

31 August 2020

Mr Neil Savery
Chief Executive Officer
Australian Building Codes Board
GPO Box 2013
Canberra ACT 2601 Australia

Via email: abcbris@abcb.gov.au

Dear Mr Savery

Consultation RIS: Proposal to include minimum accessibility standards for housing in the NCC

The Property Council welcomes the opportunity to provide feedback to the ongoing consultation on the *Proposal to Include Minimum Accessibility Standards for Housing in the NCC*, and gratefully acknowledges the stewardship role of the ABCB in the built environment.

The Property Council is the leading advocate for the property industry. Our members are the largest owners of and investors in Australia's property industry. They champion safer, more comfortable and easier to access homes for all Australians at all stages of life.

Access to suitable accommodation is important to all Australians and is a prerequisite for a happy, stable and dignified life, which is why the Property Council is a strong advocate for liveable housing and communities. The Property Council contributes to the leadership and governance of Livable Housing Australia (LHA) and our members are core contributors to, and advocates for, the Livable Housing Design Guidelines (LHDGs). We also support the development of national solutions to universal housing design through the Commonwealth's National Dialogue on Universal Housing Design.

The inclusion of accessibility provisions in the National Construction Code (NCC) could deliver benefits Australia-wide by providing national definitions and standards to supersede the complex and varied regulation enacted by states, territories, and local governments. However, there are some issues and concerns that must be addressed before meaningful progress can be made on this matter.

The submission that follows outlines the Property Council's immediate priorities in relation to the *Consultation RIS*, **especially the urgent need for a true cost understanding of the options:**

1. The lack of clear definitions relating to accessible housing obstructs an accurate description of the problem to be addressed.
2. The quantity, location and market percentage of accessible housing is not adequately defined.

3. The cost estimates provided undervalue the true cost of implementing minimum requirements for accessible design relating to car parks, level access, wall reinforcement and varying the design of prefabricated modules.
4. Due to site-specific constraints, such as the size or shape of the plot, there is a need to articulate clear exemptions.
5. Given the prevalence and complexity of state, territory and local government regulation, there is a risk of regulatory overlap. Industry would welcome a streamlined and harmonised approach.


In the absence of a true cost understanding of the issues above, the Property Council supports an enhanced approach to voluntary guidance including:

- Turning the current proposal into a non-regulatory ABCB handbook which would provide national definitions and language for accessible housing and encourage future harmonisation.
- Establishing a national register for accessible housing to collate existing data and expand it as new information becomes available.
- Investigating the possibility of providing accessibility information at the point of sale.
- Highlighting the inspiring benefits of Brisbane City Council's Universal Housing Design Incentive as a model for all local (and or state and territory) governments.

In the event any other option is considered, it is essential to the credibility of this process that the ABCB conducts further research in key areas identified in this submission and provides a comprehensive list of exemptions.

If you would like to discuss this submission in more detail, your office can coordinate through Tim Wheeler, our Policy Manager at twheeler@propertycouncil.com.au or +614 9173 1496.

Kind regards,



Mike Zorbas

Group Executive, Policy
Property Council of Australia
(and, for full disclosure, LHA Board Member)

Attachment A – Property Council of Australia submission to Consultation Regulation Impact Statement Proposal to include minimum accessibility standards for housing in the National Construction Code (“Consultation RIS”)

Defining accessible housing

Clear definitions are essential to accurately qualify and quantify the issues that this Regulatory Impact Assessment is seeking to address.

The definition for accessible housing put forward by the Consultation RIS is the following:

“the term ‘accessible’ is used to describe the housing features that are being proposed, which are based on universal design principles. It is acknowledged that this may not be the most appropriate term given that the changes being proposed are intended for the mainstream housing market, rather than being in any way specialised or separated from that market.”

This definition does not cover the full spectrum of housing with accessible features available on the market. For example, many houses are built to the requirements of AS4299 – *Adaptable Housing* which aims to create accommodation that is suitable for users of all ages and abilities and can be modified to include accessible features and little extra cost. In NSW, the SEPP (*Housing for Seniors or People with a Disability*) puts in place legislative provisions to increase the supply and diversity of housing that meets the needs of seniors or people with a disability. In South Australia, there are requirements to build 75 per cent of new houses to meeting *Universal Design Criteria*.

Further, the term ‘accessible’ implies housing that is able to accommodate people in wheelchairs which is not necessarily the case for the LHDG certifications or based upon our members’ reading of the actual proposed changes.

Using the definition provided in the Consultation RIS, it is difficult to establish where the ‘line in the sand’ has been drawn and which types of housing will be included within the scope of the regulatory investigation. This is problematic as the definition of ‘accessible housing’ has a meaningful impact on defining the problem and assessing the costs and benefits associated with including minimum provisions within the NCC.

Quantifying the problem

The Consultation RIS does not adequately quantify the problem to be addressed. This Consultation RIS fails to quantify the number of people with mobility-related disabilities (the affected population) and the stock of accessible housing on the market (accessible housing stock).

Affected population

The Consultation RIS draws on the ABS Survey of Disabilities, Ageing and Carers data from 2018. The data captures the number of people with a disability who have a mobility related limitation and estimates a total of 2.9 million (12.1 per cent) people in Australia match the criteria. However, this data is limited to people with long term mobility impairments of six months or more - it therefore neglects to include short term conditions. Further, of the 2.9 million people included in these results, 1.4 million are considered to have a mild mobility limitation that may not require the inclusion of accessible design elements.

There is also evidence of people with mobility-related issues who do not identify as disabled and may not have been captured by this data.¹ The results obtained may well have been affected by the clarity of the survey questions in these key areas.

Taken together, these considerations highlight the need for further data-collection and analysis to determine a more accurate picture of the need for accessible housing in Australia once the definition has been resolved.

Accessible housing stock

The Consultation RIS does not provide an accurate assessment of how many, or what percentage of dwellings on the market meet the provided definition of accessible housing. This makes it difficult to determine whether an adequate quantity of housing is being delivered to address the different accessibility needs of Australians.

The Consultation RIS lists out several state, territory and local government policies aimed at increasing the prevalence of accessible housing within their jurisdictions but does not seek to analyse the impacts these policies have had and are having on accessible housing stock.

The ABCB options paper reported an estimate from 2014 that only 5 per cent of newly constructed housing meets LHDG Silver level certification based on Liveable Housing Australia's certification figures. However, at the point of sale of a dwelling built and assessed by a certifier to meet one of the LHDG levels, the certification ceases to be valid and is not transferred to the new owner. This means that there would be dwellings on the market that have all the features of a certified LHDG house but would not be certified as such. Adding to this issue, there may also be housing that while being built to a LHDG standard, never officially sought certification, and instead claimed "LHDG equivalency".

Further, no attempt is made to determine the location of accessible housing stock in Australia. For accessible housing to meet its purpose, it must be in proximity to populations of Australians with mobility related disabilities. We draw your attention to resources such as those currently available through [SCIA's accessible housing database](#) that may be of assistance.

A key outcome of this consultation should be a centralised national register that allows members of the public to view the location of dwellings with accessibility features, whether these are the LHDGs or other guidelines set out by state and local governments. This should include a simple process to confirm that the original certification is still applicable. Establishing this register and populating it over time will provide clarity for regulators seeking to quantify accessible housing stocks and deliver more targeted policy interventions.

As building approvals fall within the responsibility of local government bodies, they would have direct access to the data relevant to establishing an accessible housing database. This would include building plans and technical drawings that would include information on the accessibility of the proposed housing. A central national or state accessibility register could be collated at a local government level to track accessible housing in Australia.

Estimating the costs of implementing LHDG requirements

The Property Council membership is host to broad knowledge on the costs required to implement LHDG requirements. However, the short timeframes allocated to consultation throughout this process have not permitted us to review this topic in detail. The following comments are made with the

¹ People with Disability Australia, website accessed August 2020. <https://pwd.org.au/resources/disability-info/language-guide/identity-vs-person/>

understanding that further research is required to provide a comprehensive overview of the costs to inform and increase the accuracy of the CBA.

Parking lots and car spaces – Class 2 buildings

The proposed changes to parking space dimensions across options 1, 2 and 3 are a key element that will drive cost increases should they be implemented. The proposal would be to mandate an increase in parking space size from 2.4m by 5.4m (with some state variations) to 3.2m by 5.4m. This represents a significant surface area increase of 4.32m per parking space. The Consultation RIS correctly notes that this increase of space must either be made up by increasing lot size or impinging on other areas within the lot.

For Class 2 buildings, parking spaces are generally located in underground parking lots. These are costly and require significant excavation efforts. Industry feedback indicates that the most common layout in underground parking lots for apartments is a grouping of six parking spaces in an area of 7.2m by 10.8m (see Figure 1) flanked by concrete pillars on either side. Under the modified format, groups of just four parking spaces would fit within the same layout. Additionally, for options 2 and 3 in the RIS standard heights would require an increase of 0.30m to meet the requirements laid out in the Consultation RIS. On a per parking space basis, this would equate to an additional excavation requirement of 14.7 cubic meters without accounting for unused space should there be any between parking spaces. Further, additional costs would be incurred by the re-engineering of the concrete pillars and the ceiling slab to accommodate the revised design.

Depending on the layout of the building, additional floors of underground parking may need to be added. For situations where additional floors would not be possible due to existing subterranean infrastructure (e.g. tunnels, sewerage) or water tables, some apartments would have to be sold without parking spaces and this would decrease their value. It is estimated that there would be a 15 per cent loss in car spaces should the area of the parking lot be maintained.

Our members estimate that the cost of increasing the size of car spaces will add \$10k per space in multi storey above ground car parks (or approximately 15-20% extra in development costs) and significantly more in subterranean parking.

This estimate however, does not explore the cumulative impact of increased floor to floor heights and overall building height (and or impact on ability for planning approval).

The cumulative impacts of the issues listed above would be significant. Further research is required to provide more accurate cost estimates for inclusion within the CBA.

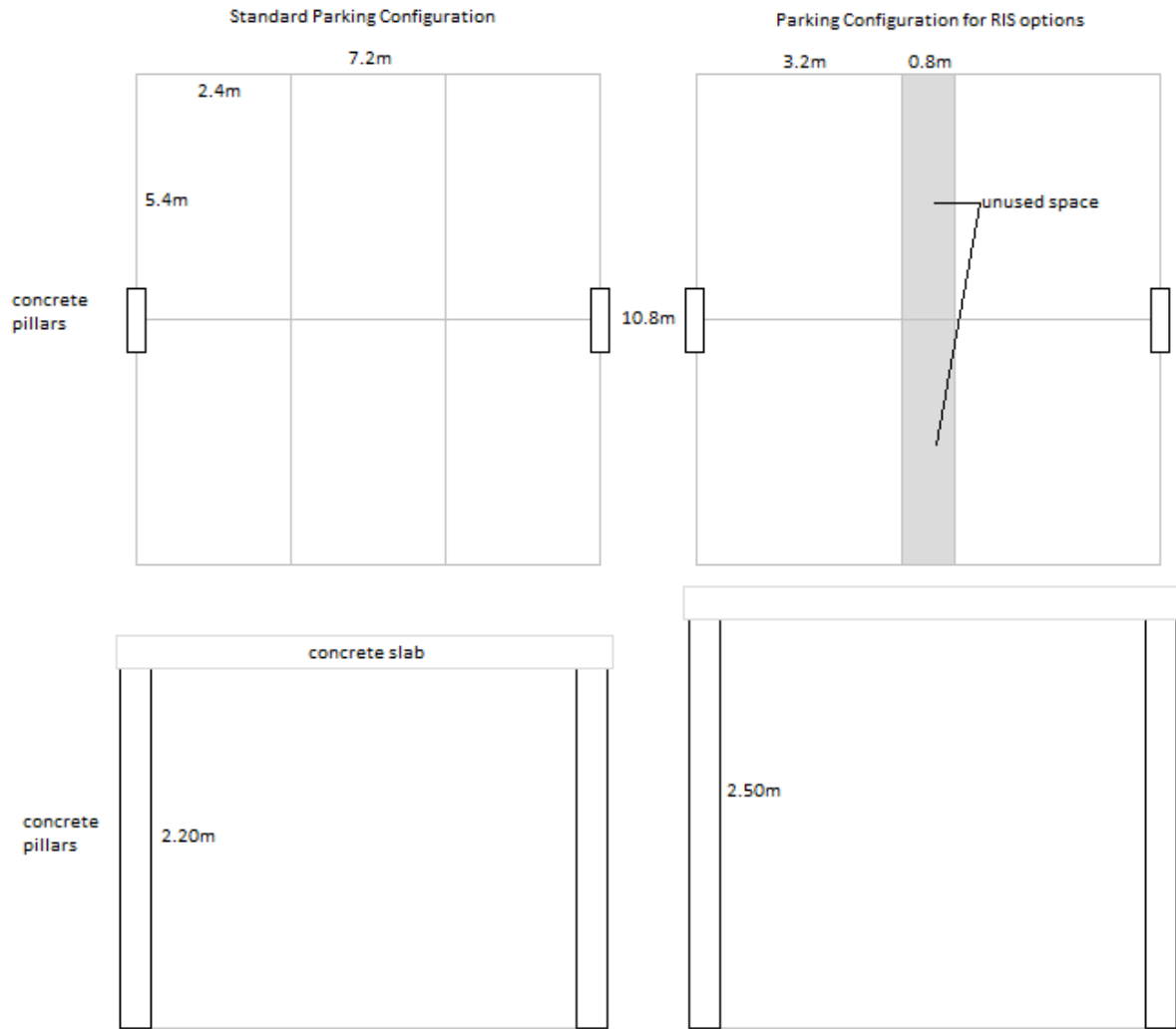


Figure 1 - Standard vs Reconfigured parking layout

Case study –LHDG gold

Our members have provided the following estimates to illustrate how building to LHDG gold standard requires an increase in overall apartment size and, by consequence, reduces yield and the number of dwellings on a development plot.

Apartment Type	Average Current Apartment Size	Average LHDG Gold Apartment Size
1 Bed + 1 Bath	50-55m ²	70 - 75m ²
1 Bed + 1 Bath + 1 Study	60 - 65m ²	75 – 80m ²
2 Bed + 1 Bath	75 – 80m ²	85 – 90m ²
2 Bed + 2 Bath	80 – 90m ²	100 – 105m ²
3 Bed + 2 Bath	100m ²	115m ²

As contained in our response to the initial consultation and based on a very preliminary analysis conducted by our members, we have estimated the average additional cost of delivering either 20% of dwellings in a development² or 100% of dwellings in each development under the proposed options.

Configuration	Cost impacts compared to BAU					
	Option 3		Option 3		Option 3	
	20% dwellings	100% dwellings	20% dwellings	100% dwellings	20% dwellings	100% dwellings
Apartment (2 bed, 2 bath)	\$ 127,600	\$ 638,000	\$ 127,600	\$ 638,000	\$ 133,100	\$ 665,500
House (3 bed, 2.5 bath)	\$7,480	\$37,400	\$7,480	\$37,400	\$208,120	\$1,040,600

This modelling, however, does not explore the cumulative impact of embedding a minimum accessibility standard on the development feasibility, for example the impact of increased Floor Space Ratio calculations or the diversity of product range or increase in floor to floor heights and overall building height. This impact would likely be significant and should be given further consideration in the CBA.

Other design issues

Level access to balconies and other outdoor areas

The Consultation RIS proposes a step-free, level access to balconies and outdoor areas. Weather protection and water proofing is usually aided by stepped thresholds in these areas and is a requirement of the NCC. Level access requires consideration of alternative solutions to maintain protection from wet weather. This can be done by adding weatherproof seals on the bottom of doors, additional concrete hobs, setdown for door sills and constructing porches or balconies at a low angle slope to direct water away from entries but also requiring a grated drain at the doorway as contained within the external above ground waterproofing standard. Further research is recommended to be undertaken to understand the full breadth of interrelated issues. **The cost of these additional level access measures should also be estimated and added to the CBA.**

Reinforcing bathroom and powder room border walls

The LHDGs specify that the construction of toilet and bathroom walls should be done to enable future installation of grabrails in a way that minimises the removal of existing linings. Clarity should be provided on the performance requirements that the handrail must be capable of (weight load force, fixing and fastenings, etc). When these capabilities must be added to walls that border between apartments, materials must be substituted to ensure they can withstand additional weight requirements. **The current proposal of including plywood may affect the non-combustibility of the bounding walls between apartments and may require the advice of a fire engineer which adds further**

² We have assumed the development consists of 100 dwellings for the purpose of this calculation.

costs. Alternatively, material options could be used but these will add to the wall thickness and the ability for pre-fabrication. **Further research is required to quantify these additional expenses.**

Re-engineering prefabricated modules

Many companies are transitioning to using prefabricated modules in their construction projects. Prefabrication lends itself particularly well to kitchens and bathrooms where modules can be produced off-site and installed upon completion. The modules are created using complex design elements and supply chains aimed at reducing costs through economies of scale. Part of this increase in size can also change the logistics of transportability. Changes to these elements would necessarily lead to costs being added to the construction process. As with all changes, while these might ultimately be deemed desirable, they should be fully understood to ensure the decision made is the right one.

The need for articulating exemptions

Plainly, site specific constraints will make it cost and/or practically prohibitive to deliver 100 per cent mandatory minimum accessibility standards as proposed in the Consultation RIS.

The residential development industry and anyone with a passing appreciation of the potential variation of site typography and conditions around the country knows that a 100% mandated accessibility standard within the NCC would be impossible to comply with.

Mandating a step-free entrance into Class 1 buildings where site typography and conditions make it impossible to comply remains and will remain illogical.

Some additional exemptions that would need to be considered among others:

- Where site typography makes compliance impossible;
- Where site gradients would make compliance impossible;
- Areas with flood risk;
- Single dwelling renovations;
- Development projects where the DCP requires podiums for the first 2/3 levels such as townhouse/terrace style with street activated entrances with some steps; and
- Two-story penthouses.

It is essential to the credibility of the review process that the ABCB conducts further research and provides a comprehensive list of exemptions before the regulatory investigation progresses further.

The risk of regulatory overlap

In the absence of a nationally consistent definition of minimum housing accessibility features, state and local governments have implemented their own guidelines through planning controls, requiring specified proportions of new developments to meet these requirements.

To demonstrate the potential duplication and/or inconsistency with any potential standard to be embedded in the NCC, the table at **Attachment B** highlights some of the requirements made by different states and local governments for accessible/universal housing.

There is a pressing risk of regulatory duplication and overlap, adding considerably to building costs, if new minimum standards are added to the NCC without far more detailed consideration.

As contained within our submission during the initial consultation process, we would welcome a nationally consistent approach to this issue to assist with regulation red tape and this can only effectively occur with buy in from states and territories and local governments.

The benefits of an enhanced approach to voluntary guidance

As laid out above, the Consultation RIS fails to include certain aspects of the costs of building to the LHDGs and underestimates others. In spite of this, the CBA is negative for all but one scenario which involves attributing benefits to households that aren't inhabited by a person with a mobility related disability.

If the additional costs laid out in this submission were estimated and included, this would reinforce the negative cost/benefit ratio outlined in the RIS.

For this reason, the Property Council believes that Option 6 would be the preferred option. An enhanced approach to voluntary guidance will help build awareness of the options and allow those who need them to include them in the design of their home.

Our members actively involve their clients in the design of their new homes, whether it is an off-the-plan apartment or a house and land package. During this process, any accessibility requirements can be tailored to the unique accessibility needs of the purchaser. Our members' experience has been that a very small proportion of purchasers request tailored accessibility features, indicating that the demand for accessible dwellings needs to be better understood by the ABCB before potential solutions can be properly scoped.

Further, developing the current proposal into a non-regulatory ABCB handbook will provide national language and definitions and allow states, territories, and local government to reference a national set of accessible design features. This will be a significant step towards much needed harmonisation of regulation in this area.

This initiative should be supported by a national, searchable database of accessible housing to provide a resource that will capture the available housing stock and make it available to those who need to locate it.

Further consideration should be given to deploying planning incentives to increase the uptake of accessible housing. The Brisbane City Council (BCC) introduced the Universal Housing Design Incentive to encourage new dwellings that are designed to cater to the accessibility needs of all residents, including residents who are ageing, have a disability or are injured, and families with young children.

As part of the new Universal Housing Design Incentive, the BCC will make a financial payment equivalent to 33% of the Council infrastructure charge paid for newly constructed developments that:

- include sufficient design elements to be certified as meeting the Gold or Platinum performance level under the Livable Housing Design Guidelines; and
- meet all Council defined eligibility criteria.

The Universal Housing Design Incentive will encourage development in Brisbane that is accessible and caters to the needs of Australians with mobility related disabilities. **This measure is quite inspiring and could clearly be deployed at a broader scale across Australia as an incentive to engage the private sector.**

Contacts

Should you wish to discuss any of the items raised in this submission in further detail, please feel encouraged to reach out to the following Property Council contacts.

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Attachment B – Accessibility Requirements in state & territory and local government areas

<i>Legislation</i>	<i>Development Type</i>	<i>Requirement</i>
ACT		
Planning – Territory Plan ACT -Multi Unit housing development code	In 10 or more dwellings provides a table of required adaptable housing (4299) Multi Unit Developments in RZ2 zone – can increase density where all dwellings are adaptable but also contains accessible features such as door handles and hardware to AS1428.1	In 10 of more dwellings-sliding scale of 10 to 12% of total no. of dwellings
Planning – Territory Plan	Multi Unit Developments of 10 or more dwellings – to certain number	AS4299
Planning – Territory Plan	'Granny Flat' where block of land is > 500m ²	AS4299 to ground floor for bedroom, bathroom and living area to ground floor
NSW		
SEPP 65 - Apartment – Good Design Guide	Multi – Unit Development	20% to incorporate silver standard of LHD Guidelines
SEPP (Housing for Seniors or People with a Disability)	If site gradient of less than 1:10, 100% of dwellings must have wheelchair access to AS1428.1 If site has gradient greater than 10%, wheelchair access to 50% of dwellings (or to all dwellings where land is <1:10 if that is greater than the 50% of overall)	AS1428.1 compliance to: - Internal doorways - Circulation spaces at doorways - One bathroom AS4299 adaptable features to: - Every entry door - Toilet on ground floor - Living room - Kitchen - Linen cupboard Room size dimensions provided for bedroom Lighting lux levels, etc
Examples of Local Council in addition to SEPP 65		
City of Sydney DCP – Section 3	Apartment	Adaptable design to AS4299 – sliding scale where less than 30 apartments (but more

		than 7), and if more than 30 = 15%
City of Waverley DCP	Developments of 10 or more dwellings	20% to be adaptable to AS4299
	Medium or High-Density Residential Accommodation	100% to silver level of LHD Guidelines
City of Ryde DCP	Multi Dwelling (low density residential) – 6 or more dwellings	35% to all indoor and outdoor living areas to be to AS4299
	Apartments – 10 or more units	Requirement for compliance with AS4299 Sliding scale for up to 30 (around 1%) 10% of apartments once over 30
City of Canada Bay	Housing that incorporates a lift	7 or less, no requirement Requirement to comply to AS4299 for - Sliding scale (about 1%) for up to 30 dwellings - 15% of dwellings where 30 or more
City of Paramatta	Housing Developments – multi dwelling, residential flats and residential component of mixed use	To comply to AS4299 - < 10 dwellings = 1 - 10-20 dwellings = 2 - More than 20 = 10%
Queensland		
Social Housing	Houses	100% minimum gold level (and platinum level to portfolio or client need) to LHD guide
	Apartments	30% or more to gold level of LHD Guide
Urban Land Development Authority 2009	Dwellings	10% of all dwellings to comply to UDLA universal design principles
Victoria		
Planning – Better Apartment Design Standard	Apartments	50% of dwellings to comply with: - 850mm clear opening to entrance and main bedroom - Clear 1.2m path connecting dwelling entrance to main bedroom, an adaptable bathroom and living area - Adaptable bathroom (adaptable according to Victorian ADG criteria).

Western Australia		
State Planning Policy 7.3- Residential Design Codes Vol 2 Apartments	Apartments	20% LHDG Silver Level Or 5% LDHG Platinum Level