

Universal Design in Housing in Australia: Getting to Yes

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Abstract. In Australia, the last frontier for universal design is mainstream housing. Developers in the private residential sector have consistently, and successfully, argued for the status quo to remain. Developers' claims of cost and lack of demand have swayed governments that are in favor of "letting the market decide". Disability- and age-specific housing and one-off projects have included many features that are considered universal design. So, the technical details are not an issue. The house-building sector in Australia consists of many parts, all held together by regulations and professional codes and norms of practice. Calls for accessible housing were heard by the Australian Government in 2010 and a set of voluntary guidelines were developed jointly by industry and disability advocacy groups. These became the "Livable Housing Design Guidelines". It was understood that industry needed time to reorganize to bring about the changes needed. Consequently, it was agreed to progressively introduce accessible features over ten years so that by 2020 all new homes should be built to a basic level of accessibility. However, it was obvious in 2017 that this goal was unachievable with voluntary guidelines. Mandating these guidelines has been shunned at every turn, but the need to mandate could no longer be ignored. Through community advocacy efforts, the body that regulates the National Construction Code has been brought to the negotiating table to discuss mandating basic access features in all new homes. This paper reports on the processes and progress of these negotiations and the outcomes to date.

Keywords. Australian housing, building regulations, universal design, advocacy

1. Background

1.1 Australia's housing context

In the context of Australia's housing, four narratives on the supply of housing exist concurrently with little regard for the others [1]. The first narrative is driven by developers, the majority of whom are small family businesses that provide single-family dwellings. The Australian housing industry is a complex network of companies, suppliers and institutions that build housing, with the short-term outcome of maximized profit at the point-of-sale. In the main, the industry has handed over the responsibility for any long-term outcomes regarding the sustainability of residential environments to government planners and regulators [2].

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The second narrative by government has been dogged since World War II by consistent policy failure, with a mix of poor leadership, missed opportunities, and lack of vision about the long-term benefits of secure, affordable and appropriate housing. Over the last two decades, the social housing system has been depleted, with governments gradually shifting responsibility for housing the most vulnerable to the private housing market. An additional factor has been the lack of co-operation by a risk-averse housing industry, resulting in sporadic, politically-driven initiatives to stimulate employment activity when needed [3].

The third narrative of buyers indicates that home-ownership continues to be a widely-held aspiration in Australia providing security of tenure and long-term social and economic benefits, despite increasing financial risk [4, 5]. Individual buyers are likely to balk at paying extra on features for the “common good” (such as wider corridors and doorways or reinforcement for grab rails), particularly if there is no immediate and personal benefit to them. Further, it has been found that builders often charge disproportionately for variations to off-the-shelf designs, and actively deter buyers from requesting them [6]. Within this context, it is understandable that the last frontier for universal design is mainstream housing [7-9].

The fourth narrative is led by advocates for people whose needs are not met through the current mainstream housing system. At the time of the Livable Housing Design Agreement, the Australian Housing and Urban Research Institute [10] identified that “the level of housing need amongst persons with a disability and their families is enormous” (p. 12) and that current government and industry strategies are unlikely to address this need.

Australia’s eminent housing researcher Patrick Troy sums up the consequences for Australia of these four incongruent partisan narratives:

We have been unable, as a society, to develop a shared understanding or commitment to the development of a system of housing that meets the needs of all in an equitable manner. The pursuit of short-term private benefits, including the chimera of reduced public involvement and obligation, has led to the dominance of the “market”. This, in turn, has meant that those who saw the provision of a wide range of what were once seen as public goods and were important components of the notion of a just and fair society have simply lost out (p.285). [3]

Within this context, getting to yes to include universal design in housing has taken, and continues to take a mammoth effort.

1.2 Australia’s social policy context

Australia follows other first-world countries with 18.5% of the population identifying with a disability, and 40% of this cohort over 65 years old. Most people live in households in the community with less than 1% living in some form of specialist housing. Over a third of households have a person with disability living within them [11]. International social, economic and human rights imperatives on Australian governments towards social inclusion [12, 13] have resulted in significant financial investment through social programs for people with disability, older people and their families to remain in their own homes and communities for as long as possible [14, 15].

2. Universal design in housing

2.1 *Impetus of UNCRPD*

Without a comprehensive national housing policy, innumerable guidelines, standards and incentives have emerged at the State and Local government level to stimulate the housing market to respond to people with disability and older people [16-19]. The outcome has been confusion and frustration by the housing industry in managing these various interpretations, by households that cannot find appropriately designed housing when they need it, and by individuals who do not know what guideline to follow. Despite this, leaders in the housing industry have consistently, and successfully, argued for the status quo to remain, and community action by people with disability and older people has been unsuccessful in effecting any systemic change.

As a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) [12], the Australian Government was obliged to improve inclusion within residential communities, within this social justice framework. At the time, the Government was strongly advised as part of a cost-saving measure to strengthen regulations for housing standards to facilitate the inclusion of people with disability and ageing in place; and as a first step, a set of no-cost and low-cost requirements be mandatory in all new residential buildings [20]. It had also previously been cautioned on the limits of relying on market-forces to provide accessible and non-discriminatory built environments [21].

2.2 *Consensus agreement*

Regardless, in 2009 the Australian Government called on community and housing industry leaders to find voluntary market-driven solutions. Arguing the need for time, housing industry leaders agreed that all new homes could be built to a basic level of accessibility (Livable Housing Design “silver” level [22]) by 2020. Regulation would not be necessary; rather, there would be an open and transparent process to measure progress through interim targets and regular reviews. The reviews would “identify areas of successful application, any barriers to uptake, and whether there is a need for other incentives or measures to stimulate adoption of Universal Housing Design principles” [23].

The agreement attracted universal support. After decades of inaction, the Livable Housing Design Guidelines [22], with its strategic plan [23] was the first national initiative to embrace universal design in housing, agree on a nationally consistent guideline and commit to measurable targets. Further, the Council of Australian Governments (COAG), Australia’s peak inter-government forum, committed in their National Disability Strategy [24] to support the industry’s 2020 target.

2.3 *Failure of agreement*

There was some criticism that the agreement was a “wimpish, legally unenforceable cop-out” [25]. Nevertheless, the long-term disability and human rights advocates, including Australian Network for Universal Housing Design (ANUHD), needed unequivocal proof that COAG could not rely on a voluntary approach to meet their commitments. By 2014, they had the evidence they needed. The agreement had failed. The first interim targets were not met, no reviews had been done, and the strategic plan as agreed was abandoned.

In 2014, ANUHD with Rights and Inclusion Australia, undertook an alternative review and found that, “the housing industry, as a whole, has failed to show signs of voluntary systemic transformation. A generous estimation is that the current voluntary approach will achieve less than 5% of the National Dialogue’s 2020 target” [26]. ANUHD demanded “that the Australian Government incorporate minimum access requirements in the National Construction Code for all new and extensively modified housing as a matter of priority” (p. 6).

3. Ground-up Advocacy

ANUHD was established in 2002 as a loose network of people who believed that “the homes we build for today should be fit for all of tomorrow’s Australians” [27]. Its years of failed strategies to influence the housing industry (including its support for the Livable Housing Design agreement) confirmed their advocacy for regulation in the National Construction Code. In 2016, ANUHD clarified their demand to include Livable Housing Design’s “gold” standard [22]. ANUHD’s strategy was simple. Armed with the evidence that the Livable Housing Design agreement had failed, it called on the government and non-government institutions that had supported the agreement to act.

3.1 Standards Australia

The first call was to Standards Australia, Australia’s voluntary standard-setting mechanism, to seek a review of the out-of-date accessible housing standard [19] to align with the intent of the National Disability Strategy [28]. Standards Australia is a non-government organization, which uses a consensus approach and requires a wide range of stakeholders to support any proposal before it is accepted. The proposal attracted support from over 100 community organizations; however, the four peak housing industry bodies who had signed the Livable Housing Design agreement did not support it. Standards Australia considered that they were unable to proceed with this proposal.

3.2 Australian Human Rights Commission

The second call was to the Australian Human Rights Commission. The Disability and Aged Commissioner at the time, The Hon Susan Ryan AO, had no hesitation to release a statement, in a bid to call COAG to account:

The voluntary approach is failing our older citizens . . . The additional cost of constructing new dwellings using the well-established principles of universal design is not great, but builders will not incur it without regulation or other incentive. . . . It is time to replace the voluntary code with regulation. This could be done now, as State and federal governments, COAG, review the 2010-2020 national disability strategy. [29]

COAG’s second implementation plan for the National Disability Strategy [30] made no mention of the Livable Housing Design agreement or the commitment to support the 2020 target.

3.3 Australian Building Codes Board

The third call was to the Australian Building Codes Board (ABCB), which oversees the National Construction Code. ANUHD proposed that the ABCB, in its next review of the Code in 2019, include an agreed access level for all new housing [31] in order that COAG could meet its commitment in the National Disability Strategy to support the 2020 target. The proposal was refused consideration, as it was “a policy rather than a technical matter, which given it has involved a decision of COAG, will require resolution at that level” [32].

3.4 Building Ministers’ Forum

The fourth call was to COAG through its Building Ministers Forum (BMF). At the time, ANUHD intensified its letter campaign to State and Territory Governments reminding them of COAG’s commitment to the 2020 target and the failure by industry to respond. By late 2017, ANUHD had gained the attention of COAG, which in turn directed the ABCB to “undertake a national Regulatory Impact Assessment regarding accessible housing for private residences . . . [to] examine the silver and gold performance levels as options for a minimum accessible standard; use a sensitivity approach; and be informed by appropriate case studies” [33]. ANUHD now had support from the highest level of government not only to consider a regulatory framework for universal design in all new housing construction, but also to a higher level of access than was originally considered possible in the voluntary Livable Housing Design agreement.

4. Next Steps

The ABCB’s Regulatory Impact Assessment is arduous and, even if commenced now, would unlikely to be completed for the 2019 review of the National Construction Code. Any changes must wait for the next scheduled review in 2022. Now that the debate has shifted from “if” to “how”, ANUHD’s next task is to maintain the pressure to complete the Regulatory Impact Assessment process in a timely manner.

5. Discussion

5.1 *The agreement is based on unfounded assumptions*

Many consider that voluntary initiatives within liberal societies can successfully stimulate co-operation, competition and innovation, and have the power to address systemic injustice without the heavy hand of government [34, 35]. The Livable Housing Design agreement and its almost universal support came from this ideology. Its strategic plan [23], however, was based on three assumptions which we consider to be unfounded.

The first assumption was that there would be an increasing market demand for universal design in housing. This has yet to occur. Although studies in the United States [36, 37] lead us to expect that 60% of newly-constructed single-family dwelling will house at least one resident with a long-term physical limitation during its lifespan by

2050, this has yet to translate into an equivalent demand for universal design in housing at the point-of-sale of new construction.

The second assumption was that the housing market will respond to a market demand for universal design in housing. Most new housing is built by volume builders who remain competitive by using standardized designs and building practices, tight schedules and mass production [6, 38]. Any change in practice brings with it risks of unexpected costs and time-delays. So, for those few who ask for changes, the price rises far above its cost, or the change is regularly discouraged. On reflection, the housing industry's adage, "If the buyer needs it, we will build it" has little verifiable foundation.

The third assumption is that the housing industry will adopt universal design in their housing designs, regardless of demand, because it is the right thing to do. This clearly has not been the case. The failure of the agreement shows that the housing industry's short-term goal of maximum profit at point of sale does not take into consideration the consequences for the many households that reside in the housing throughout its life cycle, including their capacity to participate in community and family life.

In summary, the Australian Government and the ABCB were clearly and repeatedly advised [20, 21, 31] that relying solely on demand, particularly in the housing market, is problematic when addressing issues of inclusion, participation and rights. The voluntary approach of the Livable Housing Design agreement was based on unfounded assumptions and was set to fail from the start. This serves to question the motives of those signatories of the Livable Housing Design agreement who knew this all along.

5.2 *Leadership is not with the powerbrokers*

It has taken those most affected, that is, groups representing people with disability and older people (of the fourth narrative) to call COAG to account and to demand a mandated approach, albeit with the risk of a reductionist solution. This advocacy has demonstrated how the impetus for change is often left to ordinary folk, particularly those most affected, when it is politically and economically inconvenient for those who are responsible.

So, who should be responsible? When it comes to issues of social injustice, people can be found to fall into four broad groups [39]: The first group are those who are in positions of power who understand the impacts of poor housing design and do nothing. These people are few; they are not only responsible, but also guilty of inaction. In this sense, the original signatories of the Livable Housing Design agreement have much to answer for, including a decade of delay for this housing policy to be implemented. The second group are responsible by association. The thousands of people that make up the housing industry, developers, designers, builders, suppliers and buyers go about their daily business unaware of how their individual housing decisions contribute to social injustice. When brought to their attention, they consider they have little power over their leaders, or the pressures of their business to make any change.

The third group do take individual responsibility; they make their individual homes accessible and promote universal design, as they go about their daily lives. The fourth group are those who take political responsibility; they take public and collective action to intervene, and call to account those people who could do something, but who do nothing. Typically, they are led by those who are most affected, who understand personally what social injustice means.

This theory does not make change agency for the adoption of universal design any easier, but it does help to understand the barriers better, and how best to bring about change. After trying and failing with various strategies, ANUHD now focuses its

advocacy for regulation on the first group, leaves the second group alone, and seeks support when needed from the third group.

6. Conclusion

Getting to yes for universal design in housing has been a long journey. Nothing would have happened without the organized voice of ordinary folk, who experience social injustice each day because of poor housing design. The disinterest of the housing industry and the lack of vision by governments continues with formidable inertia. Getting to yes has a few more chapters, and many powerful stakeholders have yet to show their hand. Community activists can be comforted that, to date, they have successfully brought those responsible to account, have catalyzed action towards regulation, and have given a clear message they are not going away any time soon.

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