



HIA Submission

Livable Housing Requirements in NSW Discussion Paper 2025

A submission to the Building Commission NSW

20 March 2025





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Introduction

The Housing Industry Association (HIA) takes this opportunity to respond to the Discussion Paper (Paper) on Livable Housing Requirements in NSW, released by Building Commission NSW (BCNSW) as part of a review into whether the current NSW exemption to the NCC livable housing design standards (LHDS) remains appropriate.

The Discussion Paper:

- Outlines the progress to date in implementing the LHDS, including in other jurisdictions as well as via NSW policy initiatives outside the NCC.
- Updates the costings for implementation of the LHDS.
- Explores potential benefits of adopting the LHDS in NSW.
- Puts forward four options for NSW:
 1. Maintain the NSW state variation to not adopt LHDS.
 2. Keep adoption voluntary with mandatory disclosure requirements on livability options at the point of sale.
 3. Adopt the LHDS with exemptions.
 4. Full adoption of LHDS

HIA calls for a balanced approach that could be described sitting somewhere in between Options 2 and 3.

The measure requiring reinforcing for all bathroom and shower walls could be adopted as mandatory across all new housing. We believe this is the simplest and most practical measure that will support long-term aging in place and improve livability.

The remainder of the measures should be encouraged through incentives put in place through the NSW Planning system in a way which supports improved project feasibility, in addition to the existing NSW non-NCC policy initiatives. The original regulatory impact assessment of the NCC livable housing changes found that direct subsidies were most efficient and effective and the only option likely to be of net benefit to society.

Guidance should also be created on where implementation is and is not practical to be achieved within the planning system, informed by the existing exemptions and variations created in the other jurisdictions. For example, to exempt narrow and challenging lots, and small secondary dwellings.

Over time, updated details in the NCC to address technical challenges identified would support industry in delivering to the LHDS standards where they are nominated or pursued for a development. These can also be enhanced through sensible variations as implemented in other states.

We also note a lack of consideration within the Discussion Paper regarding support for existing homeowners to make reasonable upgrades to existing housing stock; the difficulty in complying with LHDS in full when undertaking renovations on existing dwellings. Alongside supporting homeowners to provide improved measures, any amended approach should afford equal consideration for exemptions for new renovation work.



Executive Summary

HIA asserts the updated discussion paper does not substantially alter the findings of the original Regulatory Impact Statement, and that the costs still substantially outweigh the benefits for full mandatory adoption.

NSW is now in a housing affordability crisis, and falling well short of our housing accord targets, and the waiting list for government housing is growing rapidly.

HIA therefore cannot support a blanket adoption as an overly simplistic approach to a complex issue that will have unintended consequences for housing supply and affordability more broadly. HIA calls for a balanced way forward in NSW.

HIA supports an incentive-based approach to encouraging a higher proportion of livable and accessible housing in new developments aimed at increasing housing supply overall. This approach would more closely align with the principles of best practice regulation.

This can be achieved by having the technical details – the 'how to' – in the NCC; and defining when the provisions apply, to which lots or buildings, and to what extent within the NSW Planning system. This will ensure that the right buildings are targeted.

Alongside our prior submissions and correspondence, HIA highlights three areas of concern regarding the blanket adoption of LHDS:

- Land
- Project feasibility
- Technical details

We also note the ongoing issues with the state of the housing market:

- Housing affordability
- Housing Accord targets
- Government housing waiting lists and homelessness.

The discussion paper also raised some issues to which we provide some additional and opposing commentary:

- The case for mandating
- The Inter-Governmental Agreement (IGA) of the ABCB
- Futureproofing of the housing stock.



HIA Core Concerns

Land

According to the HIA Core Logic Residential Land Report for September Quarter 2024, the median lot price in Sydney is up by 7.2% from the same time in the previous year to the highest in the country at \$710,000 —more than doubled in the decade (Figure 6). The median lot size is being driven down to around 375m² to compensate, down from 450m² the decade prior (Figure 7).

This is then driving an increase in the number of small-lot detached or semi-detached dwellings, such as garage-top flats, dual-key homes, townhouses and other small or narrow dwellings. These types of dwelling serve to help maximise utilisation of land for new housing and deliver a relatively more affordable option for many would-be home buyers in NSW.

Consequently, these housing types are significantly space restrained, both internally and externally based on lot width. Complicating LHDS application further is the NSW planning system and council development controls which impose floor-space ratio restrictions and hard-landscaping restrictions on new development.

Such constraints prevent increased corridor widths, parking space/garage widths, and space around toilet pans without sacrificing space in other areas of the dwelling, and may not be practical to achieve at all in some cases. This loss of amenity is a cost that has not been accurately reflected in advocate's arguments put forward for LHDS adoption, and may make some of these forms of development unviable to deliver altogether.

For smaller lots with small set-backs from the street front, a step-free concrete or paved pathway to the entry may represent a substantial proportion of the available landscaping area. Restrictions on hard landscaping as a proportion of total landscaping also apply within planning instruments, and could again lead to developments of this nature being rendered unviable if LHDS is applied as a blanket mandatory rule.

Similar issues have led to many of the exemptions being applied in other jurisdictions.

For implementation of LHDS in any form or format, clear guidance must be developed to allow all industry stakeholders in NSW to have common understanding of where the requirements are not practical and therefore not required – whether adopting a voluntary model or otherwise.

Alongside the existing NCC exclusions for sloping blocks above a certain gradient, HIA also suggests consideration be given to adopting the below exemptions, some which are already provided in other jurisdictions:

- Narrow lots less than or equal to 10 meters wide, including strata lots (e.g. townhouses)
- Small lots less than 300m²
- Secondary dwellings (e.g. granny flats and garage top flats, dual-key homes)
- Downward sloping lots (where water ingress management at the entry doorway is particularly problematic as access pathway directs surface water flow towards the entryway).

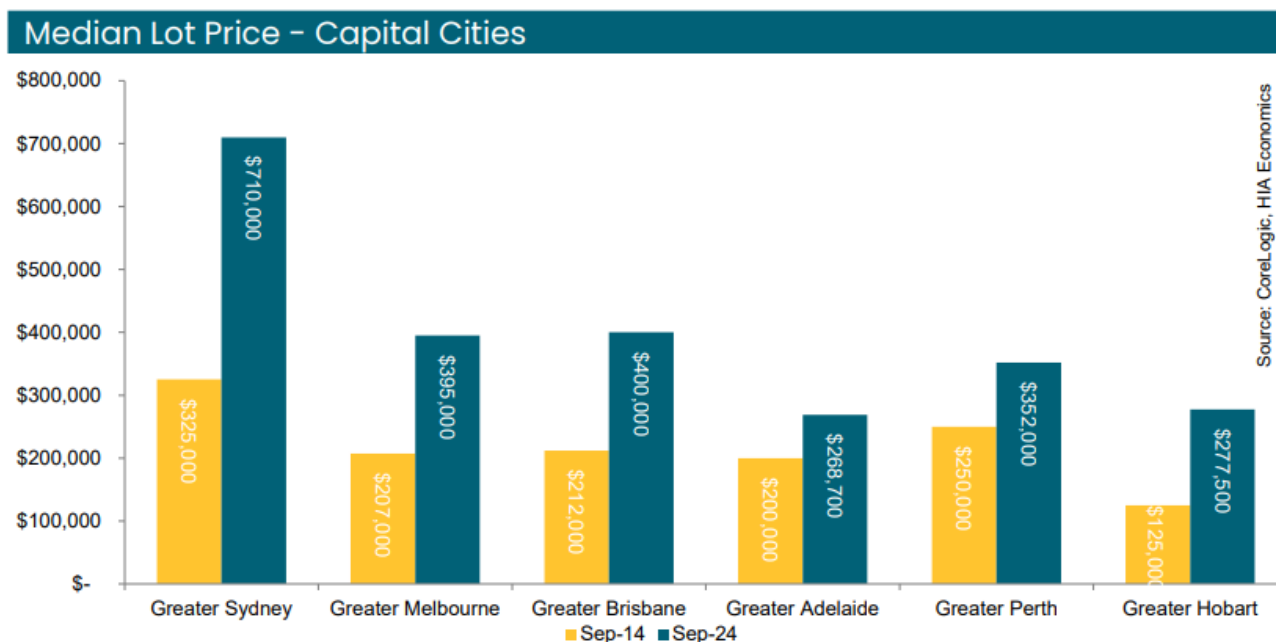


Figure 6: Median Lot Price – September 2014 to September 2024

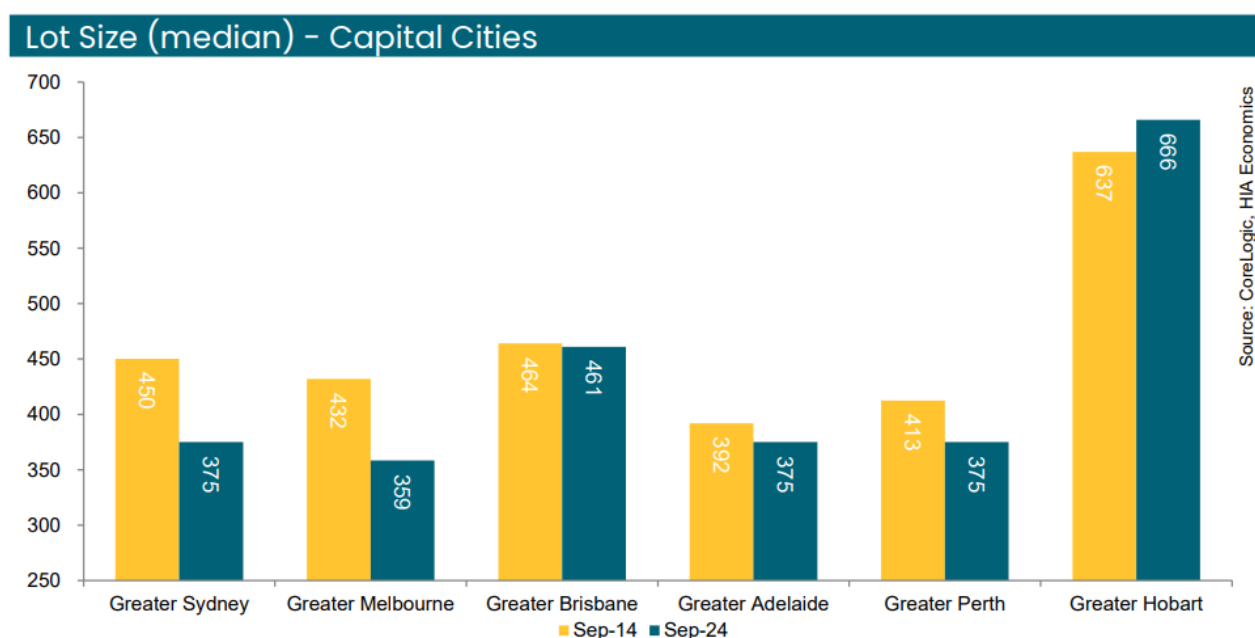


Figure 7: Median Lot Size – September 2014 to September 2024

Project Feasibility

Project feasibility is a significant challenge for multi-residential construction projects, hampering new supply in NSW. This was identified within the NSW Productivity Commission report *Review of Housing Supply Challenges for NSW*, which states that typical mid-rise apartment development is currently not feasible to deliver because the delivery cost is greater than the expected sale price.



Feedback from HIA members suggests the majority of projects that currently stack up are boutique developments in higher-income locations. Typical apartment developments in Western Sydney for example are largely considered unviable.

Since 2020, construction costs have increased over 30%. While these cost increases have stabilised, they have done so at a higher baseline and have substantially outstripped income growth for potential home buyers, so the resulting feasibility challenges remain a critical factor for new housing development.

NSW Planning rules include floor-space ratio limits and building height restrictions, which are not all imposed in other jurisdictions such as Queensland. With project feasibility limited, developers are already maximising utilisation of space in developments to achieve yields in NSW.

The LHDS requirements impose extra non-habitable space consumption within dwellings, which due the planning restrictions in NSW cannot be recovered by making developments slightly larger. The only choices available are then to:

- reduce the number of dwellings delivered, or
- to compromise on the habitable spaces within each dwelling which negatively impacts the value of the dwelling.

Both of these outcomes reduce overall yield and further worsen the imbalance between delivery cost and market sale price.

If government policy lacks suitable incentives to offset the cost impacts of LHDS adoption, it will only serve to tip more projects into unfeasibility and lead to less development of new housing exacerbating other societal issues.

Technical Details

Substantial challenges have been identified with delivery of new housing to the LHDS, particularly around two key measures where suitable standardised and compliant details are substantially lacking within the NCC and associated referenced Australian Standards:

- Constructing a step-free entry threshold while simultaneously satisfying the weatherproofing, damp-proofing, termite management, and cladding construction standards.
- Constructing a step-free entry threshold to a wet area containing a step-free shower while maintaining the required falls to floor wastes and other waterproofing details required.

These areas are complicated junctions of multiple building elements, with multiple trades and multiple risk factors all intersecting.

While some limited diagrams were included in NCC 2022 for the step-free entry, they only considered the provisions of free-board and termite inspection zones. They did not provide any guidance for how that entry threshold should be detailed in its interaction with the surrounding walls. For example, for a brick veneer construction there is no guidance on how cavity flashings, damp-proof courses and termite barrier systems are to be terminated where the wall meets an entry landing. For lightweight cladding walls, most cladding products must terminate higher than finished ground level, but again there are no details for how the cladding termination must be achieved surrounding the step-free threshold.

The challenges with wet areas are even more pronounced, as NCC 2022 simultaneously introduced a new requirement for a floor outside a shower to fall to any floor waste.

- Wet area floors are therefore now a complex arrangement of multi-angular intersecting planes, where the internal shower area floor, and the floor external to the shower may meet at irregular angles in three dimensions. Delivery and detailing of waterstops and sealants and membranes at



these complex multi-angular interfaces is unclear. So too is provision of a step-free shower threshold when the shower floor area meets the external floor at differing cross-falls with no dimensional tolerance.

- The required gradient to the waste can result in substantial changes in the level of the floor from the entry door to the position of the waste. Builders and trades are still having challenge with set-out and achieving appropriate step-down to wet areas to enable this to be achieved, in both concrete and suspended framed floors. If it is not achieved correctly then the step-free entry is virtually impossible to deliver while meeting the fall-to-waste requirement.

The wet area challenges will be more pronounced in NSW as other jurisdictions already have variations to the NCC, for example to provide alternative options to allow zero fall or reduced fall in floors outside of the shower area to better accommodate the delivery of step-free entry thresholds.

These are also a particular challenge for alterations to existing dwellings, where the existing floor levels are already fixed. Achieving the required fall to waste in these circumstances necessitates significant screed or tile-bed build-up, creating a step at the doorway which cannot be overcome without altering other exiting parts of the dwelling or the inclusion of a step.

Other states have also been forced to clarify that the location of a sanitary facility as on the ground or entry level is not necessary where habitable rooms are not provided on that level.

It is not appropriate to adopt the LHDS in any form (voluntary or otherwise) until suitable comprehensive deemed-to-satisfy details are available that do not conflict with other NCC requirements.

State of the Housing Market

Housing Affordability

Housing affordability is a major issue in Australia, and has sharply declined in recent years in NSW particularly. The average home is largely out of reach for the average household.

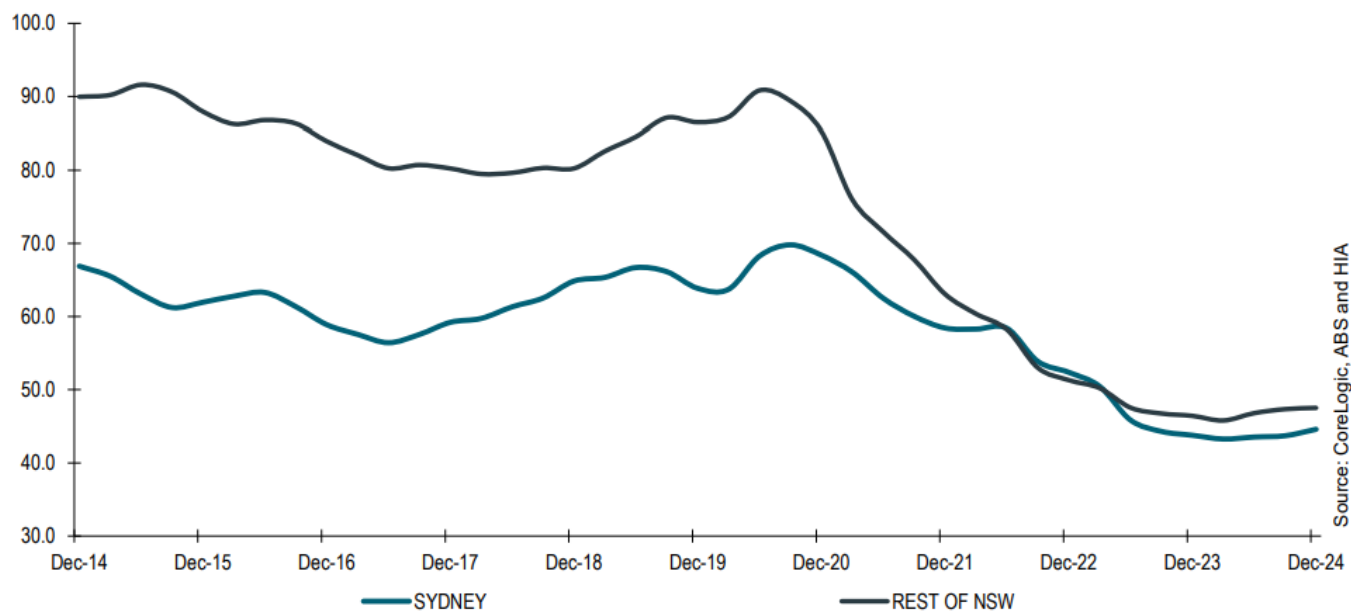
The HIA Housing Affordability Report for the December Quarter 2024 shows affordability remaining near long-term lows in both Sydney and Regional NSW (Figure 1). An index of 44.6 in Sydney means a household would need to earn 2.2 average incomes to service a mortgage on a median-priced dwelling without being in mortgage stress.

Regional NSW is only marginally better requiring 2.1 average incomes. In fact, both Sydney and Regional NSW are less affordable than all other capital cities, and are the only two areas to have crossed the 'dual-income' mark (i.e. more than two average incomes required). Brisbane and Adelaide are the two next-worst performing locations (Figure 2), requiring approximately 1.8 average incomes in both cities.

Adding additional cost to construction through mandatory LHDS will only serve to make less housing available overall, and the supply of housing that is delivered will be less affordable to the average resident in NSW. It will not serve to broadly improve access to suitable housing, but it will serve to further disadvantage those earning average or below incomes and shift home ownership further out of their reach.



HIA Housing Affordability index, New South Wales



*An index of 100 would indicate an affordable home, with lower numbers meaning worse affordability.
Figure 1: HIA Housing Affordability Index, NSW, December 2024 Quarter

Homeowners: HIA Affordability Index, December 2024 quarter

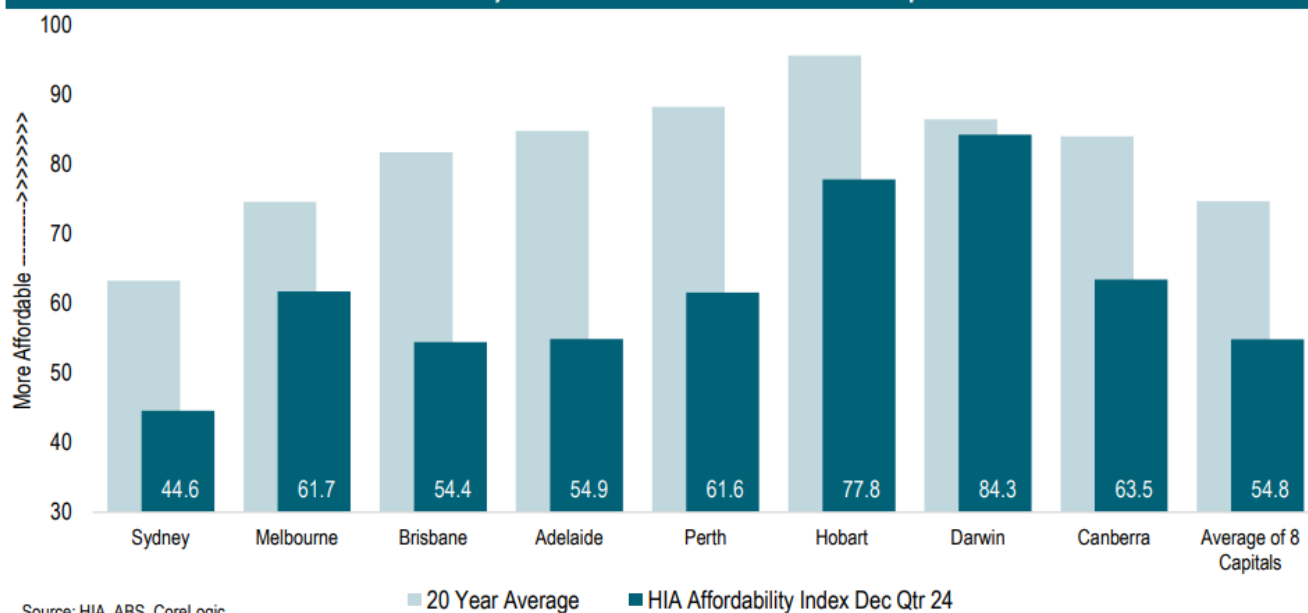


Figure 2: HIA Housing Affordability Index – Capital Cities, December 2024 Quarter



Housing Accord Targets

On current projections from the latest HIA Economic and Industry Outlook, NSW will fall over 30,000 dwellings short of its housing accord targets in 2025 and 124,000 homes short by 2029 if the current trajectory is sustained¹.

This is largely being driven by supply side barriers, such as the availability and high cost of residential land in NSW.

Detached housing starts fell to decade-lows of 21,200 in 2023/24, and are expected to fall slightly further in 2024/25 with only modest uptick in 2025/26 onwards (Figure 3).

Multi-unit starts, including semi-detached, townhouses and apartment units, are forecast to remain near decade-low levels with only 22,950 starts in 2024/25 and 24,300 forecast for 2025/26. Some of these housing typologies (e.g. townhouses) are more acutely impacted by introduction of LHDS as identified in both the original 2021 and updated 2024 costings.

These combined forecast totals remain well short of the ~76,000 new homes needed in NSW each year.

Implementing measures that add cost to construction and hamper development feasibility will not assist NSW in correcting this trajectory, and could in fact lead to further shortfalls in housing supply. Policy changes are needed that attract and not impede investment in multi-residential construction, and that support maximising use of available land for housing construction.

New Housing Forecast, by Type, NSW Dwelling Starts

Source: HIA Economics

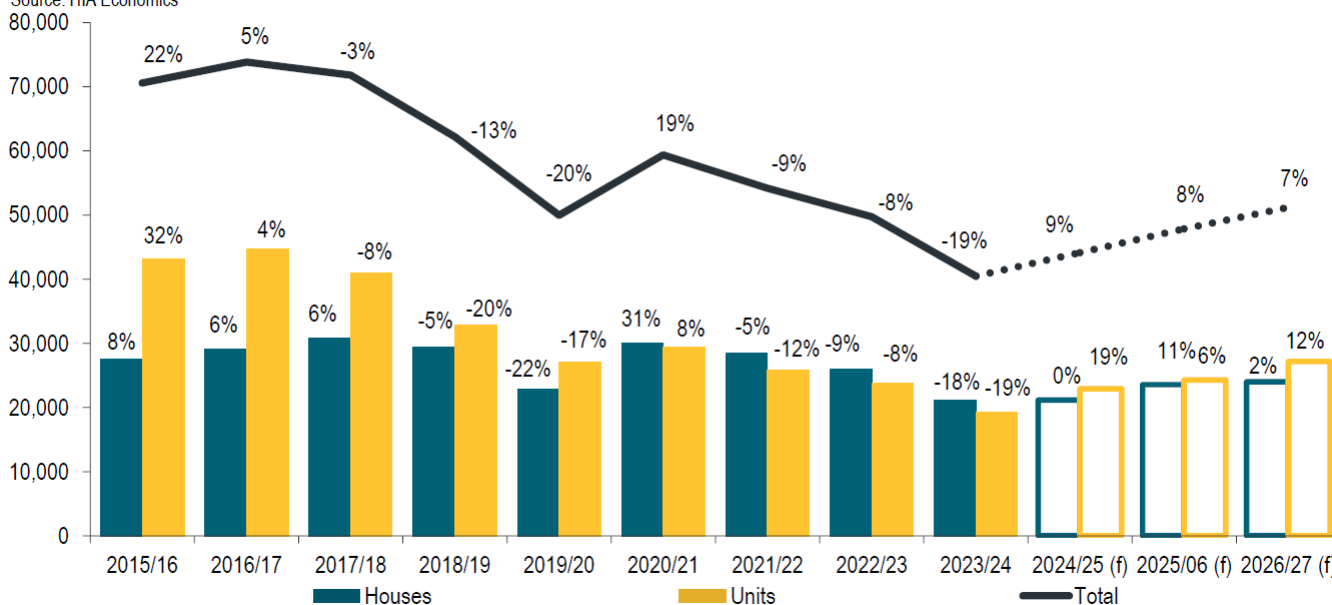


Figure 3: HIA NSW New Housing Forecast

¹ HIA forecasting NSW will deliver only 252,060 dwellings over the five-year period 2025-2030.



Government Housing Waiting Lists and Homelessness

The lack of supply and affordability of housing and the cost to deliver new housing is also impacting the demand for and delivery of government and social housing in NSW, leading to growth in supported housing waiting lists, increases in overcrowding, and a troubling growth in homelessness.

Volume of People on the NSW Housing Register Wait List

According to data from the NSW Department of Communities and Justice (DCJ) website and the DCJ Annual Statistical Report:

- From June 2020 to June 2024, the NSW housing register waitlist increased by 10% (from ~51,400 up to ~56,400 people)
- The volume of people on the waitlist grew even more rapidly in the most recent 6 months from June 2024 to December 2024, by 12% (up to ~63,300 people).
- From June 2020 to December 2024 there was therefore an overall 23% increase in people waiting for supported housing in NSW (Figure 4).

Aboriginal Housing Office Households - % in Overcrowding

According to the DCJ Annual Statistical Report, at June 2020 the % of AHO households experiencing overcrowding was 6.6%.

By June 2024, this had increased to 7.6%.

NSW Street Count

At the last street count in March 2024, 2037 people were counted to be sleeping rough.

This is an increase of 55% since 2020, and an increase of 26% since 2023, reversing a trend of declining street counts for the period between 2020 and 2022 (Figure 5).

According to ABS census data from 2021, 'rough sleepers' only make up about 6% of the homeless population. This suggests that in early 2024, by extrapolating from the street count data the total homeless population in NSW could exceed 33,950 people.

Many of these people will be living in severe overcrowding, or staying in unofficial and insecure housing arrangements like couch-surfing.

The NSW street count also likely underestimates the true figures. For example, a car-sleeping or tent-sleeping arrangement is counted as a single person if the number of occupants cannot be clearly determined by visual inspection.

2021 Census Estimates

From 2021 census estimates one of the largest growth cohorts for homelessness in NSW for the five-years to 2021 was children under 12 years old. Women were the single fastest-growing cohort identified.

First Nations and migrant populations were disproportionately represented in overcrowded dwellings.

In the decade to 2021, severe overcrowding in NSW increased from 9,000 to almost 15,000 people (an increase of almost 67%).

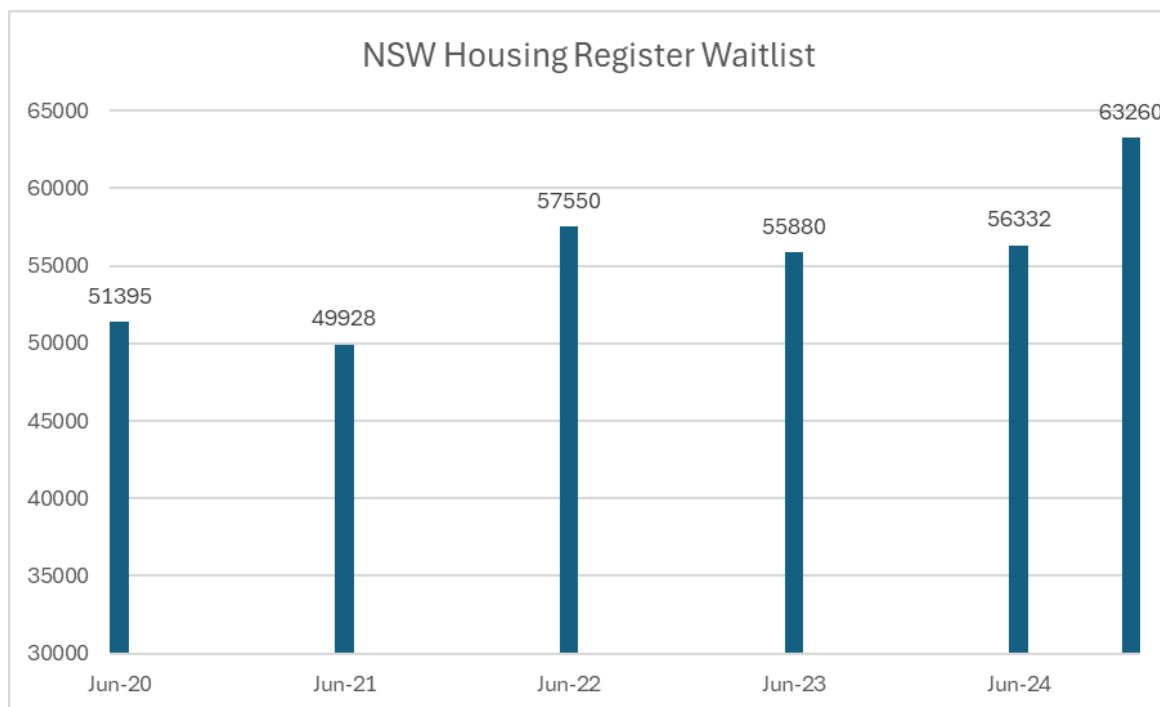


Figure 4: NSW Housing Register Waitlist – June 2020 to December 2024

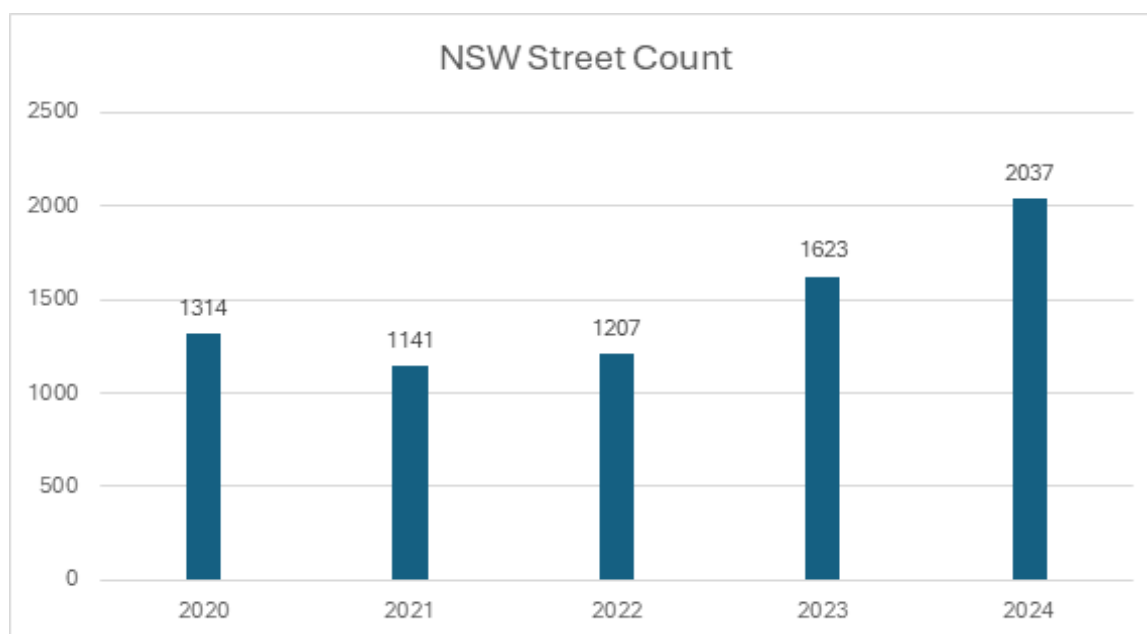


Figure 5: NSW Street Count – 2020 to 2024



Additional HIA Commentary

The case for mandating is weak

Rigour is important when addressing significant reforms. The report's updated and state specific context could be considered marginal adjustments that will not change the broad order of magnitude of significant costs given the issues have already been considered under a rigorous assessment.

Individual costs and programs are described as providing future benefits increasing in value, without demonstrating how present values under the original analysis did not already consider this.

Government programs target existing buildings will remain important for decades before the small contribution new homes make to the problem start to address the identified issues, so assertions about the ability to reallocate funding from programs are questionable. Similarly, problems exist for the avoided early care argument for which home modifications are not the main determinant. These should not be construed as reduction in costs, they are in fact cost transfers to new home buyers, that will be both less effective and decrease affordability for that cohort.

Costs would also only be avoided for example if there was a clear match between LHDS and the needs of people such as those requiring specialist and lifetime care. But analysis has shown the overlap is small, so both the program and the majority of the costs are likely to remain in the near term and be duplicated for new home buyers.

We refer you to commentary made by HIA in our original submission to the ABCB Livable Housing CRIS is still relevant. A copy of this submission can be found here - <https://hia.com.au/our-industry/-/media/files/newsroom/submissions/2020/consultation-regulation-impact-statement.pdf>

Inter-Governmental Agreement (IGA) of the ABCB

The Discussion Paper argues a benefit of adopting the LHDS in NSW will be greater consistency across national building standards. This is based on identified productivity benefits through breaking down inconsistencies across state and territory borders.

However much of the benefit of consistency is realised predominantly through technical standards which allow for consistent product and materials manufacture and supply benefitting the national supply chain, or through consistent technical detailing facilitating transferability of trades skills across borders.

The harmonisation of LHDS only offers limited benefit in this regard, being predominantly a building design requirement rather than a technical detailing or product performance requirement. The major products impacted are doors through the increased doorway opening widths; however even with LHDS adopted in full not all doorways would require the increased width and therefore the supply chain is still required to manage a mix of sizes. The skills required to deliver a non-LHDS design already exist in the Australian trades workforce; and builders already manage a suite of varying designs of houses.

There is also another principal of the IGA and the ABCBs objectives which has been ignored in recent reforms – that changes to the NCC should have a rigorously tested rationale, should produce a net benefit to society and ensure no regulatory or non-regulatory alternative that would generate a higher net benefit.

This issue was clearly identified as a factor affecting industry productivity in the recent Australian Productivity Commission Report *Housing construction productivity: Can we fix it?*, with the adoption of livable housing changes identified as a specific example in Box 4.2 of the report. The Productivity Commission Report makes the following statements:



- **Updates are adopted where they are found to impose net costs** some updates to the NCC have been implemented notwithstanding regulatory assessments estimating the impose net costs on society.
- Frequently it has been the case that either the accompanying RIA does not recommend the change or the cost benefit analysis within the RIA shows a net cost to society.
- **Livable Housing Changes (2021)**
 - The RIA found that accessibility changes would be of net cost to society (BCR: 0.39) but left policy makers to weigh up these costs against societal justice benefits
 - The RIA found that non-regulatory options such as direct subsidies for the provision of accessible housing were preferable and likely to be of net benefit to society. Despite preferable alternatives, NCC changes were adopted.

When viewed through a quantitative lens, NSW and WA were the only states currently adhering to these principles. HIA's proposed approach –appropriately incentivised– more closely aligns with the recommendations of the regulatory impact analysis.

Futureproofing NSW Housing Stock

The argument presented in the discussion paper is largely about futureproofing against an ageing population, suggesting that by 2061 residents aged over 65 years will account for 25% of the state's population.

However, the discussion paper also puts forward data from Department of Communities and Justice (DCJ) regarding the cost of upgrading and retrofitting their existing housing to suit tenants who are aged or living with a disability. It also includes information from iCare on upgrades funded for residents with a disability.

According to the data provided, DCJ spent \$10m to modify 3000 homes, and iCare spent \$6.5m on 107 homes in FY23:

- This means the average cost to DCJ per home modification was \$3,333, which is still less than the average cost to deliver the proposed LHDS in new homes (in both the 2021 and new 2024 analysis). Given upfront construction is cheaper than retrofitting this suggests the full LHDS measures are not required to support aging in place.
- The joint cost from DCJ and iCare is \$16.5m (assuming the DCJ figures were from one financial year). Implementing LHDS to all new homes in NSW would represent a total cost to NSW home buyers of between \$281.7m and \$423.8m per year based on the updated LHDS costings from the discussion paper, if NSW were delivering its target of 76,000 homes per year in accordance with the housing accord.

It is unfortunate the analysis in the discussion paper did not outline the common types of upgrade delivered by DCJ to suit aging in place, but it is likely that the adjustments were both more targeted, specific to the needs of the resident and timely. These should not be construed as reduction in costs, they are in fact cost transfers to new home buyers, that will be both less effective and decrease affordability for that cohort.

However, based on anecdotal evidence it is likely the most common upgrade is the provision of wall reinforcement and grabrails within showers and bathrooms.

HIA's proposal is to include the wall reinforcement as the mandatory requirement, will help to alleviate this retrofitting costs for those who require handrails including those aging in place.