



RIGHTS & INCLUSION  
AUSTRALIA

By email: [PreBudgetSubmissions@treasury.gov.au](mailto:PreBudgetSubmissions@treasury.gov.au)

27 January 2023

To whom it may concern,

**Re: 2023-2024 Budget**

I write to you on behalf of Rights & Inclusion Australia (R&IA) which is a national Disabled Persons Organisation (DPO) promoting the rights and inclusion of people with disability, with a focus on accessibility in housing and the built environment. R&IA has been heavily involved in the push for the Livable Housing Design Standards to be adopted in the National Construction Code (NCC - effective 1 October 2023), and is leading the push for the NSW Government to adopt this aspect of the NCC. In 2021-2022 we completed work on draft guidelines and standard for accessibility in public buildings and infrastructure in the Pacific region. We currently sit on the Australian Building Codes Board (ABCB) Advisory Committee on the implementation of the Livable Housing Design Standard in the NCC.

We make submission based on work we have undertaken since 2020 with national Shelter and Enliven Community, as a result of funding obtained from an Information Linages Capacity Building (ILC) grant from the Department of Social Services (DSS). The [Opening the Door project](#) has delivered online forums and in-person workshops in all states and territories, except Victoria (scheduled for February 2023), with the aim of enabling people with disability to identify and access greater housing options. Our observations made during these forums indicate that against virtually all measures people with disability are at further disadvantage when it comes to accessing and maintaining housing. Across the country renters with disability predominantly access the private rental market (in WA over 78,000 out of a total of 111,600) and are subject to discrimination and insecurity of tenure due to steeply rising rental prices, and an unwillingness on the part of landlords to apply the required modifications needed to make dwellings accessible. Our conversations with people with disability, and professionals working to assist people to access and maintain housing have identified a number of barriers that people are facing currently, none of which are surprising, but the **impact** of which are significant on people with disability whose housing options are becoming more and not less limited than they have been in the past. These include:

- **affordability:** rental affordability is a major barrier to anyone on income support being able to live in private rental anywhere in Australia, and given the poor rates of disability employment this is exacerbated, and worthy of consideration for “gap” payments through the NDIS to participants to enable rental;
- **accessibility:** the range of housing available for purchase or rent in Australia is limited by the lack of accessibility that is built into the design of housing. This is despite the agreement forged in 2010 with the building industry that basic level accessibility (LH Silver Standard) would be the standard to which all new housing would be built by 2020, a “voluntary” agreement which was blatantly dishonoured by that industry, requiring an

intervention by the Australian Building Codes Board which resulted in the regulation of this standard in the national Construction Code 2022. The availability of this stock is marginal at best, and there are few marketing engines which currently link people who need it to available stock; and, of course, no means by which accessible housing can be guaranteed to be used by those who require it;

- **discrimination:** identifying and addressing primary and secondary discrimination, and also raising awareness within the building and real estate industries about the expectation for all business and government across Australia to include people with disability in their practices and approaches;
- **lack of rights for participants in shared housing, particularly group homes:** the gains that were made under the Commonwealth Disability Services Act 1986, in increasing the rights of people living in group homes, by requiring a genuine separation between housing provider and service provider has been lost since the inception of the NDIS. The NDIA seems to regard this area as beyond its jurisdiction, and again has failed to do anything at the systemic level to influence tenancy rights regulation and legislation to protect and enhance the rights of its participants.

There is an urgent need to intervene in the housing market to make it accessible to people living with disability (see 6.3 below). The adoption of the Livable Housing Design Standard (silver) in the National Construction Code 2022 (NCC) guarantees a basic level of accessibility in housing construction in most jurisdictions (NSW and WA continue to refuse to adopt this aspect of the NCC). It will take several decades for the housing market to become saturated with stock that is designed and built with these features, and in the meantime premises available for sale or rent will need to be modified. Having negative gearing as an incentive for this purpose, and for the purpose of providing rental premises at a reduced rent, but with it being so generally available currently there are no incentives to drive a positive change in the design of housing, and consequently little scope to improve the availability of suitable housing for people living with disability, including people who are ageing.

National housing policy and initiatives must explicitly address the housing barriers faced by Australians living with disability. Key areas that need to be addressed immediately are:

1. Tenancy rights
2. Housing supply
3. Availability of home modifications
4. Education and awareness raising within the private markets

## **1. Tenancy Rights**

The lack of consistency of tenancy rights legislation and regulation across jurisdictions means that people with disability face a postcode lottery when it comes to security of tenure. Too much emphasis is currently placed on the National Disability Insurance Scheme (NDIS) to meet the individual needs of people with lifelong disability, but in fact its remit does not extend to the provision of housing, beyond the Specialist Disability Accommodation (SDA) program, and the delivery of support to group homes. Problems with these arrangements have recently been highlighted in the Own Motion Report on Aspects of Supported Accommodation in the NDIS by the NDIS Quality and Safeguards

Commission<sup>1</sup>, including the lack of choice available to people living in group homes to be able to consider other housing options (p.103). While the report emphasises the management control that service providers often wield over those who reside in group homes, the feedback from participants in workshops held by National Shelter and R&IA identified the lack of basic tenancy or residents' rights available to many people living in supported accommodation. There are reports of people with disability being moved against their will between houses that are operated by the same service provider, with no recourse for that resident to any legal instrument or support as prevention or remedy. Given the goals of inclusion and parity for people with disability with other members of Australian society, this points to a need for a rapid fix in tenancy regulation to cover the rights of people in supported accommodation, and for this cover to be universal across all Australian jurisdictions.

People with disability have reported being prevented from keeping companion animals in rented accommodation. This is being addressed in some reviews of tenancy laws, but again only in some jurisdictions, and although approved therapy animals tend not to be excluded, reforms need to be made across the board to enable companion animals to be kept. The availability of home modifications to people renting privately is, to a large extent, in the hands of landlords, who in most jurisdictions are allowed to refuse requests for these essential improvements to be made, even if they are to be paid for by the tenant or, more often, a government subsidy program. Tenancy reform in this area is seeking to shift the responsibility to the landlord to provide good reason why a request for modifications should be denied.

## **Recommendation.**

Rights & Inclusion Australia recommends that the Australian Government's leadership on housing include an explicit focus on the tenancy rights of people with disability that are currently being ignored or sidelined, and that it pushes for reforms that protect these rights across all jurisdictions.

### **1.1.1 Housing supply**

People with disability are more negatively impacted by the current housing shortage because of the need of many people with mobility impairment to be in housing which has basic features that enables them to function independently, and/or of housing that is situated close to amenities and support networks, including family, friends and specialist services. The changes to the NCC to include the Livable Housing Design Standard (silver) will improve the availability of better designed dwelling in the long-term, but there is a need for a rapid increase in the supply of housing that is built to this, and higher standards, immediately. The NCC also includes a voluntary "gold" standard, which is currently being published as a Standard and a Workbook by the Australian Building Codes Board. This level needs to be the standard attained in all initiatives of government from the time the NCC is operational (May 2023) and needs to be the standard that we work to implement as mandatory when the NCC is next reviewed and amended.

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<sup>1</sup> See <https://www.ndiscommission.gov.au/resources/reports-policies-and-frameworks/inquiries-and-reviews/own-motion-inquiry-aspects>

## Recommendation

The “gold” standard, voluntary in the NCC 2022 should be the level of design applied to all new housing built as a result of the Australian Government’s National Housing Accord, and any other government-funded or incentivised housing development going forward.

To ensure housing is built to accommodate people with diverse needs into the future, the Australian Government should lead the states and territories to push for the adoption of “gold” Livable Housing as the mandatory standard in the next version of the NCC.

### 1.1.2 Availability of home modifications

Housing in Australia will be better designed and built into the future due to the changes in the NCC, but this will not address the immediate shortage of suitable housing for people living with disability now and in the short-term. There will remain the need for significant home modifications, some involving expensive adjustments to the structure of the dwelling, due to the poor design and construction of many if not most houses in Australia up until this point. The lack of availability of home modifications to people in private rental has already been mentioned, and this is currently not being remedied by the promise of full-cost recovery programs such as the NDIS, as landlords mainly have carriage over whether or not modifications get done in properties they own. Added to this is the problem of a disjointed and differently funded home modification “system” in Australia, which is in fact a series of non-connected programs which are determined by eligibility status based on disability, or age, or Veteran-status, or entitlement through traumatic injury. These are administered separately and with no reference to each other by various state and Commonwealth departments. The result is a confusing and inequitable set of subsidies available to people who require modifications (eg a person who becomes disabled prior to the age of 64 can get access to full cost-recovery modifications, whereas a person over the age of 65 can get access to a limited and capped subsidy, if funds remain either in the CHSP service or in their Home Care Package).

There is a need at this time to for the Australian Government to consider the issue of home modifications as primarily a housing issue that positively contributes to the care and support of individuals at home, and increases their functional independence and wellbeing, and one which is critical as much because of the historical negligence in housing planning leading to inaccessible and dangerous housing, as much as it relates to a person’s individual frailties due to disability and/or ageing. There is a need for coordination of all home modification programs across Australia, to provide a simpler and more equitable program to all people who require these modifications, and to enable certainty within the industry that has formed over the past 40 years to service these needs, but which is fractured by programmatic diversity and is not currently provided with the means to maintain and improve industry standards, nor to ensure there is coverage to ensure the availability of service throughout the country. This stands in contrast to the UK, for example, where the centralised Disabled Facilities Grant<sup>2</sup> stands as the centrepiece of a system where providers are quality assured and given training by a well resourced industry association that receives government funding to improve the sector and to innovate.

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<sup>2</sup> See <https://wwwFOUNDATIONS.UK.com/guides/process-a-dfg/>

## Recommendation

Rights & Inclusion Australia recommends that the Australian Government addresses home modifications as a national issue that is relevant to the supply of housing urgently required by people living with disability, and that requires a harmonisation of approach by all jurisdictions and all departments which currently administer and subsidise home modifications.

Rights & Inclusion Australia recommends the immediate funding of Home Modifications Australia (MOD.A), which currently operates without staff as the peak association for the home modifications industry and uses the example of Foundations UK as the model for MOD.A's operation.

### 1.1.3 Education and awareness raising within private markets

Having an explicit focus on housing for people living with disability within a role of coordination across housing generally will enable the identification of areas which are currently either unexplored or lie outside of the administrative remit of the departments and jurisdictions which currently have carriage over the NDIS and Aged Care (and Veterans Affairs and mental health and homelessness services etc). It also allows a focus on achieving equity in sensitive areas such as the modification of private property which has been argued can increase the value of the person's home who is in receipt of the modifications<sup>3</sup>, as well identifying where gaps in supply exist and where cost pressures are so prohibitive that people have no option but to move out, often into residential care. Beyond the issue of home modifications there is a need for greater publicity about the availability of housing which has accessible features, an agreed standard for what can be classed as "accessible" in the advertising of properties, and a requirement for all real estate agents to promote these features when marketing properties for sale or rent. There is evidence of such initiatives being trialled in Western Australia, but again there is no consistency across jurisdictions. There are areas which need to be explored, including:

- incentives for home owners to renovate to accessible standard, thus reducing the cost burden to government in future to subsidise home modifications;
- strategies and initiatives to ensure that all property available for private sale or rental which is built to accessible standard is advertised with these features prominently displayed;
- incentives and education for private landlords and real estate agents about the benefits of providing accessible features in their properties, and of enabling modifications to be made when requested;
- education and awareness raising amongst owners corporations and strata management companies regarding their obligations to provide greater accessibility in properties, and the benefits that will accrue from this.

## Recommendation

Rights & Inclusion Australia recommends that the Australian Government funds an initiative that is focused on awareness raising and the development of nationally consistent measures which will increase the availability of accessible dwellings in the private housing

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<sup>3</sup> See for example <https://www.health.gov.au/resources/publications/assistive-technologies-and-home-modifications-scheme-for-in-home-aged-care?language=en> p. 23

market and improve the provision of information to prospective customers who require these features in their homes.

Yours sincerely,

A handwritten signature in black ink that reads "Michael Bleasdale". The signature is written in a cursive style with a large initial 'M'.

Michael Bleasdale  
**Executive Officer, Rights & Inclusion Australia**