



Submission to the Productivity Commission

National Housing and Homelessness Agreement

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This submission has been endorsed by the NSW Council of Social Services



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Who is the Physical Disability Council of NSW?

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW.

Our core function is to influence and advocate for the achievement of systemic change to ensure the rights of all people with a physical disability are improved and upheld.

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship.
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (i.e., self-advocate).
- To educate and inform stakeholders (i.e.: about the needs of people with a physical disability) so that they can achieve and maintain full participation, equality of opportunity and equality of citizenship.

Recommendations

Recommendation 1

That housing accessibility be included as a priority policy area in the NHHA

Recommendation 2

That persons with physical disability are recognised as a priority homelessness cohort

Recommendation 3

That the NHHA is supported by a National Housing Strategy

Recommendation 4

That the objective of the NHHA be reframed as follows:

... to contribute to improving access to affordable, safe, and sustainable housing that is appropriate to the accessibility needs of household members across the housing spectrum, including to prevent and address homelessness, and to support social and economic participation.

Introduction

I have been disabled for approximately seven years now and during this whole time it has been near impossible to find and maintain secure, safe, affordable, and accessible properties in the private rental market.

When I was first diagnosed, I was homeless for the first four years and living on people's couches... the property was not accessible, and I could not even use the shower, so I only showered once every three months when it became absolutely necessary... I finally (with the assistance of a housing subsidy) got a private rental approximately four years ago. It was more suitable than couch surfing, but I still could not access the shower. I was there about a year and a half and was evicted as the owner was selling.

I found another rental, this one even less suitable than the previous one. I could not access the shower at all, nor most of the house. I was there for a year and a half, and the owner again sold the property.

My current property is even worse. Again, no access to a shower, no access to the front door and a very steep driveway I am unable to navigate... In closing I have suffered terribly since becoming disabled and every system has failed me.

-PDCN member, NSW Central Coast

The Physical Disability Council of NSW appreciates the opportunity to comment on the new National Housing and Homelessness Agreement. We respond as the peak NSW representative organisation on behalf of our members, many of whom struggle to find and sustain a home in NSW.

Approximately 3.4 million Australians (13.6% of the total population)¹ identify as having some level of physical disability.² While physical disability exists on a spectrum of functional capacities, we know that physical disability becomes significantly more prevalent with age, and that most people with physical disability live in detached private housing (owned or rented) either on their own³, or as part of a household.⁴

The Australian Human Rights Commissioner, Mr Edward Santow, has stated '*disability is part of the human condition*'. It is safe to assume that over the course of a person's lifetime, they will either experience some form of physical disability, through accident, illness or ageing, or will have an intimate connection with someone with physical disability.

As a signatory to the United Nations Convention on the Rights of Persons with Disabilities (the UNCRPD), Australia is bound to provide people with disability with equal opportunity to live within

¹ Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings*, 24 October 2019 <[Disability, Ageing and Carers, Australia: Summary of Findings, 2018 | Australian Bureau of Statistics \(abs.gov.au\)](#)> accessed 18 March 2022.

² Australian Institute of Health and Welfare, *People with Disability in Australia*: Web Report, last updated 2 October 2020 <[People with disability in Australia, Housing - Australian Institute of Health and Welfare \(aihw.gov.au\)](#)> accessed 18 March 2022.

³ Ibid.

⁴ Ibid.

communities and to choose where and with whom they live. Since deinstitutionalisation the Federal Government has sought to realise Article 19 of the UNCRPD through assisting people with severe physical impairment to access specialised housing (Residential Aged Care and Specialist Disability Accommodation) and supporting people across the broader housing market via funding for housing modifications through the NDIS or Aged Care. Our concern is that that these strategies fall short of realising the full scope of UN expectations under Article 19.

These intentions are summarised by Emeritus Professor Ron McCallum OA:

Both independent living and being included in the community [specific to Article 19] refer to life settings outside residential institutions of all kinds. It is not "just" about living in a particular building or setting; it is, first and foremost, about not losing personal choice and autonomy as a result of the imposition of certain life and living arrangements.

Neither large-scale institutions with more than a hundred residents nor smaller group homes with five to eight individuals, nor even individual homes can be called independent living arrangements if they have other defining elements of institutions or institutionalization.

Although institutionalized settings can differ in size, name and set-up, there are certain defining elements, such as obligatory sharing of assistants with others and no or limited influence over whom one has to accept assistance from; isolation and segregation from independent life within the community; lack of control over day-to-day decisions; lack of choice over whom to live with; rigidity of routine irrespective of personal will and preferences; identical activities in the same place for a group of persons under a certain authority; a paternalistic approach in service provision; supervision of living arrangements; and usually also a disproportion in the number of persons with disabilities living in the same environment.⁵

It is our experience that many, if not the majority, of people with physical disability do not want to live in segregated housing. People with disability want the choice to live in their local communities, with their friends and families, and to age in place. Whilst we acknowledge that residential aged care homes vary, many have the hallmarks of institutionalisation, and would not fit societal expectations of what a 'home' is.

At the same time, whilst home modifications can increase housing accessibility, the process of obtaining modifications is highly medicalised, time consuming and costly. Many homes in the mainstream market have limitations on how much they can realistically be modified, and significant numbers of people with physical disability cannot access the modifications they need either because they cannot afford them, or they do not have control over the places they live in (for example, those

⁵ Emeritus Professor Ron McCallum AO, *The United Nations Convention on the Rights of Persons with Disabilities - An Assessment of Australia's Level of Compliance*, Research Report to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 8 October 2020 <<https://disability.royalcommission.gov.au/publications/united-nations-convention-rights-persons-disabilities-assessment-australias-level-compliance-research-report>> Accessed 8 March 2022.

who rent). Home modifications also fail to address the challenges people with physical disability regularly experience accessing other people's homes.

There are more equitable and inclusive approaches to increasing the accessibility of housing.

We believe that all levels of Government should decrease reliance on home modifications and segregated housing as the primary mechanisms for supporting people with physical disability and instead focus on increasing levels of accessible and adaptable housing across the mainstream housing market.

We still see the need for home modifications and Specialist Disability Accommodation, in specific contexts – but we consider that the focus should always be around maximising housing options for people with disability, enhancing their capacity to live as independently as possible and ensuring that they have equitable access to their preferred communities.

This brings us to the NHHA. If housing accessibility was included as an additional priority under the National Housing and Homeless Agreement, the NHHA would be an important instrument in facilitating a collective and co-ordinated approach to improving access to affordable, safe, sustainable *and inclusive* housing for people with physical disabilities in alignment with Article 19.

While we have seen commitments by states and territories towards addressing housing accessibility as far back as 2009 – it has only been in the last year that we have seen significant progress across *some* states and territories. Human rights are not opt-in – and the NHHA would provide a mechanism to ensure States and Territories are accountable for meeting agreed outcomes, particularly if paired with a national housing strategy to provide a clear framework for leadership, long term planning and investment.

Physical disability and housing in NSW

As we have stated, Federal strategies addressing the gap in appropriate housing for people with physical disability focus on funding the modification of homes or the provision of on-site carers (SIL) through schemes such as the NDIS or Aged Care.⁶ Whilst not specific to people with disability, the Federal Government also provides financial assistance to the States and Territories for the provision of social housing and other homelessness strategies.

State Governments likewise have specific strategies and planning instruments to address the housing needs of older people and people with physical disabilities – in NSW, the main instruments include the new NSW Housing Strategy: Housing 2041, its associated 2021-2022 Action Plan and the new State Environmental Planning Policy (SEPP) 2021. All acknowledge the need for housing diversity, including housing for older people and those with disabilities, but fail to provide any clear definition of what accessible housing is, or a framework with targets to increase supply.

The NSW Government also operates an insurance scheme, ICARE, which can cover the cost of housing and housing modifications for people who are injured as an employee of State Government or on NSW roads,⁷ and has responsibility for the provision of social and affordable housing under the existing NHHS.

⁶ Australian Government, Department of Social Services Website, *Housing Support*, last updated 15 December 2020 <[Housing | Department of Social Services, Australian Government \(dss.gov.au\)](https://www.dss.gov.au)> accessed 18 March 2022.

⁷ Insurance and Care NSW website <[Welcome to icare | icare \(nsw.gov.au\)](https://www.icare.nsw.gov.au)> accessed 18 March 2022.

State Government strategies often intersect with those of Local Governments Areas (LGAs), which play a key role in determining the amount, form and location of housing in response to the diverse and changing needs of communities through Local Strategic Planning Statements, Local Environmental Plans and other policies.⁸

As part of our research for this submission, PDCN surveyed and interviewed people with physical disability across the State to understand the extent to which current systems that support people with disability to find appropriate housing are working. Data indicates that people with all levels of physical disability in NSW struggle to have equitable access to housing that is appropriate to their needs. Key barriers include:

- **Accessibility** - people living with a physical disability experience a lack of housing that accommodates their diverse and often changing needs across all subcategories of the NSW housing market.⁹ Housing that is either built to purpose or can be modified is essential to ensure people living with physical disability can maintain their dignity and quality of life. Accessibility can either be built into a property at the point of construction, for example, wider doorframes, or hobless showers; or can be accommodated at a later point in time through pre-emptive design features such as reinforced bathroom walls to accommodate future grabrails.
 - **Choice** – people with physical disability have advised us that they often settle for properties that do not adequately meet their needs and search for months or even years to try to find suitable rental properties or homes to purchase. The lack of choice can force people with physical disability into segregated housing such as residential aged care or force them to undergo costly relocations multiple times as they try to find housing that better suits their needs.
- Inclusion** – where possible, people with disability want to live in the communities that matter to them alongside their families. They want housing that facilitates access to the community, and to be able to socialise easily in their homes and the homes of family and friends. Current mechanisms do not sufficiently address these desires.
- **Affordability** – a significant proportion of people with physical disability rely on income support as their primary form of income. While a lack of affordable housing is by no means a problem that is specific to our cohort, it is consistently raised as a concern and places additional constraints on already reduced housing options available to people with physical disability.

Finding properties that contain accessible design features is one of the most significant challenges people with disability experience.

People living with physical disability have varying levels of disability, from slightly reduced mobility to high-level functional impairment. The level of physical disability that a person experiences can also fluctuate and change, particularly if the disability is related to illness or degenerative disease. It is crucial that people living with a physical disability have access to homes which either accommodate (or can be modified) to suit a diverse range of needs.

⁸ Local Government NSW, *Submission on the NSW Housing Strategy Discussion Paper*, July 2020 <https://www.lgnsw.org.au/common/Uploaded%20files/PDF/Submission_on_NSW_Housing_Strategy_Discussion_Paper.pdf> accessed 18 March 2022.

⁹ This includes the rental market, social housing and options when buying a home.

For those with severe functional impairment, this may involve housing that is highly specialised, and not necessarily appropriate for use by people without disability, however it is our experience that the accessibility needs of many people with physical disability can be readily accommodated within the broader market through smart and considered housing design at the point of construction– we know this, because we have examples of where this has worked both domestically and overseas.

One of the key problems faced by people with physical disability when navigating the general housing market is that it is rare to find a property that has been built to any kind of accessible design standard. Having a home that has at least a base level of accessibility is important, since there can be both limitations on the modifications that can be done to many properties, and because modifications often take significant effort, cost and time to realise.

Our survey found that 64% of participants have had to modify a home to make it suitable for their disability-related access needs. Grab rails, ramps and bathroom modifications were the most common works completed. Close to half of participants who modified their own properties did so using their own finances (47.62%). The other half relied on federal funding – either through NDIS or Aged Care. Even having done modifications, most participants reported that their current homes only partially met their accessibility needs and a number spoke to the need for additional modifications either now or in the future.

If I had my current knowledge of the relative sizes of manual versus electric wheelchairs, I would have increased the already increased entry, passageways and doors when designing the house. Now it is too late. Both those who buy a home and those rent in the private market experience a lack of housing options and generally spend long periods of time finding suitable properties:

'In several weeks of searching [for a rental property] not one of the properties we saw was suitable for someone with a power chair and no walking ability at all, in that we didn't see any [properties] that were ground floor with flat access. In the price range we looked at, first floor with a lift and good stairs was the best we found. Only one listing mentioned disability access – [and that was] to say there was none'.

Participants reported numerous compromises including having to pay more rent or buy a larger property than they needed, moving to regional areas away from facilities, making do with inaccessible aspects of a property and/or having to live with physical inconvenience, for instance, being unable to access some parts of the property using a wheelchair or having to be carried or crawl up and down stairs.

In 2016 I was moved to a property with 26 stairs & stayed for 3 years, I just had to stay up there or go down the stairs on my backside.

When I first came home from hospital my son had to carry me upstairs at [the] front of [the] house

The inconsistency of housing in the mainstream housing market, and the scarcity of homes that meet accessibility requirements, can result in housing instability, as people with disability move from property to property both as their needs change and in attempting to find a “better fit”.

38% of participants of our survey reported having moved house specifically on account of their accessibility needs. Of those, 22% had moved between 2-5 times, 11% had moved between 6-10 times and one participant had moved more than 10 times.

The issue of a lack of supply is particularly problematic for private renters since NSW tenancy law does not permit a tenant to make accessibility modifications to a rental property without a landlord's consent. Anecdotally we know that landlords are often unwilling to permit modifications to properties unless they consider that the modifications will increase the property's value. We have heard of instance where landlords 'cherry pick' the types of modifications they will accept – in one instance, a tenant described being refused permission to install a wheelchair hoist but granted permission to build an external ramp at the front of the apartment complex they lived in at their own expense. The landlord subsequently advertised the apartment complex as 'accessible' and increased the rents to take advantage of the demand.

Having a landlord right of veto often forces tenants with disability to either make significant compromises on the utility of the home or try to secure alternative accommodation such as social housing.

If I'm renting, I can't make changes...most rentals that are affordable for someone on Jobseeker (Nobody gets DSP anymore) have original conditions inside which usually mean shower over large old bath.

As private rentals do not want to have their home modified to accommodate disability, the only options for people needing modified housing is to either buy or try to get social housing. Not good enough.

For those who can afford to building their own homes, our survey indicated there was limited to no information on how to build a home that would provide high levels of accessibility, pro-forma plans were not readily available and accessibility components of properties could be expensive – although there was an acknowledgement that this may in-fact be a false economy since accessibility design features are often marketed as 'add-ons' or 'bespoke design features':

Many accessible features can be used in 'normal' housing so they should be the norm. Common use in mainstream house designs would bring the price down and if builders were given incentives to make their houses accessible, this would also see these features included automatically.

Most survey participants who have built their own home to include accessibility design components rated the process as 'difficult' and only 8% knew about the existence of Universal Design Standards or Livable Housing Design principles despite specifically being 'in the market' for an accessible home.

But accessible housing is not just structural improvements. For people living with physical disability, it is the difference between feeling safe in your own home and feeling scared. Features such as narrow doorways and hallways, shower hobs, staircases etc. create barriers for people with physical disability, and can often be dangerous and detrimental to their health and wellbeing.

'When I had my accident, I was told I would be coming home in a wheelchair, thankfully I can walk, but our bathroom was renovated before I came home to suit a chair. So, with the rails and smooth floor I feel much more comfortable and safe using the bathroom.

[I've had] numerous falls due to stairs and steps, sloping walkways and paths, passageways too narrow for walkers, etc'

Having a home that is physically accessible to move around in; and move in and out of enhances the capacity for people with physical disability to participate in the community, to attend paid and volunteer work, to access education and socialise. We received several responses from survey participants which described being 'trapped' in inaccessible homes:

Not able to shower for 7 years, no access to community, bed bound because house won't accommodate wheelchair

Our data also indicated that people with physical disability, and those within their households, are often additionally marginalised through a lack of access to the homes of family and friends and often the modifications required to other people's homes to enable them to be visitable are relatively modest – grab rails, sufficient lighting, accessible bathrooms and reduced numbers of stairs and better arrangement of furniture were the most common impediments.

I cannot visit my grandfather because of a steep driveway and stairs. I visit my aunty but generally stay in the backyard as the house is relatively inaccessible.

I lead a very social life, we have barbeques and such, but we [my wife and I] never get invited anywhere because our friend's houses aren't accessible for me. It's not just affecting me, it affects [my wife's] socialising too.

Housing affordability is also a major consideration across the physical disability community, both for those who buy their own homes and those who rent.

While housing affordability is an issue for most Australian families, people with disabilities as a proportion of the population are more likely to rely on income support and work in unstable employment situations.¹⁰ This has the flow on effect of reducing the number of people with disability who can afford to own their own homes, which is not necessarily reflected statistically, since the prevalence of disability increases with age, but those aged 65 years and older are statistically more likely to own their own homes which they may have purchased before acquiring disability.¹¹

Our survey indicated that social and community housing is seen as a vitally important low-cost housing option for people with physical disability who cannot afford to buy or rent within the private housing market.

DData indicates that 2 out of every 5 social housing households across Australia include a tenant with a disability and 20% of people with disability rent from State or Territory Housing Authorities, as opposed to 5% of renters without disability.¹²

It is our experience that people with disability who are ineligible for SDA look to social and community housing as a good supplementary option, both because social housing is affordable, and because it is one of the few housing options in the market where accessibility is prioritised since the NSW Government has committed to both modifying existing stock to accommodate the accessibility requirements of specific households and building new portfolio stock to at least Silver Level Livable Housing design.

¹⁰ Australian Institute of Health and Welfare, *People with Disability in Australia*, op cit.

¹¹ For more commentary on this specific point, see comments by AIHW, op cit.

¹² Australian Institute of Health and Welfare, *Housing Assistance in Australia 2019*, Web Report, last updated 18 July 2019 <[Housing assistance in Australia 2019, Social housing tenants - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/reports/18-housing-assistance-in-australia-2019/social-housing-tenants)> accessed 18 March 2022.

We imagine that the latter decision reflects practical pragmatism – the goal being to build housing that can best respond to the diverse needs of existing and future occupants, but we are concerned that social housing is increasingly being expected (both by those with disability and Government) to fill a housing need that was not originally anticipated or intended.

The need for a nation-wide agreement and strategy towards enhancing housing accessibility

PDCN has consistently called for all levels of Government to proactively respond to shortage of accessible housing for people with physical disability and bring Australia into line with the commitments under the UNCRPD.

Whilst governments are prepared to acknowledge that people with physical disability have the right to live in homes that are accessible, and even commit to strategies to realise this, approaches are variable in meeting the needs of people with disability, inconsistent and often based on the assumption that the cohort that would benefit would be very small.

The introduction of the NDIS has also made our advocacy efforts significantly more difficult, since it is now often (wrongly) assumed that most people with disability are NDIS participants and are able to access funding to modify their homes, live in SDA or access in home supports via Supported Independent Living (SIL).

We have also been consistently frustrated by the lack of any clear mechanism for ensuring that all levels of Government are accountable to meeting Australia's commitments under article 19 of the UNCRPD.

The need for accountability has been highlighted via the recent introduction of mandatory minimum accessibility standards in the National Construction Code (the NCC) – Australia's primary set of technical design and construction provisions for buildings. Since 2020, PDCN has been involved in a national campaign calling for minimum accessibility standards to be incorporated in the NCC and while this campaign has ultimately been successful, the new provisions are non-binding on States and Territories.

NSW has consistently been against mandating any level of accessibility for homes in the mainstream housing market and has expressed an intention to specifically 'opt-out' of incorporating the NCC changes at a jurisdictional level. In practice, this means that people with physical disability in NSW will soon be disadvantaged in comparison to counterparts living in states and territories adopting the changes. It is our understanding that the Federal Government has no real capacity or leverage to influence NSW's stance on this issue, despite NSW's actions apparently being a direct contradiction to the express recommendations of the United Nations Committee on the Rights of Persons with Disability in its periodic report on Australia's compliance with the UNCRPD in 2019.

It is imperative that the States and Territories are consistent in committing to providing housing for people with disability in line with Article 19, and in developing a nationwide approach to compliance with oversight by Federal Government. We are gravely concerned that there are currently no mechanisms definitively tying states and territories to any form of collective response to Australia's commitments under the UNCRPD and question whether this jeopardises Australia's capacity to meet the UN's vision of what compliance with Article 19 might look like in the Australia housing landscape.

We see an agreement, such as the NHHA as one part of the process towards ensuring tangible solutions to the issues faced by our members. Federal investment is an incentive for the States and

Territories to work towards addressing housing accessibility and provides the Federal government with the much-needed capacity to hold States and Territories accountable for progress in this space through facilitating open access to state strategies, data collection and reporting.

Including housing accessibility as a priority of the NHHA and expanding the scope of priority population groups to specifically include people with disability (including age-related disabilities) is a logical reflection of the fact that disability is mainstream and will affect all of us at some point in our lives. It would also be a timely inclusion which would facilitate future proofing of our housing system against exponential increases in the number of older Australians predicted across the next few decades.

We also support calls for a National Housing Strategy as the vital second step towards realising practical change for our members and see Commonwealth coordination and oversight of such a strategy as being logical, given its ultimately accountable for Australia's compliance with the UNCRPD.

Concluding Comments

The quality of our homes and the places we live make an important contribution to our lives and happiness. This has become increasingly evident following the outbreak of COVID-19, where people have spent more time at home than ever before. Well-designed and well-built homes have made life easier for many. Providing somewhere to continue to work comfortably, a space to spend time with their families and even a base to pick up new skills and hobbies. Put simply, they have made peoples' lives easier through a difficult period.

I believe that all new homes should meet this test. They should be considerate of people's needs and enable them to do the things they enjoy, from young people looking for their first home to older people looking to live independently and comfortably.

UK Secretary of State for Housing, Communities and Local Government, Rt Hon Robert Jenrick
MP¹³

In countries like the United Kingdom, accessibility has been incorporated successfully as part of the mainstream housing market and is simply seen as a logical way of respecting and supporting the diverse range of capabilities that exist within society. It is frustrating that while all levels of government across Australia would recognise the need to ensuring people with disability can access appropriate housing, there has been very little progress towards finding any substantive solutions over the past decade.

It is hoped that the inclusion of people with physical disability as a cohort of interest within this inquiry is a sign that Governments are becoming increasingly aware that current strategies to respond to the housing needs of people with disability are not working and that people with disability represent a sizable (and growing) part of the Australian population which Australia is obligated to support.

¹³UK Government, Ministry of Housing, Communities and Local Government, *Raising Accessibility Standards for New Homes: A Consultation Paper*, Sept 2020
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/930274/200813_con_doc_-_final_1_.pdf> accessed 18 March 2022.

PDCN would welcome further opportunities to assist the Commission in its research and looks forward to both the final report and recommendations.