



**NSW Legislative Assembly Select Committee on the Residential Tenancies
Amendment (Prohibiting No Grounds Evictions) Bill 2024**

Response to Questions on Notice by People with Disability Australia

Question 1:

Mr TIM JAMES: In terms of the supply of properties that have been fitted or built in a manner that is suitable for people with a disability, can you just help me to understand that some more in terms of the supply challenges there and the extent to which they may be different to the broader supply challenges in the marketplace? Obviously take it on notice in terms of any sort of data or detail that you have that sits around that. I would be grateful to hear it.

Response:

Approximately one-third (29% or 1.2 million) of people with disability in Australia are renting (39% or 949,000 aged under 65; 14% or 256,000 aged 65 and over).¹

There is no clear **data** on how much accessible housing is available in the **private rental market in NSW**. This is distinct to Specialist Disability Accommodation (SDA). By accessible housing we mean housing that has been modified or constructed according to the 2022 National Construction Code (NCC) Livable Housing Design Silver Standard (the Standard).² In States and Territories that have signed on the Standard, all new homes must be built to this Standard. An existing private dwelling may have a ramp or grabrails in a bathroom. But that does not necessarily make it accessible.

Nor is there any clear **data** on how much housing is currently being built in NSW that is compliant with the Standard, and is housing that is, in this instance, destined for the private rental market. We note that the Standard is not mandatory in NSW.

¹ Australian Institute of Health and Welfare (2024) *People with Disability in Australia 2024* <<https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/housing>>

² Livable Housing Design Silver Standard <<https://livablehousingaustralia.org.au/lha-silver/>>

The Livable Housing Design Standards benefit *all* people, not just people with disability.³

The following States have signed on to the NCC Standard and will implement the mandatory Standard from these dates:

The Northern Territory - October 2023

Queensland - October 2023

South Australia – 1 October 2024

Victoria - 1 May 2024

Tasmania - 1 October 2024

Australian Capital Territory - 15 January 2024

Western Australia and New South Wales (NSW) have refused to sign up to the Standard.

The cost impact of adopting the Silver Standard in new dwellings has been found in modelling undertaken for the Australian Building Codes Board to be extremely low - around 1%.⁴ It has also been found that '[t]he costs to the homeowner of including key livable housing features (in this case the silver level) is 22 times more efficient than retrofitting when an unplanned need arises.'⁵

Any **supply issue** of accessible housing in NSW can in large part be attributed to the NSW Governments refusal to sign up to the Standard which is the bare minimum. Making the Standard mandatory for new builds would by default provide an easier way to calculate how much rental housing stock is accessible, though we

³ Livable Housing Australia (2017) *Livable Housing Design Guidelines (4th ed)*
<https://livablehousingaustralia.org.au/wp-content/uploads/2021/02/SLLHA_GuidelinesJuly2017FINAL4.pdf>

⁴ Donald Cant Watts Corke (2020) *Accessible Housing: Estimated Cost Impact of Proposed Changes to NCC. Report prepared for Australian Building Codes Board*
<<https://www.abcb.gov.au/sites/default/files/resources/2022/Accessible-housing-estimated-cost-impact-of-proposed-changes-to-NCC.pdf>>; Building Better Homes Campaign
<<https://buildingbetterhomes.org.au/new-south-wales/>>

⁵ Livable Housing Australia (2017) *Livable Housing Design Guidelines (4th ed)*, 10
<https://livablehousingaustralia.org.au/wp-content/uploads/2021/02/SLLHA_GuidelinesJuly2017FINAL4.pdf>

still need a mechanism that does properly collect and collate data on availability of accessible private rental housing and provides that in a clear and accessible way.

We would suggest that further assistance for people with disability in NSW now could come from landlords being required to not refuse reasonable requests for accessibility modifications, especially in situations where the tenant will be paying for them. This could be included in each standard residential tenancy agreement. This may require amendment of the *Residential Tenancies Act 2010* (NSW). Note that many people with disability are not eligible for SDA, and the NDIS will often only fund one home modification in a private dwelling, making the grounds for prohibiting no grounds evictions even more important for people with disability who need accessible housing.

Question 2:

The CHAIR: Given we were moving quickly but also given your submission does talk to the use of no-grounds evictions as a way of impacting on discrimination and other things, maybe if you want to take that on notice and come back with that as a potential—what you would see as the benefit of this change to avoiding those kinds of discriminatory practices on the basis of a ground.

Response:

People with disability are at particular risk of discrimination in the private rental market in the application stage and during their tenancy.

At the application stage, disclosing a disability may make the real estate agent / landlord assume the person has little money or receives government benefits and is therefore a rent risk. They may think that the person with disability would be less likely to absorb rent increases. They may assume that the person with disability is unable to care for the property or is violent or may display behaviours that disturb others. We know that use of a mobility aid, in particular a wheelchair has been demonstrated to create concern for agents and landlords that use of this internally may cause damage to the property. This would only be the case if the property does not meet minimum accessibility, such as wide enough hallways or the need to utilise temporary ramps. They may feel that a person with disability is ‘not a good look’ for

their property. The real estate agent/landlord may not want to consider making any modifications and may not want animals if the person with disability currently has an assistance or support animal.

If the person with disability is successful in gaining a tenancy, they can still be subject to potentially unethical and discriminatory practices. For example, the landlord may want to significantly increase rents on the property either forcing the tenant out or the tenant being forced to pay these as they feel they have no choice or are not aware of their rights and how to enforce them. There may be an assumption by the landlord that there will be little resistance from a tenant with disability if basic rights are ignored, such as requests for repairs, and that the person with disability does not have the knowledge or means to resist. If resistance is offered, then the tenant may be simply evicted. For example, the tenant with disability may put in a reasonable request for housing modifications or may take on an assistance or support animal or may request a change to the way rent is paid making it more accessible for them - such requests can risk eviction as people with disability are seen as easy targets because of their vulnerability. The real estate agent or landlord may simply decide that they do not want person with disability living 'there'. In these cases, there is an underlying ableist assumption that a person with disability is unaware of their rights, or not able to enforce their rights.

We note that all renters in NSW face the risk of an arbitrary no grounds eviction for many of the same reasons we have outlined above. However, we submit that firstly, people with disability can be seen as a soft target, making a decision to evict 'easier'. Secondly, the impact of such an arbitrary eviction falls most harshly on those who are vulnerable in our community such as people with disability who will struggle again to find suitable accommodation. We note that it is often more difficult for people with disability to enforce their rights, even when they are aware they are facing an injustice. Prohibiting no grounds evictions will provide significant protections for people with disability who are able to secure a rental property by protecting them from potential discriminatory treatment that undermines their fundamental human and consumer rights.