



# Action for More Independence & Dignity in Accommodation

1<sup>st</sup> Floor, Ross House, 247 Flinders Lane, Melbourne Vic 3000  
Phone: 9650 2722 Fax: 9654 8575  
Email: [amida@amida.org.au](mailto:amida@amida.org.au) Website: [www.amida.org.au](http://www.amida.org.au)  
Inc No: A001608SV ABN: 32 993 870 380

*Advocacy, Self Advocacy, Rights, Accessibility, & Community Living for People with a Disability*

Mr Simon Cohen

Deputy Secretary – Regulation,

Department of Justice and Community Safety

Via email - <https://engage.vic.gov.au/rentingregulations>

18 Dec 19

Dear Mr Cohen,

AMIDA (Action for More Independence & Dignity in Accommodation) is an independent advocacy organisation which advocates for good housing for people with disability. We provide advocacy to individuals, with priority given to people with an intellectual disability, and advocate for change in systems which prevent people from achieving good housing.

AMIDA acknowledges that people with disability have a right to a choice of with whom they live and where they live. Further, people with disability have a right to good quality housing which is accessible, affordable and non-institutional. People with disability have a right to live in the community with access to support to participate and have a good quality of life.

AMIDA strongly supports the United Nations Convention on the Rights of Persons with a Disability and works to assert these rights and community inclusion for people with a disability and supports people with disability as valued members of our community. AMIDA recognises that people with disability contribute to and develop our community.

Australia ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2008.

## Article 28: Adequate standard of living and social protection

- 1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.**

AMIDA has made submissions on the previous Fairer Safer Housing papers.

AMIDA also fully endorses Housing for the Aged Action Group's submission.

With this background and experience, we submit the following:-

2. AMIDA endorses the review of the RTA & the appointment of the Commissioner for Residential Tenancies in Victoria. With regard to the "red book" we ask there be an easy read version published in accessible formats for people with disabilities including word doc, both electronic and hard copy.
4. Transitional arrangements. AMIDA is of the opinion all renters, including existing renters, public and community housing renters should be covered by the new legal framework within a fixed two –year transitional period, commencing on 1 Jul 2020. AMIDA finds the proposed timeframes for introduction of reforms confusing with consideration that the specialised cohort of residents which AMIDA provides service have an intellectual disability, there is a likelihood the new reforms being introduced at specified times will not be understood unless they uniformly begin together.
5. AMIDA endorses ensuring that renters are provided with safe and habitable living arrangements. Rental minimum standards - all proposed minimum standards in the RIS. <sup>1</sup>Low-quality housing is also linked to both poor health and childhood development outcomes. Additionally AMIDA suggests minimum standards should apply to bathroom and toilet window coverings. Minimum heating for class 1 and also class 2 properties. People with disability in general have higher prevalence of comorbidity and may be susceptible to exposure to cold temperatures whether they are living in class 1 or class 2 properties. By the same token medical cooling is of equal importance for aged and disability residents and adequate insulation in order to maximize heating and cooling and reduce energy costs to renters and is essential. The rationale being people with disabilities are often affected by extreme temperatures and require assistance by way of heater or air conditioner to manage a regular temperature within the home. For example people with neurological conditions like multiple sclerosis have serious adverse health implications if exposed to extreme temperatures. AMIDA has also been made aware that some people with disabilities that require medical cooling have been denied access to the NDIS or have received an NDIS plan without allocation of funding for medical cooling. There is no guarantee of funding for this required feature in housing through the NDIA. We also note there is considerable uncertainty as to where the funding will come from for the installation of cooling, depending on whether a participant lives in public housing, community housing, private rental or specialist disability accommodation (SDA). AMIDA has seen people face long delays in acquiring cooling, in one instance a participant decided to pay for the cooling themselves to overcome the delay,

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<sup>1</sup> Productivity Commission 2019, *Vulnerable Private Renters: Evidence and Options*, Commission Research Paper, Canberra

due to the high risk to their health weathering high summer temperatures without cooling, only to be refused retrospective payment from the NDIA for the cost of the cooling in the home, even though the cooling had been recommended by an occupational therapist (OT). This has also been discussed in the review of the national disability agreement<sup>2</sup>Unclear service boundaries also open the door for strategic behaviour as the Australian, State and Territory Governments each have an incentive to use uncertainty about who should be doing what to cost – shift from mainstream services to the NDIS and vice-versa. AMIDA is also aware<sup>1</sup>in Australia, dwellings built or significantly altered from a certain date (2003 for the majority of states and territories) are required to satisfy minimum standards to receive a corresponding energy rating. Potential star ratings range from a minimum of zero (where the dwelling provides almost no protection from hot or cold weather) to a maximum of 10 (where the dwelling is unlikely to need any artificial heating or cooling). The minimum standard in most states is a six-star rating. However, many rental dwellings were built before these standards were mandatory. ABS data show that 62 per cent of dwellings occupied by private renters were built 20 or more years ago. Accordingly, many of these dwellings do not possess energy ratings, and in most cases do not meet the current minimum standards. Evidence from older dwellings that have received ratings suggest that less than 1 per cent meet the current minimum six – star rating. Where a dwelling lacks an energy rating, obtaining one can be costly. A dwelling’s energy efficiency is a complex combination of many factors, such as the construction materials used and quality of insulation installed. An accurate appraisal therefor requires a professional assessment and is beyond the capabilities of the average person. The cost of an assessment is typically several hundreds of dollars.

6. Modifications to rented premises - AMIDA endorses the recent changes to the RTA and endorses the proposed changes that a rental provider must not unreasonably refuse consent to modifications that are – s55 of the Equal Opportunity Act 2010 and assessed and determined to be required modifications by an accredited OT or prescribed practitioner.<sup>3</sup>Around one in eight (12 per cent) people with disability in Australia have modified their home due to age or condition. AMIDA has seen these recent changes in 2018 have made a significant difference in the lives and homes of people with disability which prior to the changes was an enormous obstacle to accessibility in the home. In one case prior to 2018 a person with neurological disease was forced to move into a private rental property which was inaccessible due to the use of a wheelchair and there being no downstairs shower in the bathroom. This led to the person being unable to have a shower in the home for a period of around 5 years and relied on their partner to provide sponge baths. When the participant received an NDIS plan there were funds allocated for a portable shower to be installed downstairs to address the inaccessible housing. The rental provider however declined the proposition to install the portable shower. With the recent changes and those now proposed this person could address the matter immediately. AMIDA also recommends requests for reasonable modifications should include implied consent if a valid objection isn’t provided within a fixed timeframe of 24 – 72 hours of a valid request being made.

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<sup>2</sup> Productivity Commission Report 2019, *Review of the National Disability Agreement*, Commission Research Paper, Canberra

<sup>3</sup>Australian Institute of Health and Welfare 2019. *People with disability in Australia 2019: in brief*. Cat. no. DIS 74. Canberra: AIHW.

7.1 AMIDA endorses the proposed maximum amount of bond, particularly given most participants of AMIDA's service are recipients of the Disability Support Pension (DSP).<sup>3</sup> Australia has more than 4 million people with disability, around 18 per cent

7.3 AMIDA is pleased with the proposed Rental Applications Statement of information for Rental Applicants and agree with the intention this will provide information to the potential renter (as well as educating rental providers and agents) about their rights.<sup>1</sup> The Australian Bureau of Statistics 2013 – 2014 Survey of Income and Housing showed that individuals living in households with children, and particularly single parents, were more likely to have been refused rental accommodation in the past 5 years. Those with a disability or long-term health condition were also more likely to have been refused accommodation compared to those without (6.3 per cent compared with 3.7 per cent). While these results are not definitive evidence of discrimination (as no information was collected on why respondents were refused accommodation), it suggests that discrimination against these groups may be more prevalent. AMIDA ask again this Rental Applications Statement be available in easy read and accessible formats including word doc, in electronic and hard copy.

7.4 AMIDA endorses the proposed changes that the rental provider must not request prescribed information from applicants. Disclosure prior to rental agreement should not apply to people with disabilities about their disability, for the purpose of privacy and dignity of the rental applicant.<sup>1</sup> In Australia, discrimination on the basis of age, disability, race, sex and a number of other protected attributes is unlawful. However landlords can readily circumvent the law because – bar overt discrimination – it is hard to distinguish between discrimination based on protected attributes and one made on other grounds (such as the ability to pay rent).<sup>3</sup> One in four people with disability have experienced some form of discrimination.

7.7 Temporary crisis accommodation is an area of housing that is particularly difficult for people with disability where AMIDA has seen over and over again difficulties faced by people trying to access this type of accommodation and have the support they need. AMIDA considers the period of time of not more than 6 months to be reasonable given it is often difficult for people with disability to find alternative accommodation after temporary crisis accommodation, again due accessibility of public, community, private rental housing and SDA. If the time limit was shorter it might act as a deterrent for the temporary crisis accommodation provider and they may seek to have the person vacate earlier to avoid their having to incorporate protections of the RTA.<sup>3</sup> The availability of affordable, sustainable and appropriate housing helps people with disability to participate in the social, economic and community aspects of life. The absence of such housing can have a number of negative consequences including homelessness, poor health and lower rates of employment and education.

This submission was prepared by Bronwyn Trickett in conjunction with Pauline Williams and Pam Geoghegan through systemic advocacy as part of the National Disability Advocacy Program, on behalf of the AMIDA committee of management.