefits should be understood; these commitments are discussed in chapter 3 of this report.

Averted costs of home modifications

A further potential benefit, noted in many submissions, was the averted costs of home modifications. Home modifications, including costs, are discussed in chapter 9 of this report, as well as chapter 15 in its summary of comments on the preliminary costings used in the Options Paper.

Standardisation

It was noted that the assessment of benefits should also take into account the potential for regulation to lead to cost reductions through standardisation, as construction methods and materials that are currently uncommon become more commonly used.

Realisation of benefits

While most of the submissions discussed in this section sought to articulate how the potential benefits of regulation should be assessed, others advised some caution with respect to whether the potential benefits of regulated accessible housing could be fully realised.

Specifically, that if the US research¹⁴² cited in the Options Paper applies similarly in Australia, there would be between 10% and 40% of dwellings where accessibility features may not be needed.

Additionally, it was also noted that given the NCC is not retrospective, the inclusion of any accessibility standard would only affect new dwellings, which are estimated to account for only 2% of stock in any given year.¹⁴³

Related matters

The responses summarised above indicate a concern among stakeholders that a significant proportion of the potential benefits of accessible housing are qualitative and as such may be difficult to meaningfully capture through conventional cost-benefit analysis. That concern is also recognised in relevant publications regarding cost-benefits analysis.^{144 145} This, however, does not mean that such benefits cannot be captured by the RIS. Unquantifiable benefits are known as 'intangibles'. The COAG Principles that govern how a RIS is undertaken provide for intangibles to be presented separately, so that decision-makers may consider these benefits (or costs) in conjunction with the quantified cost-benefit analysis.¹⁴⁶

However, there are some issues raised by stakeholders that may be difficult to count as potential benefits, for example:

- Reduced need for home modifications, where such modifications are not funded by the taxpayer: this type of home modification is still a form of economic activity that contributes to employment and tax revenue (i.e. by providing work for tradespeople, and collecting taxes on materials and labour). Put another way, a person spending their own money to carry out modifications on their own home does not result in lost productivity or inefficiency, in an economic sense, so may not be able to be counted as a 'cost' in societal terms.
- Potential savings from delayed admission into residential care or reduced hospitalisation/earlier discharge can be counted as direct benefits, but only to the extent that they are directly attributable to housing accessibility, separate from other factors such as individual's lifestyle, location, access to support (formal or informal) and financial circumstances. In other cases, there may be an indirect cost.

Standardisation, resulting in the reduction in production costs as volume increases, could be considered in ascertaining changes in potential costs, rather than being considered as a benefit in and of itself. That is, the objective is not standardisation per se, but standardisation effects may be realised as a consequence of another broader policy objective being met (policy context and objectives are discussed in chapter 3).

¹⁴² 'Aging and Disability: Implications for the Housing Industry and Housing Policy in the United States', above n 71.

¹⁴³ Sub. *Housing Industry Association*.

¹⁴⁴ Office of Best Practice Regulation, *Cost-benefit analysis*, Guidance Note, February 2016.

¹⁴⁵ Department of Finance and Administration (Commonwealth), *Handbook of Cost-Benefit Analysis*, Financial Management Reference Material no. 6, January 2006, [9.1-9.6] pp 93-96.

¹⁴⁶ *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, above n 7, p 21.

The realisation of benefits over the long term is able to be considered, but subject to certain limitations. These include:

- The assumption of a 40 year life span for buildings, which is standard practice for NCC proposals. This practice reflects the high degree of uncertainty associated with quantifying benefits over a longer time period.
- The application of a discount rate to 'Net Present Value' (NPV).¹⁴⁷

¹⁴⁷ *Ibid.* See also: *Cost-benefit analysis*, above n 144.

15. Potential costs and regulatory burden

This section outlines the potential costs and regulatory burden associated with accessible housing, as described in several submissions on the Options Paper.

Note: this section is not intended to be used as an assessment of costs or regulatory burden for the purpose of a RIS. Rather, its purpose is to document ideas put forward by stakeholders for factors that could be taken into consideration.

Comments on the preliminary costings

The Options Paper contained within it a set of preliminary costings for each of the three options discussed, based on calculations provided by a quantity surveyor, Donald Cant Watts Corke (DCWC). Estimates were provided for the costs of incorporating accessibility features as part of new construction and, for comparison, the approximate costs of retrofitting such features. Further detail about the costings is provided in the Options Paper.

These preliminary costings were commented upon and, in some cases disputed in many of the submissions made on the Options Paper. However, very few of these comments provided detail or evidence to support their disagreement with the preliminary costings, noting that this may have been because of a lack of detail in the Options Paper on how the preliminary costings were calculated. In some cases, alternative sources for cost information were suggested; these included:

- **Landcom Universal Housing Design Guidelines**, a guideline published in 2008 by Landcom, the NSW Government property development agency, which included some basic estimates of construction costs.¹⁴⁸
- **Victorian Government Regulation Impact Statement (RIS)** commissioned in 2010, regarding a proposal to set housing accessibility standards through an addition to the Victorian Appendix to the Building Code of Australia (now known as the National Construction Code).¹⁴⁹
- **Cost/benefit analysis conducted by Hill PDA** commissioned by the NSW Government in 1999 to assess the potential costs and benefits of adaptable housing.¹⁵⁰

The submission by Dr. Penny Galbraith provided a more detailed critique of the preliminary costings; it is quoted as follows (bold text in original):

Preliminary costings — new buildings p 26-27

The Options Paper describes using weighted average impact cost approach with cost impacts assessed on:

¹⁴⁸ Landcom, *Universal Housing Design Guidelines*, May 2008.

¹⁴⁹ Regulatory Impact Solutions, *Visitable and Adaptable Features in Housing – Regulatory Impact Statement*, prepared for the Department of Planning and Community Development, Victoria, 2010.

¹⁵⁰ Hill PDA in association with Brian Elton & Associates and Rider Hunt Quantity Surveyors, *Adaptable Housing Study*, prepared for the Department of Urban Affairs and Planning, Housing and Metropolitan Branch, New South Wales, May 1999.

i. Products/materials;

ii. Labour/design;

iii. Value of /m² lost to other uses.

Item iii. Value of /m² lost to other uses states: ‘This value exists regardless of whether the required floorspace is obtained by expanding the building footprint or by reducing the size of adjacent rooms.’

This assumes that extra floor space will be required. Without a definition of ‘standard practice’, we don’t know what space is being valued, nor do we know how much extra space is being priced. It is not that this is unreasonable, but lacks transparency and cannot be validated.

*It also assumes that there is a cost for this ‘space’, even if the footprint and amenity of the dwelling has not been affected. If there is no change to the footprint and the amenity is the same, then surely there is no loss. **If there no loss, there is no cost.***

Thinking about some examples:

- *A wider corridor only impacts [on floor space] if there are corridors and if the width is wider than the current ‘**standard**’. Apartments seldom have extensive corridors (unless the premium penthouses), with shared circulation space **standard**.*
- *A space around a toilet in an ensuite may not have any additional space requirement because circulation is shared with other fittings (unlike a small [separate] toilet compartment).*

iii. Value of /m² lost to other uses also states that composite rates have been applied, e.g. \$/m² of bathroom. Does this include services, fixtures and fittings? Or just the increase in floor wall and ceiling construction? The bathroom is one of the most expensive rooms in a dwelling. **Even if a bathroom requires to be larger, applying a composite rate would overstate the actual cost.**

Preliminary cost — retrofitting [p 28]

[Identical comments made in relation to the preliminary costings for retrofitting.]

Dr. Galbraith’s concern about the assumption of extra floor space was also raised in the submissions by CUDA and Shelter NSW, who both suggested that requirements for additional floor space could be alleviated through more ‘creative’ or ‘effective’ use of space through the design process, particularly for apartments.

Dr. Galbraith’s submission also included a detailed critique of Appendix A of the Options Paper. This detailed critique is quoted below (the numbers refer to Tables in Appendix A of the Options Paper) (bold text in original):

Tables A1 and A2 – Silver, [Class 1a] dwellings, new and retrofit comments

- *The low medium and high impact assessment for items 1 (step free from boundary), 2 (level entry), 3 (doors/corridors), 5 (bathroom), & 7 (stairs) is exactly the same for both new and retrofitted dwellings, This is unlikely.*

Tables A3 and A4 – Silver, apartments, new and retrofit comments

- *The low medium and high impact assessment for items 1 (step free from boundary), 2 (level entry), 3 (doors/corridors), 5 (bathroom), & 7 (stairs) is exactly the same for both new and retrofitted dwellings, This is unlikely.*
- *Item 6, wall reinforcement, is very low technology (ply sheet and noggins); a high impact assessment is an over-statement for new apartments.*
- *Item 1 (step free from boundary) is a current NCC requirement in new apartments, so the medium and high impact ratings are an over-statement.*
- *Item 2 (level entry) – almost all apartments have concrete slabs, and no thresholds at apartment entry door. The impact will relate to entry door width, which will be higher for retrofitting.*

Tables A5 and A6 – Gold, [Class 1a] dwellings, new and retrofit comments

- *The low, medium and high impact assessment for items 1 -5 (table [A5]) are exactly the same as Silver, even though the design guidelines are different. This is unlikely.*
- *Item 6, wall reinforcement impact weightings for new Gold dwellings are different to new Silver dwellings (Table A1) even though the design guidelines are the same.*
- *Wall reinforcement, is very low technology (ply sheet and noggins); a high impact assessment is an over-statement for new Class 1 dwellings.*
- *Items 11 (switches) and 12 (door hardware) were omitted from the Options Paper. Even if their cost impact was negligible, these items should have been included for completeness.*
- *Items 1- 6 (table [A6]) are the same as for new Silver (apart from wall reinforcement), despite different guidelines with a potentially greater impact on retrofitting.*
- *Items 7 – 10 (table [A6]) (stairs, kitchen, laundry, bedroom) – the impact for retrofitting is noted as the same for new dwellings; this is unlikely.*

- *Item 4 (Table [A6]), retrofitting a toilet to Gold [specification] is more likely to have a high impact.*

Table A7 and A8 – Gold, Apartments, New and Retro fit comments

- *The low, medium and high impact assessment for all items, except item 4 (toilet) are the same or new apartments and for retrofitting apartments. This is unlikely.*
- *Items 11 (switches) and 12 (door hardware) were omitted from the Options Paper. Even if their cost impact was negligible, these items should have been included for completeness.*
- *Item 6, wall reinforcement impact weightings for new Gold apartments are different to new Gold dwellings (Table A3) even though the design guidelines are the same.*
- *Wall reinforcement is very low technology (ply sheet and noggins); a high impact assessment is an over-statement for new Class 2 dwellings.*
- *Item 1 (step free from boundary) is a current NCC requirement in new apartments, so the medium and high impact ratings are an over-statement.*
- *Item 2 (level entry) – almost all apartments have concrete slabs, and no thresholds at apartment entry door. The impact will relate to entry door width, which will be higher for retrofitting.*

The submission by the HIA also offered a detailed critique of the preliminary costings provided in the Options Paper. The HIA's critique covered different issues to the that by Dr. Galbraith and as such has also been quoted into this report, as below (underlining in original):

Methodology used in Options Paper costings

The setting out of three categories of new build as a starting point to assess the costs is appropriate – namely current building designs where the cost impact is either low, medium or high.

However, it is the home building industry (rather than a single quantity surveyor) that is best placed to judge what proportion of new builds will experience a high, medium or low cost impact.

It is industry that designs, builds and has the appropriate understanding on the nature of new home building – and therefore industry that is the best source for identifying how commonplace various design features are.

Given that the weighted average cost impacts listed in the Options Paper are based on the judgement of a single quantity surveyor, they are therefore unlikely to be accurate and [are] understated.

Weighted average

HIA has a number of concerns with the Options Paper's methodology for estimating the costs in particular, the method for calculating the 'weighted average impact cost' per dwelling. These weighted averages are likely to be inaccurate and understated.

An example to illustrate this the quantity surveyor has judged that for the majority of new Class 1a dwellings, the cost impact of at least one level (step free) entrance into the dwelling will be at most medium. HIA's preliminary consultations indicates that this is inaccurate – and that the reverse is likely. The cost impact of this change is likely to be high in the majority of Class 1a buildings.

Any weighted average cost impact listed in a future RIS should therefore be based on data and feedback from industry.

For example, the combined market share of the HIA's Housing 100 (the country's largest volume builders) is typically around 30% - feedback from this group is likely to provide the best sample of the population of new home building and therefore the best estimates on the distribution [of] high, medium and low cost impacts across all newly built homes.

Conversely, the submission by the Queensland Department of Housing and Public Works suggested that relying solely on the advice of a quantity surveyor would lead to costs being overstated, and that this was support by anecdotal evidence obtained from builders in Queensland. The same submission then expressed a concern that overstating compliance costs could undermine the “success of the accessible housing proposal”.

Cost and regulatory burden and proportionality

This section summarises comments made in submissions that addressed the issue of cost burden. Cost burden is not the same as cost impact. Cost impact describes how much something costs; cost burden refers to who pays that cost (i.e. who carries the 'burden'). The other burden new regulation imposes is a regulatory burden (administrative burden).

Several submissions argued that the cost burden of providing features for a specific group of people (people with disability) should not be borne by all new home buyers, particularly those who may not want such features. Related to this was the concern that the costs could fall disproportionately on small business and small developments, relative to large ones.

However, other submissions noted that regulatory burden for larger business would in fact be significant given they have larger volumes of existing house plans, which they would need to amend in order to comply with the LHDG.

Related to this was the suggestion that buyers of new housing may not want to be forced to bear an additional cost burden in the interests of 'the common good', which was explained in the submission by ANUHD (among others), who saw the issue as part of their argument in favour of regulation:

While buyers generally have been found to accept features for the common good, they want these added features to be included unobtrusively at no extra cost and without fuss, as ‘normal’ inclusions.¹⁵¹ Individual buyers balk at taking responsibility for these ‘common good’ features, as added extras, particularly if there are no evident immediate and personal benefits to them.

The point made in the quote above was further reinforced by the frustrations conveyed in an individual submission, which stated:

What I disagree with is that the onus of this objective [Options Paper, p 13] lies with “new home” buyers. This is a relatively small percentage of the population wearing the cost of the entire community need. This is not the only disproportionate onus placed on new home buyers. They already have to “fly the flag” (and wear the costs) of being leaders in energy efficiency, electrical and hot water safety just to name a couple. At least these “forced compliances” have some immediate benefit to the “home buyer”. Paying extra for accessibility is something that may be useful (if at all) for a short time over the life of the home.

The issue of cost burden and proportionality was also raised in the submission by Master Builders Australia, arguing that if an extra cost is imposed for the common good, then it should be made clear in the RIS:

In undertaking any cost benefit analysis, the ABCB must ensure it not only quantifies the total cost but also who pays the cost. If we have a small group of people (new home buyers) paying the cost for a wider social benefit then that needs to be made clear.

Regulatory burden

This section summarises comments made in submissions that addressed the issue of regulatory burden. Regulatory burden refers to the cost of additional compliance activities and administrative processes (as opposed to additional construction costs which are separately costed) that may accrue through the introduction of new regulation.

Comments addressing the issue regulatory burden are summarised as follows:

- **Time spent demonstrating compliance:** additional NCC requirements would add to the time taken to demonstrate compliance, for example additional checks at design assessment and final inspection stages.
- **Additional consultants:** accessibility requirements should not result in an access consultant, or similar, being required as part of designing and certifying a house. As one individual’s submission put it: “I should not need an access consultant to build a house”.
- **Costs related to the use of Performance Solutions:** accessibility requirements should have appropriately designed DtS Provisions, including concessions and exemptions if needed, so as to avoid undue reliance on Performance Solutions to achieve compliance

¹⁵¹ L. Crabtree and D. Hes, ‘Sustainability uptake in housing in metropolitan Australia: An institutional problem, not a technological one’, *Housing Studies*, 24(2), 2009, pp 203-224.

on difficult sites. This is on the basis that Performance Solutions can attract additional costs in relation to design and verification, as well as administration through State/Territory building control systems.

Housing costs/affordability

Several submission raised concerns about the potential implication of a regulated accessibility standard on housing affordability.

Generally these comments were suggesting that an increase in construction costs would have an adverse impact on housing affordability. In contrast, others argued that because changes in construction costs do not have sufficient influence on the overall cost of housing, a minor increase in those costs would have a negligible impact on affordability overall.

No referenced evidence was provided in support of either claim.

Related matters

Comments on the preliminary costings

The comments summarised in relation to the preliminary costings primarily concern matters that are within the scope of the RIS. This is because they go directly to how costs are identified and quantified, which is the role of the RIS, rather than refining terminology, objectives and policy options, which was the role of the Options Paper process.

Cost burden

The comments regarding cost burden highlight an important element of the cost-benefit analysis process that underpins the RIS. This is the need to clearly locate the distribution of any cost-burdens associated with regulatory options, so that they are clear to decision-makers and are not obscured by the otherwise aggregate quantification of costs and benefits (i.e. costs and benefits being assessed on a societal rather than individual or specific group level). This is explained in Appendix C of the COAG Principles as follows:

Distributional implications can be obscured by the aggregating characteristics of the cost-benefit process. Analyses should include all the information available to ensure that decision-makers are aware both of the identity of the groups likely to gain and to lose as a result of government action, and the nature and size of the gains and losses. This information should be carefully presented, most usefully in the form of a distributional incidence chart or matrix.

Distributional judgements are properly made at the political level. In the interests of avoiding subjective bias, analysts should, by and large, refrain from attaching distributional weights to cost and benefit streams. Exception might be where there are unambiguous government policy objectives to assist specific groups in the community, and where justification for special assistance to these groups relative to other groups is clearly established. However, for reasons of transparency, decision-makers and the public

*should be made fully aware of the costs of government action aimed at benefitting particular individuals or groups in the community.*¹⁵²

This means that it is a matter for Governments to determine whether costs incurred by one group should be considered differently to costs incurred by another, or how such cost burdens should be distributed. To take the view that accessible housing will benefit 'everyone' is to disregard the distribution of cost burden.

Regulatory burden

Regulatory burden, which refers to the additional compliance costs borne by business, will be assessed through the RIS process, which would capture issues such the need for additional technical advice, documentation and administration processes. One way of assessing regulatory burden is outlined in Appendix D of the COAG Principles (Business Compliance Cost Checklist).¹⁵³

Each of the issues summarised above would likely be assessed as potential regulatory burdens as part of the RIS.

¹⁵² *Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies*, above n 7, p 26.

¹⁵³ See also: Office of Best Practice Regulation, *Regulatory Burden Measurement Framework*, Guidance Note, February 2016.

Appendix A – List of submissions

The following individuals and organisations made submissions on the Options Paper. In addition to those listed below, ten confidential submissions and one case study were also received.

(Note: acronyms and abbreviations that appear in the list below are defined in Appendix E.)

Organisations

ACT Council of Social Service

Action for More Independence and Dignity in Accommodation

ADACAS Advisory

Aged and Community Services Australia

Amaze

Architecture & Access

Assistive Technology Australia

Australian Association of Gerontology

Australian Human Rights Commission

Australian Institute of Architects

Australian Institute of Building Surveyors

Australian Network for Universal Housing Design

Australian Rehabilitation and Assistive Technology Association

BCA Access

Blind Citizens WA

Building Designers Association of Australia

Building Designers Association of Queensland

BWA National Building Consultants

Cameron Chisholm Nicol Architects

Carers Victoria

Centre for Universal Design Australia

City of Adelaide (SA)

City of Port Phillip – Officer Submission (Vic)

City of Sydney (NSW)

COTA NSW

COTA Victoria

Dementia Australia

Dementia Training Australia

Department of Communities (WA)

Department of Communities, Disability Services and Seniors (Qld)

Department of Health – Central Queensland Hospital and Health Service
Department of Health – Metro North Hospital and Health Service (Qld)
Department of Health – North West Hospital and Health Service (Qld)
Department of Health – South West Hospital and Health Service (Qld)
Department of Housing and Public Works (Qld)
Department of State Development, Manufacturing, Infrastructure and Planning (Qld)
East Coast Building Design
Home Modification Information Clearinghouse
Housing Industry Association
Innovative Certifiers
Kingborough Council (Tas)
Local Government NSW [draft]
Master Builders Australia
Melbourne Disability Institute
Moreland City Council (Vic)
Mornington Peninsula Shire (Vic)
Mornington Peninsula Shire (Vic) – Disability Advisory Committee
Municipal Association of Victoria
National Disability Services
NSW Council of Social Service
Occupational Therapy Australia
Old Colonists' Association of Victoria
Parent 2 Parent Association Queensland
People with Disability Australia
People with Disability ACT
People with Disability WA
Physical Disability Council of NSW
Polio Australia
Post Polio Victoria
Property Council of Australia
Q Shelter
Queensland Action on Universal Housing Design
Queenslanders with Disability Network
Shelter NSW
Shelter WA
Solar Dwellings
Strata Community Association of Queensland

Summer Foundation
Sunshine Coast Access Advisory Network
Townsville City Council (Qld)
Urban Health Consultants
Victorian Council of Social Service
Visionary Design Development
Waverley Council (NSW)
Women with Disabilities ACT
Women with Disability Victoria
Wyndham City Council (Vic)

Individuals

Acitelli, Frank	Frommer, Lydia
Alpin, Tammy	Galbraith, Penny
Balchin, Alan	Gibbins, Roger
Barling, Jen	Gifford, Katherine
Bamford, Nick	Gilovitz, Moshe
Bedford, Peter	Glen, Peter
Borg, Samantha	Gosper, John
Borthwick, Murray	Gould, Wendy
Buckby, Gayle	Gowlett, Adam
Carrington, David	Hall, Aaron
Carrington, Laura	Hopper, Mark
Coady, Gil	Imber, Tony
Darcy	Jackson, Vanessa
Davenport, Francesca	Jourdian, Owen
Donald, Judy	Kellermeier, Steve
Egan, Lynn	Kunach, Mark
Cawthorne, David	Lochert, Ron
Chan, Emma	Lovelace, Wendy
Collier, Naomi	Lunt, Kingsley
Cooper, Mark	MacPherson, John
Dickinson, William	Maddigan, Rhonda
Edwards, Lisa	McKenna, Chanelle
Evernden, John	Moutrie, Howard
Fankhauser, Karen	Moxon, John
Felstead, Graham	Olley, Peter & Gaston, Pam
Freestone, Liz	Oliveri, Neil

Palumbo, Louis

Payne, Robin

Relf, Mark

Renton, Bec

Rice, Trevor

Robins, Deb

Roennfeldt, Angela

Seale, Belinda

Sharman, Eleanor

Shillabeer, Jeff

Shoebridge, David (MP NSW)

Stanzel, Jenny

Steel, Emily

Steer, Charlotte

Stewart, Peter

Stopajnik, Robert

Summers, Shane

Tarrant, Adrian

Thompson, Robyn

Thorley, Linden

Trengove, Jane

Van der Have, John

Weber, Harald

Wells, Geoffrey

Williams, Shukmun

Williamson, B.J.

Williamson, Doug

Appendix B – Methodology

This section outlines how the consultation process leading to this report was conducted, including the collection and review of submissions received.

Recording of the National Consultation Forums

For the benefit of this report, the discussions that occurred at each of the Accessible Housing National Consultation Forums (see section 2) was recorded, by the following means:

- Live captioning – for all forums except Canberra and Hobart.
- Note taking – Canberra and Hobart forums.

The live caption printouts and notes from all eight forums were collected and reviewed in the same way as submission on the Options Paper (see below for detail of review process).

Collection of submissions on the Options Paper

Submissions on the Options Paper were collected between 19 September and 30 November, 2018, by email or post.

Respondents had the option of either answering a questionnaire provided at the end of the Options Paper, or choosing their own format. The purpose of the questionnaire was to provide a prompt to help people form their responses, rather than as a basis for data collection or quantitative analysis.

Overall, the majority of stakeholders did not use the questionnaire, instead using their own template/letterhead, or modified versions of the questionnaire, to form their submissions. Consequently, the number of respondents who agreed or disagreed with the various statements in the questionnaire has not been tallied or reported upon. This is consistent with the predominantly qualitative intent of the report, as described in the Preface.

A total of 179 submissions were received — these are listed in Appendix A. Many submissions also referenced documents such as journal articles to support their views. The most relevant of these references have been listed in the Bibliography at Appendix C of this report.

Submissions were collected on the basis they would not be published, but may be quoted or cited, unless marked 'confidential'. This approach was taken so as to enable stakeholders to be frank in articulating their views to the ABCB, and to avoid the process becoming a forum for stakeholders to criticise each other publicly on the basis of their respective submissions.

Review of submissions and forum notes/transcripts

Submissions and notes/transcripts from the forums were reviewed using the following process:

- (1) The content of submissions was collated according to the following broad categories:
 - Issues/problems.
 - Ideas and suggestions.
 - Comments, information and reference material.

- Matters outside the scope of the project or the role of the ABCB.
- (2) These groupings were then used to derive the chapter headings and sub-headings used in this report. Comments were then summarised under each heading. These summaries were made to be descriptive only, and do not include any expression of opinion by the ABCB. Where appropriate, quotes were used to minimise the likelihood of misrepresentation. However, quotes were kept to a minimum in the interests of conciseness and the avoidance of repetition.

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This bibliography lists documents that were referenced in submissions on the Options Paper, or that were otherwise considered to be of direct relevance to the Accessible Housing Project.

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Appendix D – Acronyms and abbreviations

The following acronyms and abbreviations are used throughout the report:

AAG, means Australian Association of Gerontology.

ABCB, means Australian Building Codes Board.

above n, followed by a number, is used in the footnotes to direct the reader to an earlier footnote, generally for the purpose of locating the full details of a source cited.

ABS, means Australian Bureau of Statistics.

ACT, means Australian Capital Territory.

ADACAS, means the ACT Disability, Aged & Carers Advocacy Service.

AHRC, means the Australian Human Rights Commission.

AMIDA, means Action for More Independence and Dignity in Accommodation (advocacy group).

ANUHD, means Australian Network on Universal Housing Design.

AS, means Australian Standard.

BCA, means the Building Code of Australia (NCC Volumes One and Two).

BCC, means Building Codes Committee.

BMF, means Building Ministers' Forum.

Cf. used in the footnotes, means 'compare' (L '*confer*'). It is used to indicate a contrast between two or more sources cited.

COAG, means Council of Australian Governments.

COTA, means the Council on the Ageing.

CRPD, means the United Nations Convention on the Rights of Persons with Disability.

CUDA, mean the Centre for Universal Design Australia.

DCWC, means Donald Cant Watts Corke (quantity surveyors).

DDA, means *Disability Discrimination Act 1992* (Commonwealth).

DPCD, means Department of Planning and Community Development (Victoria).

DRC, means Disability Reform Council.

DtS, means Deemed-to-Satisfy (Provision).

GPO, means general power outlet.

HIA, means the Housing Industry Association.

HITH, means hospital in the home.

ibid., used in the footnotes, means 'in the same place' (L '*ibidem*'). It is used to refer to a source cited in the footnote above.

ICESCR, means the United Nations International Covenant on Economic, Social and Cultural Rights.

IGA, means the ABCB Inter-governmental Agreement.

LHA, means Livable Housing Australia.

LHDG, means Livable Housing Design Guidelines.

m, means metres.

mm, means millimetres.

MBA, means Master Builders Australia.

NCC, means National Construction Code.

NCOSS, means the NSW Council of Social Service.

n.d., used in the footnotes, indicates a source that does not have a known publication date.

NDIA, means the National Disability Insurance Agency.

NDIS, means National Disability Insurance Scheme.

NDS (1), means the COAG National Disability Strategy.

NDS (2), means National Disability Services.

NDUHD, means the National Dialogue on Universal Housing Design.

NSW, means New South Wales.

NT, means Northern Territory.

NZS, means New Zealand Standard.

OBPR, means Office of Best Practice Regulation.

OTA, means Occupational Therapy Australia.

PCA, means the Property Council of Australia.

PCC, means Plumbing Code Committee.

PDCN, means the Physical Disability Council of NSW.

PFC, means Proposal-for-Change.

QDN, means Queenslanders with a Disability Network.

Qld., means Queensland.

R&IA, means Rights & Inclusion Australia.

RIA, means Regulation Impact Assessment. An RIS is one component of the RIA process.

RIS, means Regulation Impact Statement.

SA, means South Australia.

SDA, means Specialist Disability Accommodation, a program administered under the NDIS.

SDAC, means the survey of Disability, Ageing and Carers (ABS publication).

sq. m, means square metres (area).

Sub./Subs., means a submission/submissions on the Options Paper.

Tas., means Tasmania.

UK, means the United Kingdom.

VCOSS, means the Victorian Council of Social Service.

Vic., means Victoria.

VM, means Verification Method.

WALGA, means the Western Australian Local Government Association.

WDV, means Women with Disabilities Victoria.

WHO, means the World Health Organization.

WWDACT, means Women With Disabilities ACT.

Appendix E – Glossary of terms

This appendix provides definitions of certain terms used throughout this report.

Accessible Housing, means any housing that includes features to enable use by people either with a disability or transitioning through their life stages.¹⁵⁴

COAG Principles, means the document: *'Best Practice Regulation – A Guide for Ministerial Councils and National Standard-Setting Bodies*, published by the Council of Australian Governments in 2007.

Class 1a building, means one or more buildings which in association constitute a single dwelling, being—

- (i) a detached house; or
- (ii) one of a group of two or more attached dwellings, each being a building, separated by a fire-resisting wall¹⁵⁵, including a row house, terrace house, town house or villa unit,

which are located above or below another dwelling or another class of building other than a private garage¹⁵⁶.

Class 2 building, means a building containing 2 or more Sole Occupancy Units, each being a separate dwelling.

Class 2 sole occupancy unit, means a dwelling within a Class 2 building (i.e. an apartment).

Concession, means a clause that reduces the stringency of a regulatory requirement in certain, specifically defined circumstances.

Deemed-to-Satisfy Provision, means provisions set out within the NCC or its referenced documents, that are deemed to meet the Performance Requirements.

Deemed-to-Satisfy Solution, means a building solution that complies with the Deemed-to-Satisfy Provisions of the NCC.

Dwelling, means a building that is a Class 1a building or a Class 2 Sole Occupancy Unit.

Egress, means to leave or exit a building.

Exemption, a clause that allows non-compliance with a regulatory requirement in certain, specifically defined circumstances.

Gold Level, means the features described as Gold Level in the relevant parts of the LHDG.

Net benefit, has the meaning that it has in the COAG Principles.

¹⁵⁴ *Accessible Housing Options Paper*, above n 10, p 4.

¹⁵⁵ 'fire resisting' has the meaning that it has in NCC Volume One.

¹⁵⁶ 'private garage' has the meaning that it has in NCC Volume One.

Objective (1), means the objective of the Accessible Housing Project.

Objective (2), used within or in reference to the NCC, means a statement which is considered to reflect community expectations.

Options Paper, means the *Accessible Housing Options Paper* published by the ABCB in September 2018.

Performance Requirement, means a requirement which states the level of performance which a Performance Solution or Deemed-to-Satisfy Solution must meet. Other than the General Requirements given at the start of each Volume, the Performance Requirements are the only mandatory requirements of the NCC.

Performance Solution, means a method of complying with the Performance Requirements other than by a Deemed-to-Satisfy Solution.

Planning, is a reference to town planning.

Platinum Level, means the features described as Platinum Level in the relevant parts of the LHDG.

Premises Standards, means the *Disability (Access to Premises—Buildings) Standards 2010*, as made under the DDA.

Regulation Impact Analysis, has the meaning that it has in the COAG Principles.

Regulation Impact Statement, has the meaning that it has in the COAG Principles.

Silver Level, means the features described as Silver Level in the relevant parts of the LHDG.

Unjustifiable hardship, has the meaning that it has in the DDA and Premises Standards.

[End of report]

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