

National Disability
Services (NDS)
Submission to the
Victorian Government

Submission in Response to the Victorian Government's Social Housing Regulation Review

20 September 2021

About National Disability Services (NDS)

NDS is the peak body for non-government disability service providers, with more than 250 members in Victoria and over 1,080 members nationally. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Commonwealth governments. The diverse and vibrant membership of small, medium and larger organisations, directly and indirectly support thousands of people with disabilities in Victoria.

NDS members collectively deliver the full range of disability services; from supported independent living assistance, specialist disability accommodation services, respite, therapy, community access and employment.

NDS joins other representative organisations including the Australian Federation of Disability Organisations, People with Disability Australia, the Australian Association of Gerontology, among many others, in advocating for the inclusion of mandatory accessibility standards within the Australia's National Building Code.

Background

The Victorian Government is undertaking a [Review](#) of Social Housing Regulation during 2021. The Review is looking at long-term public and community housing and aims to identify future regulatory arrangements that will best support the long-term interests of social housing residents and their communities. It also aims to best position social (and affordable) housing for growth and transformation over the coming decades.

The Review is currently seeking feedback on two discussion papers: Consultation Paper 2 - Service Delivery and the Tenant Experience, and Consultation Paper 3 - Role of Regulation in Sector Accountability, Viability and Growth.

The former seeks feedback on what works and what needs to change for tenants and people trying to access housing, including:

- What are the most important changes needed to improve social housing?
- Is it easy to apply for social housing?
- Does the waiting list work well?
- How can tenants have a stronger voice?
- What are the biggest problems that need to be fixed for tenants?
- What information and support do tenants need?
- Should everyone eligible for social housing have the same rules?
- What rules and policies make it hard to feel at home in your property?
- What is good about social housing?

The latter seeks feedback on building a diverse, financially sustainable social housing sector that can grow to meet the demand for social housing and serve the interests of tenants. NDS has prepared this submission incorporating input from providers to help inform our paper.

Introduction

The [Victorian Department of Families, Fairness and Housing's website](#) indicates that people with a disability form 18.4 per cent of the Victorian population¹. The number of people with a disability in Victoria is increasing. The number is expected to continue to grow due to population growth, ageing and increased life expectancy. More than 15 per cent of the Victorian population are older and the number of Victorians aged 65 and above is set to triple by 2058². NDS is aware that only 6 per cent of NDIS participants are eligible for Specialist Disability Accommodation (SDA) housing, and many people with disabilities look to the provision of public and community housing to meet their housing needs.

According to the [Building Better Homes website](#), a 2020 survey of people with mobility impairment, 73.6 per cent of respondents with disabilities were living in housing that does not meet their needs³. This leads to increased costs of modifications and the need for paid and unpaid care, and a reduction in workforce participation with inevitable negative consequences for our economy.

As our population ages and the disability population grows, the demand for accessible housing is only going to increase. Already, nearly 81 per cent of Australians over 55 would prefer to age at home, rather than go into residential aged care⁴. Not only will greater access to appropriate housing support choice for older Australians, it will also result in substantial savings to the health and welfare sector from reduced injuries and home-care, as well as reducing the cost of aged-care. And it is not just people with disabilities and older Australians who benefit from accessible housing design. We all do.

NDS is committed to the full implementation of the National Disability Insurance Scheme (NDIS) and to supporting Victorian service providers to thrive within a person-centered landscape. The disability sector recognises that safe, secure, affordable, and accessible

¹ Department of Families, Fairness and Housing, State Government of Victoria, Australia, *People with a disability in Victoria* (2021), <<https://providers.dhhs.vic.gov.au/people-disability-victoria>>.

² Department of Health and Human Services, State Government of Victoria, Australia, *Ageing* (2020), <<https://dhhs.vic.gov.au/ageing>>.

³ Dr. Ilan Wiesel, *Lived Experience and Social Health and Economic Impacts of Inaccessible Housing: Report Submitted to the Australian Building Codes Board RIS* (Melbourne: The University of Melbourne, October 2020), <https://disability.unimelb.edu.au/_data/assets/pdf_file/0019/3522007/Accessible-Housing-FINAL-REPORT.pdf>.

⁴ Amity James; Steven Rowley; Wendy Stone; Sharon Parkinson; Angela Spinney; Margaret Reynolds, *Older Australians and the housing aspiration gap*, AHURI Final Report 317 (Melbourne: Australian Housing and Urban Research Institute, August 2019), <<https://www.ahuri.edu.au/research/final-reports/317>>.

accommodation and buildings is fundamental to the goal that all Victorians have access to housing services in the community.

Comments

The Social Housing Regulation Review Consultation Paper 2 highlights the issue of a high number of people living in insecure housing. This applies to many people with disabilities, who are seeking long-term, secure social housing.

Current social housing regulation is confusing, inequitable, and inadequate. NDS welcomes the review and consultation of the Social Housing Regulation settings to ensure the growth of sustainable social housing. Whilst NDS agrees with the general directions of the paper, we are seeking greater protections for people with disabilities in community housing. Such people need a social landlord to provide them with greater security and long-term tenure; as opposed to a standard RTA lease.

In regard to Consultation Paper 3, NDS supports robust, equitable, and contemporary Social Housing regulations developed within a cohesive quality and safeguarding framework. We want to see agreed principles that support housing growth which will better meet the needs of people with disabilities, with a heightened tenant voice and participation, to meet their needs.

NDS urges the Victorian Government to consider the following three recommendations, which will make Victoria more inclusive of people with disabilities, create more opportunities for people with disabilities, and positively shape the way all Victorians live, now and into the future:

Recommendation 1: More social housing is built to meet the needs of people with disabilities.

Recommendation 2: Encourage growth of the social housing sector in a sustainable manner, serving the interests of tenants with disabilities, their families, carers and support workers.

Recommendation 3: Amend Victorian tenancy protections to reflect the contemporary disability housing environment.

Recommendation 1: More social housing is built to meet the needs of people with disabilities.

Disability housing is given very little mention in the Social Housing Regulation Review Consultation Papers. Whilst the NDIS provides some limited disability housing options ranging from Improved Liveability, Fully Accessible, Robust, and Highly Physical Support, under SDA, the need for disability housing is far greater than SDA.

Only 6 per cent of the NDIS population are eligible for NDIA SDA housing. Many of the remaining 94 per cent of NDIS participants are thus dependent on public and community housing as well as other low-cost tenures and private rentals for their housing. Many people with disabilities are on the Disability Support Pension (DSP) with low incomes. Many cannot afford to buy a home or afford private rentals. Many are looking to the Victorian Government to provide secure, safe, affordable, and accessible housing accommodation.

NDS recommends that the Victorian Government takes a lead role on building more social, affordable, and accessible housing to meet current and future housing demand. A recent media release indicates that approximately 50,000 people are currently on a waiting list for social housing allocations in Victoria⁵. Many people are on the waiting list for multiple years. The social housing sector needs to grow in Victoria.

We welcome the Victorian Government's recent investment in social housing, with news that more than 2,300 new homes will be built in Victoria as part of the first round of funding of Victoria's Big Housing Build. We also want to see expanded social housing investment in the sector, in a sustainable manner, meeting the evolving needs of people with disabilities, their families, carers and support workers.

It is critical that the needs of people with disabilities are considered in development of such strategies, possibly with some specific targets⁶. One issue is that people with disabilities may not be classed as homeless and so are not prioritised in allocation of scarce social housing. Yet many people with disabilities look to public and social housing, given their

⁵ McDonald M, Price K & Darling A 2021, 'Victoria's affordable housing project kicks off with \$740m worth of projects to build 2,300 homes', *ABC News*, accessed 16 September 2021, <[Victoria's affordable housing project kicks off with \\$740m worth of projects to build 2,300 homes - ABC News](#)>.

⁶ The Hon Daniel Andrews MP, Premier, 'Victoria's Big Housing Build', *Media Release* (online), 15 November 2020. <<https://www.premier.vic.gov.au/victorias-big-housing-build>>.

relatively low incomes, challenges with obtaining employment, and the breadth of discrimination in our society.

Recommendation 2: Encourage growth of the social housing sector in a sustainable manner, serving the interests of tenants with disabilities, their families, carers and support workers.

The key principles and regulation of housing for social tenants and residents from Consultation Paper 2 appear appropriate. NDS supports the proposed principles outlined in the paper:

- Serve the interests of tenants
- Be equitable – people in similar circumstances should have similar services, rights and protections
- Support long-term viability and growth in the sector
- Support integration of housing assistance and other related services
- Be flexible to enable a diverse range of providers and housing stock
- Be efficient and proportionate, and drive transparency, accountability and continuous improvement

However, we would like to see more focus on people with disabilities within the framework, including the following:

- Serving the interests of tenants with disability
- Be equitable – people with disabilities in similar circumstances should have similar services, rights and protections
- Support long-term viability and growth in the sector, including growth of accommodation to be made readily available to people with significant disabilities
- Support integration of housing assistance and other related services for people with disabilities
- Be flexible to enable a diverse range of accessible housing stock
- Be efficient and proportionate, and drive transparency, accountability and continuous improvement, addressing the evolving needs of people with disabilities

Recommendation 3: Amend Victorian tenancy protections to reflect the contemporary disability housing environment.

NDS is calling for the Victorian Government to amend the Residential Tenancies Act 1997 (RTA) due to various problems with the current options relating to tenancy protections for SDA residents. NDS wants to see the Act and associated regulations changed, to provide strengthened protections specifically designed for people with disabilities living in both SDA enrolled dwellings and non-SDA dwellings.

In 2019, the Victorian Government introduced legislative changes designed to provide tenancy protections to people living in SDA. These changes moved SDA tenancy rules from the Disability Act 2006 to the RTA 1997 under Part 12A. With the assumption that properties would be ready to successfully transition to the requirements of the RTA, all properties registered under the Disability Act were automatically de-gazetted from the Disability Act and residential statements became void on 1 January 2020. These changes have resulted in some people with disabilities being ineligible for either of the two lease options under the RTA: i) The SDA Residency Agreement, or ii) The Residential Rental Agreement (mainstream tenancy agreement) for medium-or longer-term tenures.

Where we live, who we live with and the supports to live the life we want are very important.

While NDS acknowledges the work undertaken to develop tenancy protections for people in SDA housing, we are calling for this to be amended in order for tenancy protection options to reflect the contemporary disability housing environment.

We recommend that the Victorian Government work with people with disabilities, their families and carers, SDA and Supported Independent Living (SIL) providers and NDS, to understand the needs and preferences of people in regard to residential tenancy lease options, and design more flexible lease options which reflect the needs of SDA and non-SDA residents under the full range of contemporary living arrangements outlined in the NDIS Individual Living Options (ILO) model:

- Co-Residency: Support resides full time or part time in the participant's home
- Host Arrangements: Participant resides full time in the home of a non-related host who provides support

- Living Alone: Support is provided in the home of the participant in a variety of ways
- Living Together: Participant lives with other people of their choice and receives support

The current Victorian legislation dictates that an SDA dwelling cannot have occupants on both the SDA Residency Agreement and Residential Rental Agreement. Under the RTA, higher level tenancy protections are only available to SDA residents when they live with other SDA residents, under a Part 12A lease. This situation is at odds with contemporary directions which encourage people with disabilities to have choice on who they live with.

NDS recommends that the Victorian Government amend the RTA to enable all people with disabilities to access appropriate tenancy protections, and have choice and control on who they live with.

It is also recommended that more flexible lease options be developed for people with disabilities who are not eligible for NDIS SDA supports but wish to have a greater level of protections than the standard RTA lease. Some NDIS participants who are not eligible for SDA nevertheless require higher level tenancy protections including security of tenure. Many of them may end up in social housing if they cannot secure NDIS SDA funding to live in long-term SDA accommodation.

Conclusion

In summary, NDS welcomes the Review of Social Housing in Victoria, and the general direction of the proposed reforms. We recommend that the Victorian Government continue to grow the Victorian social housing sector, ensuring all Victorians, specifically people with disabilities who are on low incomes, are able to secure accessible social housing and services, enabling them to live their best possible lives.

NDS would welcome the opportunity to engage further with the Victorian Government on the Social Housing Regulation Review.

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