

20 March 2025

Tom Kearney
Executive Director Policy and Programs
Building Commission NSW

Via email: HBAreview@customerservice.nsw.gov.au

Re: Livable Housing Requirements in NSW Discussion Paper

Dear Tom,

The Urban Development Institute of Australia NSW (UDIA) is the state's leading development industry body. We have more than 450 members across the entire spectrum of the industry including developers, financiers, builders, suppliers, architects, contractors, engineers, ecologists, academics and state and local government bodies. Together with our members, we shape the places where people will live for generations to come and in doing so, we are city shapers. In NSW alone, the property industry creates more than \$581.4 billion in flow-on activity, generates around 387,000 jobs and provides around \$61.7 billion in wages and salaries to workers and their families.

UDIA welcomes the opportunity to offer comments to the Livable Housing Requirements in NSW Discussion Paper.

Background

While UDIA supports the goal of increasing the choice of housing options for people with a disability, UDIA however believes the costs of a mandatory and/or sector wide approach being proposed in options 3 and 4 in the consultation paper to achieving this goal significantly outweighs the benefits, and would not be commensurate with the level of demand for accessible housing.

Discussions with our members indicate that the construction cost estimates in the discussion paper are too low and don't reflect current realities. Moreover, it is important to consider the opportunity of lost yield in delivering to a mandated silver standard given the additional space required for accessible bathrooms must come by either reducing the size of those apartments living spaces or reducing the overall number of apartments being delivered in a project.

UDIA is concerned that options 3 and 4 would impose additional accessible features, even though new homes are generally more accessible than older ones. Many social and affordable housing projects already meet the silver standard. UDIA's most pressing concern is that the burden of adopting the standards required under options 3 and 4 would fall on the small portion of new homebuyers who are already struggling to enter the market, whereas the cost to support those in need is a much broader community responsibility and should be borne by a much larger section of the community.

Mandating the silver standard increases construction costs, impacting housing affordability, and may not meet the needs of those with accessibility requirements. It also forces homebuyers who prefer different layouts to accommodate resale or rental purposes. Moreover, higher costs reduce access to affordable housing, excluding lower-income families from homeownership. Certain housing types, such as townhouses and split-level homes, are inherently also less accessible.

UDIA strongly advocates for option 1: maintain the NSW state variation to not adopt the Design Standards (LHDS).

Context

The discussion paper cites rising construction costs post-pandemic as a reason for NSW not adopting the silver standard earlier. While UDIA agrees that construction costs are no longer rising as quickly as in 2022, they continue to increase albeit at a slower rate and are unlikely to return to pre-pandemic levels.

Feasibility issues in the development sector are impacting supply. According to the most recent ABS data, in the 12 months to January 2025, there were 45,100 new building approvals issued in NSW. While only a 1% decline annually, this is 41% below the state's September 2016 peak of 76,700 approvals. Detached Houses, Medium Density, and Apartment typologies are 32%, 29% and 63% below their respective peaks, with houses in particular at their lowest rolling annual total since December 2013. Adding more costs will only further hamper supply.

The 2022 NCC reforms have also increased costs across the sector, with some still not implemented due to economic challenges. There is no appetite for new cost-adding provisions like those proposed. Instead, the industry seeks a pause in new regulations to absorb existing costs and complexity.

UDIA discussions with industry have revealed how adverse the sentiment is towards further NCC changes and the impacts of the 2022 reforms. Here is a sample of comments (de-identified):

High End Housing and Affordable Housing Developer – Vic, NSW and QLD

The change to 2022 imposed significant hurdles to the industry including:

Redesign of standardized products already designed and tested and accepted in-market, particularly as it applies to class 1 construction.

In regards to class 2 construction, the requirement for setdown wet areas, improved thermal performance and LHA Silver increased our construction costs by an average of about \$35-40K per apartment. Further, for compliance, sizes within habitable areas such as living rooms and bedrooms had to be sacrificed to allow for increased wet area sizes. The alternative would have been to build a bigger apartment to give the market 'the same thing'.

At a time when we're trying to build as much as possible in a feasibility vacuum, additional pressures like these impose further hurdles for builder and home buyers. It is effectively a tax, regressive in nature, for those who can least afford it. While NCC changes are necessary, their introduction needs to be further analysed against social costs of not building enough housing.

Large Scale Housing Developer – Vic

Any new NCC regulation change is not welcome in the current environment. We need a freeze on NCC reform to catch up and absorb the cost. I think the industry would be satisfied with 5-7 years.

As an example the NCC changes just rolled through cost us 12 months of innovation (design team and operations team 100% focussed on compliance) and around \$3m of direct costs to update all plans, costing and marketing materials. This is having a direct impact on the viability of building in the current environment and would be contributing to builders falling over (and cost of housing!!).

In this context, it is critical to consider the proposed changes potential impact on affordability, housing targets, business performance/capacity and overall outcomes before adoption. The RIS itself states "Although a lack of accessible housing imposes a significant and growing cost on the community (incurred mostly by people with disability and older people), this RIS concludes that regulatory options to amend the NCC for all new houses and apartments based on Silver, Gold and Gold + impose costs that outweigh the benefits" (page 20). Mandating a silver standard now would only add costs at a time of peak unaffordability when NSW is already struggling to meet housing accord targets.

Accessible housing vs aging in place

The discussion paper states that the ABCB's aim in developing national building accessibility requirements is to ensure housing meets the needs of older Australians and those with disabilities. It also highlights that by 2061, 25% of NSW's population will be over 65, increasing demand for housing that meets LHDS. However, the paper notes that new home construction accounts for only 2% of the total housing market which means it will take decades, if not longer, for these measures to have any material impact on the total number of accessible dwellings in NSW when existing homes meaning

The RIS identifies 1.59 million Australians with substantial mobility-limiting disabilities, but concludes the Silver Option is less inclusive, and the Gold option is more suitable for most with mobility and self-care limitations. Government programs like the Specialist Disability Accommodation (SDA) under the NDIS aim to provide accessible accommodation for those with substantial needs, funded by tax contributions.

Options 3 and 4 won't fully address mobility-limiting disabilities and are more focused on "aging in place." The gradual shift to livable housing means these solutions won't be immediate for the aging population either.

While the NSW Government has worked to increase accessible housing in both the private and social markets, with a minimum 30% of Landcom dwellings meeting the silver standard, it may be better for the government to provide Gold-standard housing for those in need, rather than burdening the private market with silver standards that may not be necessary for all.

It is also important to note that UDIA holds concerns that introducing a mandatory silver standard could also result in a new baseline which ultimately will look to increase to the Gold and Platinum standards over time, further throwing fuel on the housing affordability crisis. One developer (de-identified) provided an example of a project they were working on which involved 11 units being provided to a NDIS provider. They were already under construction and some of the requirements were increased to require platinum level including entry ways and access levels which added \$875,000 to the project, which is \$79,500 per apartment.

Action Plan

UDIA still maintains that option 1: maintaining the NSW variation to not adopt the design standards in NSW, is still the most appropriate pathway at this point in time. UDIA maintains that the context that the construction sector is operating in is largely unchanged since consideration was last given to adopting the LHDS in the NCC. Failing that, we would

recommend option 2: Keep the adoption voluntary with mandatory disclosure requirements on livability options at the point of sale.

Ensuring there is adequate housing for all, including those with accessibility concerns and aging in place concerns is a shared community responsibility. Implementing options 3 and 4 would unfairly send the costs involved in an affordability crisis to a limited new home buyer sector of the community. The UDIA also considers a better targeted approach is required to avoid reducing the affordability of new homes to a greater level than they already are.

UDIA would prefer an approach targeted to members of the community with accessibility difficulties which we believe could be delivered at lower cost. This approach would include:

- A targeted subsidy for new accessible homes that meet the specific needs of the mobility limited persons.
- Voluntary encouragement of the broader inclusion of accessible features into new dwellings through provision of planning incentives and subsidies (such as a height and density bonus) to stimulate new construction.
- Stamp duty reductions to assist older Australians to downsize to newly built fit for purpose housing.
- Development of additional accessible social housing.
- Support for housing incentive schemes which spread the cost burden of increased accessibility across a broader section of the community in line with the whole-of-community responsibility for improving quality of life for Australians with disabilities.

Consideration of further incentive-based schemes should also be examined. Incentives could increase the supply of accessible homes and generate housing led construction employment, while also assisting the accessibility needs of the community. This is UDIA's preferred approach rather than imposing additional costs on a very small number of new purchasers that would reduce construction activity.

Conclusion

Options 3 and 4 would impose additional costs on construction that would ultimately be passed down to the purchaser in the most unaffordable housing market in history. Imposing additional costs on construction further constrain an already heavily constrained development sector which is struggling to deliver new projects feasible and to deliver the desperately needed housing this state needs. The RIS stated that the costs associated with including an accessible housing standard in the NCC are estimated to outweigh the benefits. NSW rightly didn't mandate the silver standard be adopted in the post pandemic era and

unfortunately the issues relating to construction costs still exist and have only been further exasperated in recent years.

UDIA recommends support for a targeted subsidy and housing incentive schemes rather than increasing general homebuyer costs. This would spread and reduce the cost burden of increased accessibility across the broad cross spectrum of the community in line with the whole-of-community responsibility for improving quality of life for Australians with disabilities and the aging population who choose to age in place.

UDIA continues to support a position of option 1: maintain the NSW state variation to not adopt the Design Standards in NSW and failing that we would recommend option 2: Keep the adoption voluntary with mandatory disclosure requirements on livability options at the point of sale.

Should your team require further information please contact Harriet Platt-Hepworth, Director of policy on 0474 772 291 or hplatthepworth@udiansw.com.au.

Kind regards,

A handwritten signature in black ink, appearing to read 'Stuart Ayres', with a stylized flourish at the end.

Hon. Stuart Ayres
Chief Executive Officer