



Keep Going for Gold





VCOSS Response to the Australian Building Codes Board Regulatory Impact Statement on the Proposal to Include Minimum Accessibility Standards in the National Construction Code

August 2020

The Victorian Council of Social Service is the peak body of the social and community sector in Victoria.

VCOSS members reflect the diversity of the sector and include large charities, peak organisations, small community services, advocacy groups and individuals interested in social policy.

In addition to supporting the sector, VCOSS represents the interests of Victorians experiencing poverty and disadvantage, and advocates for the development of a sustainable, fair and equitable society.

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A fully accessible version is available online at vcoss.org.au/policy/



VCOSS acknowledges the traditional owners of country and pays respect to past, present and emerging Elders.

This document was prepared on the lands of the Kulin Nation.



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Introduction

The Victorian Council of Social Service (VCOSS) welcomes this opportunity to respond to the Australian Building Codes Board's (ABCB) Regulatory Impact Statement (RIS) on the Proposal to include Minimum Accessibility Standards for Housing in the National Construction Code (NCC).

VCOSS strongly believes that housing is the foundation for a good life. When people have housing that is safe, accessible, and suitable to their needs, the conditions are created for them to thrive. Regulating accessible housing is the best way to deliver such homes for Australia's ageing population and people with disability.

To date, relying on other mechanisms – such as voluntary compliance, encouraging accessible housing through home modification schemes, and provision of social housing – has not delivered the scale of accessible housing required. Failing to include adequate minimum accessibility standards in the NCC now will have immediate **and** long-tail impacts, effectively preventing millions of Australians, including those with disability or care needs, older people and people with young children, from living in housing that meets their needs.

VCOSS is disappointed that the RIS does not recommend including a minimum standard for accessibility in the NCC at this point in time. We do not support this position. While we are pleased that the RIS does recommend further consultation to gather additional feedback on the analysis undertaken, we are concerned that this consultation be genuine and purposeful. If there is no prospect of the consultation having any material impact on this recommendation, then there is questionable value to undertaking consultation. VCOSS supports consultation with this qualification and on the basis that this should prioritise qualitative insights from people who would benefit the most from accessible housing, so that the real benefits of accessible housing could be fully and fairly understood.

In taking this position, VCOSS notes that there are two current Royal Commissions shining a light on the entrenched discrimination, exclusion and marginalisation of older Australians and Australians with disability, and that COVID-19 has further magnified these inequalities. Given this context, we are concerned that society's negative attitudes towards ageing and disability make costs more visible than benefits, particularly when regulators apply a medical model of disability to their analysis of costs and benefits. We advocate for a more comprehensive, holistic and just approach to assessing cost-benefit.

Re-examine the benefits of regulating accessible housing

VCOSS recognises the many benefits of accessible housing, including:

- allowing Australians to stay in their home as they age and to prevent injuries
- reducing government expenditure on health services and home modifications for people with disability
- assisting carers and reducing their likelihood of injury
- limiting the effects of loneliness and increasing social inclusion and productivity
- making life easier for families with young children.

We noted these benefits in our last submission and recommended that regulatory impact analysis thoroughly recognise and examine the social benefits of accessible housing, not just the costs.

On this basis, we are disappointed that the RIS makes a preliminary recommendation that the costs outweigh the benefits of regulating minimum standards for accessibility. VCOSS understands that the RIS comes to this conclusion because the method used to consider the six options proposed relies on a quantitative analysis.

The RIS does not adequately undertake qualitative analysis, and while some benefits are acknowledged, the focus is predominantly on direct economic benefits arising from improved access for people with accessibility needs. Consequently, all the social benefits of introducing minimum accessibility standards – including indirect benefits from improved design and functionality to the general community and cost savings in other parts of the economy – are not appreciated. VCOSS notes the Dalton Carter Report which provides expert economic analysis of the limitations of this approach.¹

Meaningfully engage with people who will benefit most

While accessible housing will have universal benefits for the whole community, there is no doubt that people with disabilities, older persons and people with care or support needs will

¹ Andrew Dalton & Rob Carter, *Economic advice prepared to assist with responses to the Consultation Regulation Impact Statement on minimum accessibility standards for housing in the National Construction Code*, Prepared for The Melbourne Disability Institute, University of Melbourne and the Summer Foundation, 18 August 2020.

benefit most. It is imperative that the ABCB ensures that the voices of those who would benefit most are meaningfully engaged in this process.

People with disability are the experts in their own lives, and their experiences, perspectives and voices should inform the development of minimum accessibility standards. People with disability are best placed to identify their own needs, and how government decisions, policy-making and design will impact them. Lived experience must be not only heard, but truly valued.

As a signatory to the UN Convention on the Rights of Persons with Disability, Australia is obliged to take measures to deliver accessible, inclusive housing, an adequate standard of living and to support people to live independently. While national and state-based strategies commit to improving affordable, accessible and independent housing options for people with disability, this commitment cannot be realized without regulatory change.

VCOSS welcomes the preliminary recommendation to undertake further consultation to seek feedback on the RIS analysis. We note that this stage of the consultation process would likely be prohibitive and inaccessible for many people who would benefit from minimum standards for accessibility. The RIS is highly technical, lengthy and challenging to understand for people without expertise in the subject matter. Complementary materials that simplify the RIS analysis would improve engagement and enable more equal participation across the community of interest in consultation.

Further consultation must actively seek to include, reflect and respect the insights and ideas of people with disability, as well as carers and families, advocates, academics and community organisations. VCOSS notes a survey currently underway by University of Melbourne to provide qualitative data to contribute to the evidence base for regulating accessible housing, which we recommend the ABCB consider in further analysis.

While traditional face-to-face community engagement techniques are not safe or suitable in the context of COVID-19, the Australian Building Codes Board must provide accessible and meaningful avenues for those people who would benefit most from accessible housing to contribute their perspectives. Further delays in delivering accessible housing through regulation must be avoided, but the impact standards will have on housing outcomes is too important to exclude voices of lived experience in analysis.

Regulate accessible housing

Only five per cent of all housing stock in Australia is accessible.²

Regulating accessible housing by including minimum standards in the National Construction Code (NCC) is the only way to improve this unacceptable situation. Disappointingly, the RIS does not make a definitive recommendation to include an accessible housing standard in the NCC.

Royal Commissions currently underway – into aged care, and into violence, abuse, neglect and exploitation of people with disability – will likely further explore and make recommendations regarding independent housing options. Reviews of COVID-19 responses, including the link between inadequate housing and health, may also examine these issues. Consideration of whether the NCC should include minimum accessibility standards for housing must be responsive to any findings emerging from these inquiries. Independent living cannot be achieved without an adequate supply of accessible housing.

Only the Gold standard will ensure accessible homes

The RIS considers a number of options for minimum standards, but the limited performance requirements of most of these options do not meet an adequate minimum accessibility standard. If a person cannot get to the front door of their house, it does not matter how many accessible features it has – it is not accessible.

Only option 2 – Gold achieves a reasonable minimum level of accessibility for new homes. The technical difference between silver and gold performance requirements is the difference between a person with a mobility issue being able to move freely around the house or being excluded from areas of their own home.

The RIS indicates that the ABCB should conduct further consultation to better understand the problem and the benefits of regulating minimum standards. In the next phase of analysis, the ABCB should rule out inadequate options – including option 1 which would not achieve

² Liveable Housing Australia, cited in 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, pp 33-34.

accessibility, and option 6 which effectively continues the current approach to delivering accessible housing through voluntary guidance.

Non-regulatory policy mechanisms do not deliver accessible housing at the scale required

The RIS notes a range of non-regulatory policy mechanisms which subsidise directly provide or encourage the provision of housing that meets accessibility needs, including:

- funding home modifications through the NDIS or aged care
- residential aged care places
- local and state government planning policies
- the provision of accessible social housing.

While non-regulatory approaches might provide some accessible housing, VCOSS believes that all of these mechanisms are limited in scope, face systemic constraints on take up and consequently do not deliver the scale of accessible housing required.

For example, there is currently a shortfall of 433,000 social housing homes across the country,³ indicating that the current level of supply is not adequately meeting demand. In Victoria alone, there are 100,000 people on the waitlist for social housing and half of these are in the priority access category,⁴ which includes people with accessibility needs. Yet only a handful of allocations to housing are made each year due to the lack of new stock.

State and local government planning policies are a strong mechanism for increasing accessible housing in the private market if policy mandates accessible housing. But research by the Australian Network for Universal Housing Design found that most state and local government planning policies rely on voluntary adoption of the Livable Housing Guidelines, and often only encourage a 5-20% of new developments to be accessible.

The NDIS also plays a limited role in providing accessible housing and home modifications. Around 10 per cent of people with disability are anticipated to be supported by individual NDIS funding, and of this small proportion, and just 6 per cent of NDIS participants are likely

³ Julie Lawson et al, '*Social Housing as Infrastructure*', AHURI, June 2019, p55.

⁴ Victorian Housing Register and Transfer Lists by Local Area – March 2020, <https://www.housing.vic.gov.au/victorian-housing-register>, accessed 25 August 2020.

to be eligible for specialist disability accommodation funding. The majority of people with disability or support or care needs, such as people who do not have a permanent disability or those over the age of 65, are not eligible for the NDIS, certain subsidies and funding, or social housing. In addition, funding for home modifications does not always consider the needs of carers and family members, who may require adjustments, aids and equipment to provide care. Accessible housing available in the private market remains necessary for these cohorts.

This includes the private rental market, where depending on the tenancy laws in each state and territory, renters with accessibility needs generally require consent from their rent provider to make modifications to the property. Even where the cost of home modifications could be reduced by subsidy, the process to gain consent from rent providers will remain prohibitive. Not everybody who needs modifications will have access to them, and the renter would generally incur further costs to restore the property to original condition if they vacate.

Many older Australians report wanting to age in place,⁵ which allows them to remain connected to family, community, and place. Yet many are forced into residential aged care as their accessibility and support needs change over time. Residential aged care is not an appropriate option for people under the age of 65, yet there are over 5,000 people in this age group currently in residential aged care due to the lack of other housing options. The interim Report of the Royal Commission into Aged Care Quality and Safety noted the harmful effects of younger people living in aged care, including limited mobility, social isolation and loneliness.

The constraints of all these other mechanisms makes clear that the only way to shift the existing approach to building inaccessible house and apartments is through regulated minimum standards for accessibility.

⁵ Australian Institute of Health and Welfare, *The desire to age in place among older Australians*, 2013, p. 1

