

VDD Studio submission

## Response to

### ***UNHR Questionnaire: The right to housing of persons with disabilities***

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## **Introduction**

Recent research by the Summer Foundation and Monash University into 'Young people living in nursing homes' found that, in Australia, approximately 3,300 people (with disability) under 60 years of age are living in aged care nursing homes due to the lack of practical or feasible alternative arrangements (Winkler et al, 2015). As the name suggests Aged Care is traditionally designed to provide accommodation, personal and nursing care for elderly people at the end stage of life. Aged care environments are generally not equipped to take care of young people with severe physical, mental or intellectual disabilities particularly given that, in Australia, the average age of residents is 84.5 years (AIHW, 2014). Also noted in the Summer Foundation-Monash University research, due to prolonged stays commonly resulting in declining visits from friends, young people living in nursing homes are an often marginalized and isolated group within society (Winkler et al, 2015). This further restricts participation in various activities undertaken by other younger people such as, leisure and recreation, visiting family and friends, or active involvement in their community.

*SHUT OUT: The Experience of People with Disabilities and their Families in Australia, a National Disability Strategy Consultation Report* prepared by the National People with Disabilities and Carer Council, states that the famous 'fair go' ideal does not extend to people with disability (National People with Disabilities and Carer Council, 2012). Compounding social and systemic disadvantages, the report highlights that the lack of inclusive and accessible public transport, parks, schools, housing and buildings plays a crucial role in creating barriers. Denial of access to these services creates isolation and loneliness. The launch of National Disability Insurance Scheme (NDIS) in Australia is intended to open up new opportunities for supporting people with disability to live in affordable, accessible and innovative housing.

## **'Accessibility in the Built Environment' Legislation in Australia**

The Disability Discrimination Act 1992 (DDA), an act passed by the Parliament of Australia in 1992, prohibits discrimination against persons with disabilities in employment, education, publicly available premises, provision of goods and services, accommodation, clubs and associations, and other contexts. Discrimination is defined to include failing to make reasonable adjustments for the person.

Further legislation, more specific to the Built Environment, the *Disability (Access to Premises - Buildings) Standards 2010* (commonly referred to as Premises Standards) commenced on 1 May 2011. The Australian Human Rights Commission has issued Guidelines on the application of the Premises Standards to assist implementation. The '5 year Report' on the performance of the Premises Standards found that its introduction has led to widespread and important improvements in the accessibility and safety of all new and upgraded public buildings in Australia (DIIS 2016). These changes do provide opportunities for people with disability to participate in and contribute to the economic, cultural, social and political life of our community as equal citizens.

## **Inaccessible Built Environment in Australia**

Throughout Australia, a growing number of people with disability are still living in nursing homes or other aged care environments, due to lack of appropriate housing and other systemic disadvantages. Such living arrangements are not designed or equipped for people with disability with specialist needs, often leading to isolation and loneliness. The ongoing lack of an accessible and inclusive built environment plays a crucial role in restricting young people with disability from actively participating in various leisure activities, community life and taking care of daily chores.

The Australian Federal Senate report on *Adequacy of existing residential care arrangements available for young people with severe physical, mental or intellectual disabilities in Australia*, published 2015, states that a catalyst for greater life choices is provided if a person with disability is empowered to choose where they live. This opportunity of choice and control is the natural precursor to an individual 'having valued roles in community life and the economy'. ([http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Young\\_people\\_in\\_aged\\_care/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Young_people_in_aged_care/Report))

In the past, in Australia, the built environment has not been held accountable for people with disabilities' reduced access to socio-economic life and its contribution to increased dependence on family or carers support. Internationally, though, built environment designers have increasingly adopted Universal Design, that is, inclusive and accessible design for people of varying ages, genders and abilities, enabling greater degrees of independent living. However within Australia's building design professions understanding of Universal Design is extremely sketchy, resulting in compliance-based, minimum-standards outcomes (Jackson and Green 2015).

The Premises Standards is not generally applicable to the internal parts of: sole occupancy units, self-contained units, suite of rooms and the like, often resulting in inappropriate, inaccessible and inadequate living spaces for people with disability. It is also not generally applicable to conventional housing. The majority of existing homes in Australia are not accessible for people with disability. Visionary Design Development Pty Ltd a transdisciplinary practice working across accessibility, research and architecture has, in the past, provided accessibility advice on behalf of the Victorian state government to people with disability and older persons regarding home modification. Visiting over 1000 people in their homes, we have observed that the accessibility of private housing, generally, is poor. For example, there are often entry steps without handrails, narrow doors and hallways, and small, poorly located, poorly featured bathrooms as well as a generally poor quality of house design and construction. Historically the western suburbs of Melbourne, where the majority of the above visits took place, have been socially disadvantaged communities. Restrictive eligibility for the service provided generally meant that households involved did not have access to private, financial resources. Therefore, due to lack of either government or private funding, very few modifications were completed. The maximum government funds available to the eligible individual were not sufficient for undertaking building modifications of the most common problem areas, being front and/or rear access, and bathrooms.

### **Right to housing for People with disability**

As stated in the Convention on the Rights of Persons with Disabilities (CRPD), to which Australia became a signatory in 2008, people with disability in Australia have the same housing rights as everyone; not just the right to shelter but the right to adequate accessible housing. Essentially this means that all people with disability should be able to choose where and with whom they live and to engage in community life in a meaningful way through social, cultural, economic, educational, religious and recreational activities. Two key components are necessary to ensure that people with disability are able to live in the community: adequate support provision, and appropriate, accessible and affordable housing (Finch 2014).

Unfortunately Australia lacks appropriate, accessible existing housing stock. In an effort to redress this problematic situation the *Livable Housing Design Guidelines* (LHDG), involving a rating system of silver, gold and platinum levels of livability (accessibility), was launched by Livable Housing Australia, in July 2010. Livable Housing Australia's stated target was that all new housing in Australia was to be designed and built to meet minimum (silver level) livable housing design standards, by 2020. The Australian Government pledged \$1 million over four years in support of the implementation of the initiatives set out in Livable Housing Australia's Strategic

Plan. However these comprehensive, and well-presented, guidelines for universal house design remain voluntary for the housing sector. Therefore the majority of new homes are not meeting designated standards, thereby not achieving the intent that Australian homes are livable (adaptable and/or accessible) for everyone, at the outset.

Custom-designed housing suiting specific persons with disability can be expensive because it falls outside common building practices. In contrast 'Adaptable design' involves a move away from designing separate, specialised accommodation for different groups with different needs. Australian Standard AS4299-1995 Adaptable housing provides guidance on alternatives to 'special' (separate from mainstream) housing design. But, similarly to the LHDG, there is no regulatory compulsion to design to Australian Standard AS4299.

### **National Disability Insurance Scheme**

The Australia-wide NDIS is the new way of providing support for Australians with disability, their families and carers. Broadly, the NDIS has bi-partisan political support. The NDIS is set to provide about 460,000 Australians, under the age of 65 with a permanent and significant disability, with the reasonable and necessary supports they need to live an ordinary life (<https://www.ndis.gov.au>).

Adequate support services must be provided in-home, and should facilitate the person's inclusion and participation in the community; the NDIS is designed to provide this. Through the NDIS, people with disability will have the opportunity to choose a package of support that is individually designed to their needs and ambitions and which should, in principle, be delivered wherever they wish to live.

NDIS participants are free to transfer their funding from one service provider to another. By giving people with disability choice and control over how their support is received, the NDIS in turn provides the opportunity for these people to live their lives differently. People with disability will now have the opportunity to move away from a town or suburb where their service provider is located, and move interstate, taking their individualised package of support with them. Those people currently living in institutions will now be able to consider moving to alternative accommodation, with their support services provided in this new home. For many people with disability living in institutions this may be the first time they have been given the choice to live independently (Finch 2014).

The Disability Housing Futures Working Group (DHF), a group comprising housing experts from across Australia and internationally, was formed to explore innovative ideas, models and research on housing for people with disability, and to contribute new thinking, new modelling, and opportunities for a viable disability housing market under the NDIS. The group published its report in February 2016 ([http://nahc.org.au/documents/DHF\\_Final\\_Report\\_February\\_2016.pdf](http://nahc.org.au/documents/DHF_Final_Report_February_2016.pdf)). Their report describes the NDIS as potentially 'the catalyst for the most transformative growth in housing supply for people with disability in decades'. However, of the 460,000 NDIS participants, it is estimated that 35,000 to 55,000 will not have their housing needs met in the first decade of the scheme.

Sections 7.19 and 7.20 in the *NDIS (Support for Participants) Rules 2013* clearly set out the NDIS' role in the provision of housing assistance and/ or housing infrastructure (<https://www.legislation.gov.au/Details/F2013L01063>).

Under Section 7.19, the NDIS will be responsible for:

- (a) supports to assist a person with disability to live independently in the community, including by building their capacity to maintain a tenancy, and support for appropriate behaviour management; and
- (b) home modifications for accessibility for a person in private dwellings; and
- (c) home modifications for accessibility for a person in legacy public and community housing dwellings on a case-by-case basis but not to the extent that it would compromise the responsibility of housing authorities to develop, maintain and refurbish stock that meets the needs of people with disability; and
- (d) user cost of capital in some situations where a person requires an integrated housing and support model and the cost of the accommodation component exceeds a reasonable contribution from individuals.

Under Section 7.20, the NDIS will not be responsible for:

- (a) the provision of accommodation for people in need of housing assistance, including routine tenancy support and ensuring that appropriate and accessible housing is provided for people with disability; or
- (b) ensuring that new publicly-funded housing stock, where the site allows, incorporates Liveable Housing Design features; or
- (c) homelessness-specific services including homelessness prevention and outreach, or access to temporary or long term housing for participants who are homeless or at risk of homelessness; or
- (d) the improvement of community infrastructure, ie accessibility of the built and natural environment, where this is managed through other planning and regulatory systems and through building modifications and reasonable adjustment where required. The implications of these rules are that most NDIS participants will not receive direct housing assistance from the NDIS, other than one-off grants for home modifications in private homes.

## **Conclusion**

The current disability support system, in Australia, is underfunded, unfair, fragmented, and inefficient, leaving people with a disability with little choice and giving no certainty of access to appropriate infrastructure. It is acknowledged that the stresses on the system are growing, with resultant rising costs for all levels of governments.

Whilst the NDIS is designed to allow people with disability and support providers to view housing in a different way, the scheme, currently, does not provide adequate housing support. The enabling environment that the scheme is designed to deliver has starkly highlighted why people with disability have had their housing choices constrained, being, primarily, the critical, Australia-wide, shortage of appropriate, affordable, and accessible housing. To ensure that choice and control in the provision of support is maintained under the NDIS, housing stock must match demand. People with disability must not be limited in their options; not forced to live in unsuitable private accommodation or enter residential care facilities.

A shake up is needed at all Government levels. To provide housing diversity throughout Australia and improve people with disability' quality of life, Liveable Housing guidelines, Adaptable Housing principles and other innovative accessible housing solutions must be given legislative and regulatory standing. Embedding Universal Design as a policy inclusion throughout all levels of Australian government would further enhance Built Environment outcomes for everyone, as well as complementing the objectives of the NDIS.

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