'Policies that fail – words that succeed': The politics of government regulation and accessible housing in Australia.

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Abstract

This paper seeks to contribute to the debate over the efficacy of voluntary agreements *versus* regulation, and uses a study of the *Livable Housing Design* initiative to deliver voluntarily new-built accessible housing in Australia. We first probe why regulation has become such a significant component of government policy making, and then ask why political campaigns focus on this issue as a strategy for reform. We refer to research by disability activists, which claims that the voluntary approach has failed and regulation is necessary. Amongst our conclusions are: first; that the disjuncture between policy rhetoric and outcome can be attributed to the power of lobbyists, reliance on the private market to address inequality, and antipathy to regulatory enforcement and second; that there is a need for greater interrogation of the language deployed in policy texts to identify whether they are crafted to maintain the government's legitimacy or to deliver purposeful change.

Summary

The paper considers the disjuncture between government policy rhetoric to increase the supply of accessible housing and outcomes. Government failure can be sourced to the hegemony of private market ideology and aversion to regulation. A purposeful and incisive critique of government policymaking is the first step to effective interventions.

Introduction

There is considerable debate about the efficacy of voluntary agreements as instruments to achieve policy objectives. Our paper seeks to contribute to this discussion through a study of the Australian government's reliance on a voluntary industry agreement to deliver new-built accessible housing in Australia. Our paper is not one that seeks to make the case for mandatory regulation enforceable by statute book (for discussions on this issue, see Imrie 2006, Nishita, C., et al. 2007, Malloy, 2011, Bringolf 2011, Ward, Franz and Adkins 2014) or rehearse some of the arguments as to why voluntary codes are ineffective (although we do this in passing). Instead, we probe why there is antipathy to regulation in government policy making, and ask why political campaigns focus on this issue as a strategy for reform. The empirical component of the paper covers the Australian Government's obligations to ensure a supply of accessible housing, the industry agreement that led to the Australian *Livable Housing Design* initiative and the decision to opt for a voluntary approach. We refer to research by disability activists, which asserts that the agreement has failed. We conclude that, in this case, the willingness of governments to endorse a voluntary approach as an instrument for social reform is symptomatic of the hegemony of market based ideologies. A critique of the rationalities that inform government policy making provide a first step to putting in place more effective measures to achieve accessible housing.

The United Nations Convention on the Rights of People with Disabilities (UNCRPD) (2007) obliges the Australian Government, as a signatory, to improve the provision of accessible housing (COAG 2011). This obligation is understood to be achieved incrementally; that is, the Australian Government does not have to comply immediately with this obligation, but must take a sequence of actions that matches the level of resources available to it (People with Disability Australia 2010: 16). In our paper, we consider the extent to which Government agencies that profess support for agreed accessible housing targets are reticent to

endorse mechanisms that might deliver. Specifically, we explore the contention that government agencies are adroit at camouflaging their intent so as to appear supportive, but pursue tactics that disguise the level of implementation. In raising critical issues, we hope to provide insights about regulatory frameworks and the conduct of interest groups in the formation and execution of policy.

Methodological approach

In stating our approach, we first draw attention to the other ways that research could consider the above issues. McCarthy and Morling (2015), for example, undertook a wide quantitative international review of the literature and assessed regulation across three dimensions of performance (target achievement, target ambition and level of uptake). Amongst their conclusions was that a vast majority of schemes (82%) performed poorly in one or more performance dimensions, and that 'voluntary approaches are rarely if ever an effective substitute for regulatory or fiscal measures in seeking to achieve public policy objectives' (McCarthy and Morling 2015:13). Our approach is qualitatively orientated and informed by scholarship set out by writers such as Wildavsky (1992), Edelman (1977) and the critical discourse methods deployed by Fairclough (1992 and 2003) all of whom, in different ways, seek to uncover disjuncture between policy rhetoric and outcomes.

Our key methodological assumption, informed by these writers, is that a singular reading of the policy process is incapable of offering insights for policy in relation to outcomes. Instead, we suggest that researchers need to be vigilant and pay close attention to the ways that government and organisations deploy language and engage in performative practices to straddle the tension that often exists when governments seek to attend to interest groups with different priorities and agendas. As we argue, it is necessary to resist the temptation to take policy statements at face value. Instead, it is incumbent on researchers to adopt a critical line

of inquiry in an attempt to unearth the 'doing' of policy making. In setting out our methodological approach, we are mindful that such an explicitly 'political' reading of the policy process might be judged as an overly harsh portrayal of policymaking. It is for this reason and to attend to possible criticism that our account might appear one-sided that we have provided references to the extant literature to show how our analysis accords with other investigations.

All governments seek to convey an impression of authority and a capability to effect positive change. Our paper situates government actions in the context of neoliberal ideology (see Jessop 1995; Peck 2013 and Davies 2014), Here we use the term 'neoliberal' specifically to denote the rationalities that underpin government interventions that acquiesce to commercial agencies' demands for extended access in areas of welfare provision. Our analysis draws primarily from a close reading of policy documents and from the data collated by activists campaigning for the adoption of accessibility in housing. We have sought to demarcate our approach from conceptions of the policy process that identify inputs, outputs and deliberation. We draw attention to what Kemeny (2004: 65) has referred to as the 'doing' of policy; that is, the messy realities that often require agencies to engage in practices that include compromise, duplicity and muddling through. Whilst not explicitly undertaking a formal discursive analysis of the relevant texts and policy documents we are informed by the insights of writers in the field such as Fairclough (1992, 1995, 2000, 2003); that we should resist surface level interpretations and instead foreground the importance of ideology and strategies deployed by policy actors.
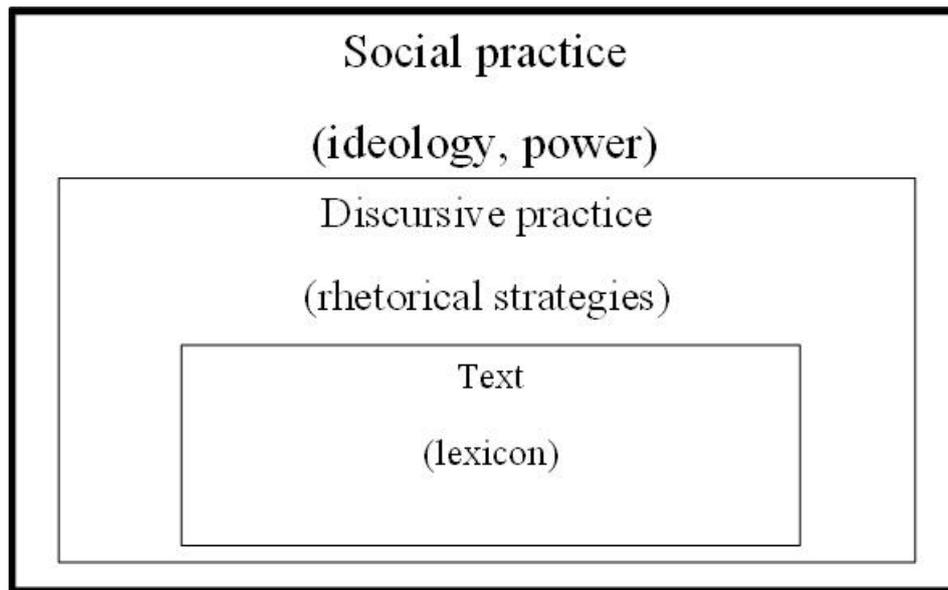
Figure 1: Framework for critical discourse analysis (adapted from Fairclough 1992)

Context: A neoliberal era

A key task for a critical discourse informed analysis is therefore to make explicit the broad context in which debates and decisions take place. The defining features of the contemporary 'neoliberal' era are: the commodification of welfare, the valorisation of the commercial sector and the denigration of the state as an agency for effective action (Peck 2013 and Davies 2014). We can ponder why government institutions have been subject to a loss of faith amongst the electorate (see Judt 2010) but we suggest that there are three compelling factors. First, areas of government welfare services are now seen as opportunities for businesses to generate profit. It is for this reason that businesses have a vested interest in portraying government agencies as failures as this provides an entry point and legitimacy for their participation in these markets. Second, there is an assumption propagated by businesses and their representatives that they are more efficient in the delivery of services and offer greater choice for 'consumers'. Where possible, the commercial sector, its advocates suggest, should be active players in the delivery of social reform. Third, the private sector activity is seen as inimical to wealth creation, in contrast, to government welfare expenditure that is seen as a drain on taxpayers' money. The current neoliberal era is, therefore, one where

governments are amenable to disengaging from the actual delivery of social services and expend resources on establishing the conditions where private businesses can further their role. For these private businesses, welfare, education, aged care, disability, housing and social services are effectively 'new' markets that offer substantial opportunities to boost profits (Jessop 1995).

How has the commodification of welfare, outlined above, informed practices within Australian government service agencies? We suggest that one observable outcome is that they have become generally defensive and internally focussed on issues such as 'risk' and 'control' (Spies-Butcher 2014). There is a reluctance to envisage, let alone put in place, large welfare projects and this reluctance can be contrasted to an earlier period in politics when those active in the public realm was more confident. In practice, the scope of neoliberal inspired modes of government has changed into a more limited role in which their agencies seek to regulate and manage the activities of the private sector. In Australia, we can see this shift across a range of services. The National Disability Insurance Scheme (Australian Government 2013) will operate as a proxy voucher system in which individuals choose their programme of support from providers in the 'profit' and 'not for profit' sectors. The taxpayer-funded subsidies in the form of the Commonwealth rental assistance provides an income stream that flows via tenants to private landlords. In addition, landlords are able to off-set tax liabilities through negative gearing arrangements. In education, government subsidies fund private schools; in health, tax levies entice middle-income and well-off households to opt for private insurance; and the burgeoning private childcare industry rely largely on government cash transfers to young households.

The upshot of these changes is clear; the extension of a 'neoliberal' order requires governments to be proactive in establishing and maintaining the conditions for private sector participation. We have sketched out this broad context as it provides a firm foundation for

understanding why debates about regulation have come to the fore of late. It is a less risky endeavour for governments to regulate others, than it is to deliver services. Regulation, we would suggest conveys to the wider public that governments are on the side of the consumer and so provides legitimacy at a time when their role is increasingly critiqued.

We can also note how, the advocates of private sector participation in the delivery of welfare services have sought to cast a shadow over regulatory practices. So for example, in the late 1980s it was often claimed that public, private and non-profit sectors are all part of a larger economy (see Van Til 1987) and commercial activity that is regulated can 'facilitate[s] both individual influence upward and the downward transmission of institutional response' (p. 8). Yet such is the power and reach of the commercial sector within government that this 1980s conceptualisation has been superseded. As we seek to show in our analysis, commercial agencies in the provision of new housing have been largely successful in resisting the imposition of mandatory targets and accord with the findings of the quantitative study conducted by McCarthy and Morling (2015). These organisations have, in effect, discursively reframed 'regulation' as an unnecessary intrusion on their activities by equating it with government bureaucratic interference.

It is generally understood as to why businesses resist regulation and choose to espouse the merits of voluntary guidelines over legislated codes. Their arguments have secured legitimation because we are susceptible, too easily perhaps, to assertions that Australia is overregulated and this has stifled innovation (de Gori 2013; Ley 2014; Robertson 2013 for example). The transaction costs of establishing a regulatory framework, we are told, are not only exorbitant but unnecessary and so the better course of action is to encourage voluntary action. The power of this ideological assault on the basis of government has largely been effective. Governments, as we stated at the start of our paper, have pulled away from supply

side interventions and the private sector is viewed as an important vehicle to achieve policy objectives (see Travers 2007 for an extensive discussion).

Accessible housing: tactics

Up to this point our discussion has been largely confined to the broad context, the rationality of neoliberalism and the methodological approach adopted. We now turn to our analysis of the voluntary industry agreement and the *Livable Housing Design* initiative to consider in more detail the 'doing' of policy. We begin with the role of disability activists. Armed with the UNCRPD and research findings purporting that the lack of accessible housing is a major contributor to the marginalisation and welfare dependency of people with disabilities and older people (Beer and Faulkner 2009; Jones, de Jonge, and Phillips 2008; Judd, Olsberg, Quinn, and Demirbilek 2010; Saugeres 2010) disability activists successfully brought this issue to the attention of the Australian Government (National People with Disabilities and Carer Council 2009; COAG 2011). It is helpful to see the campaigns for accessibility in housing as an example of identity-based political activism that was a salient feature of 1960s and 1970s. Identity politics is premised on the idea that political change is best advanced through agitational forms of protest rather than co-option. Activists campaigning for the rights of people with disabilities draw primarily on human rights discourses as a starting point to pressure governments to take steps to legislate against *prima facie* discrimination[1].

There have been important studies that have questioned the strategies deployed; in particular, the voluntary adoption of universal design principles[2] (Mace 1985). The most prominent study is by Imrie (2014) who argues for an explicit values-based strategy to guide a technical one as the means to address discrimination. He writes that 'while UD [universal design] appears to offer possibilities for liberating disabled people from disabling design . . . .UD is a technical approach to what are, predominantly, social and cultural issues that require, first and foremost, a political response based on systematic changes to those values and practices,

implicated in the (re) productions of poorly designed environments' (p. 291). Imrie argues that universal design is characterised by a conservative political stance that puts its faith in market-forces. Commercial agencies whose primary concern is profit will remain resistant to activities that adversely affect their bottom line.

Gleeson (1999) also challenges the idea that 'technological determinism' in the built environment—in this context, universal design in housing—will overcome the exclusion of people with disabilities. He suggests that neo-liberal societies make two assumptions about the place of people with disabilities in the built environment: the first is that people who have different capacities must endure a level of discomfort within the natural limits of built environment; the second is that inaccessibility is not intended, rather, it is primarily an outcome of a thoughtlessness in regard to the needs of people with disabilities.

Both Imrie's and Gleeson's critiques have relevance for how we view government, and complement the insights provided by the political scientist Murray Edelman. In his book '*Political Language: Words that Succeed and Policies that Fail*' (2013), Edelman notes how politicians and policymakers are often more concerned to convince the public that their policies are successful than in actually delivering tangible policy outcomes. Edelman makes the important point that, if the general public take the view that politicians are on their side and taking action on their behalf, this is a basis for politicians to judge policy as a success. Edelman's depiction might seem a cynical one but it remains useful for understanding aspects of modern politics, the disjuncture between policy rhetoric and action and the strategies required to pursue lasting reform.

Our discussion has stated that regulatory practices are, *inter alia*, a means through which government agencies maintain legitimacy, but it would be remiss for us not to make reference to research that pursues a more sympathetic view of regulatory practices. For example, with reference to building, Van der Heijden and De Jong (2013) note that building design is a

neglected area in the field of regulation studies and suggest a way to understand recent trends is to identify factors that influence the capability of regulators to enforce their rules. They see four factors as important: quality of legislation; enforcement strategies; styles of enforcement and enforcement actors. Amongst their suggestions is the need for incentives rather than penalties as the way for regulators to proceed. In seeking to find 'the optimal' building regulation they argue that policy actors need to recognise the importance of trade-offs rather than a rigid approach. Van der Heijden and De Jong adopt a pragmatic approach seeking to modify existing practices through continual improvement, rather than providing a critique. Yet their work provides us with another vantage point for understanding the role of activists, government agencies and commercial organisations. A distinction can be made between pragmatic accounts such Van der Heijden and De Yong with those more political modes of analyses provided by Imrie (2011) and Gleeson (1999).

We now turn to the role of government noting the significant Commonwealth based policies that attend to accessible housing. First is the position of Australia's National Construction Code (NCC) that incorporates all on-site construction requirements into a single code, with the purpose of providing a minimum national standard of building. It is overseen by the Australian Building Code Board, a mechanism that mediates between the interests of the building industry, government and the wider public, as envisaged by Van Til (1987). The Australian Building Codes Board (2013) considers at this point that accessibility in single-family houses, private spaces in multi-dwelling complexes, or townhouses should not be regulated through the NCC. Second is the Council of Australian Government's (COAG's) 2010-2020 National Disability Strategy, Australia's response to its obligations as a signatory to the UNCRPD. It acknowledges the need for accessiblity in housing, supports the industry agreement and commits to its targets including all new housing providing minimum accessibility by 2020 (2011: 32-34).

How the industry agreement came about

In October 2009, the Federal Parliamentary Secretary for Disabilities, Bill Shorten, invited housing industry and community leaders formally called the National Dialogue on Universal Housing Design (National Dialogue) to consider an industry agreement. Within the year, the National Dialogue developed a national guideline and strategic plan (2010a; 2010b), called the *Livable Housing Design* initiative, with the aspirational goal that 'all new homes will be of an agreed Universal Housing Design standard by 2020 with interim targets to be set within that 10-year period' (2010b: 2). The National Dialogue also committed to interim targets; the first being 25% by 2013, followed by 50% by 2015 and 75% in 2017 (there were more ambitious targets for the social housing sector) and a series of ongoing reviews at two to three year intervals. The first of these reviews was planned for 2013 'at which time areas of successful application, any barriers to uptake, and the need for other incentives or measures to stimulate adoption of universal design could be identified' (2010b: 7). Noted above, the National Dialogue's agreement was included in the COAG's 2010-2020 National Disability Strategy (2011).

The struggle for accessible housing

Up to this point, our paper has been largely broad-ranging to situate regulation practices in the setting of neoliberal policy making. We now turn our focus to the key interest groups engaged in the supply of accessible housing: the housing industry who, as we explain, have to appear to be consensual but are opposed to regulation explanation; governments who operate as independent brokers; and disability activists who see their role as extracting commitments from government and industry to secure their human rights.

Successive governments have aligned themselves to statements that proclaim the need for accessible housing. In fact, proclamations in support of better designed residential environments, where housing and its infrastructure is integrated, have been a feature of

Australian policy making since the late 1970s. The idea of regulation was first mooted by the Committee on Rights of Persons with Handicaps in South Australia (1978). Since then, public policy supporting the social inclusion of people with disabilities and older people has continued to point to the need for an increased supply of accessible housing (Australian Government 1985, 2010, 2012, COAG 2011).

Various States and Territories have used both voluntary and regulatory approaches. Queensland's Smart and Sustainable Homes program (Department of Public Works 2008) and Victoria's Build for Life program (Victorian Building Commission 2009) are two examples of State voluntary programs encouraging better housing design. The Government of South Australia legislated for five per cent of newly-constructed multi-unit developments to comply with the Australian Standard 1428.1–Design for access and mobility (General requirements for access–new building work) (Government of South Australia 2002: Section 1.2.19) and the Australian Capital Territory Government has a requirement for ten per cent of multi-unit developments to comply with Australian Standard 4299–Adaptable housing (ACT Government 2013). The New South Wales and Victorian Governments have allowed local authorities to develop their own guidelines and incentives.

Yet as we show, policies to increase the supply of accessible housing fall short, and there is resistance by private sector builders to respond. Drawing upon the methods of critical discourse analysis, we can view the Australian Government's support for the voluntary industry agreement and its *Livable Housing Design* initiative as a way to placate this resistance within the housing industry (Shorten 2010b) and, at the same time, the growing disquiet by disability activists about this history of policy failure. From the government's view, the *Livable Housing Design* initiative conveyed a sense of progress and yet, we now know the policy was not one that was ever likely to be implemented.

We can note that little opposition was voiced about the agreement as it suited all partners to maintain the pretence that tangible outcomes were assured. After all, the industry had agreed to be accountable through measurable targets and regular reviews along the way to the 2020 deadline. At the time, there was one public critic of the initiative; Bill Moss, industry leader and a person with a disability, who wrote in a commentary article for *The Australian* newspaper, 'I am…appalled by this wimpish, legally unenforceable cop-out' (Moss 2010). His criticism targeted the differential behaviour of the signatories, 'This is… another example of a powerful industry lobby dragging its feet and of a spineless government and craven disability rights advocates letting them get away with it' (Moss 2010).

Moss's criticism was premised on his experiences as an activist; he was a member of the Disability Investment Group (the Group), established by the Australian Government the year before to advise on how additional resources could be injected into the historically underfunded disability sector. He and his colleagues advised that, amongst other important reforms, including the National Disability Insurance Scheme, an increased supply of accessible housing was necessary, with a first step of mandating a set of no-cost and low-cost requirements in all new housing (Disability Investment Group 2009: 41). The Group also advised that, although much could be done by the private sector to improve the lives of people with disabilities, increasing the supply of accessible housing was not one of them— voluntary approaches had failed in the past and would fail again. The Australian Government chose not to heed the Group's advice.

We can discern from the comments of Bill Shorten (Government Parliamentary Secretary for Disabilities at the time) that the Australian Government sought to present the voluntary industry agreement as a success from the start: 'Leaders . . . have today agreed to an aspirational target that all new homes will be built to disability-friendly *Livable Housing Design* standards by 2020' (2010b). Shorten elevated the issue to one of human rights for

'more than two million Australians who are citizens in name, but in reality, . . . are more like exiles in their own country' (2010a: final paragraph) and assured the wider public that, although the approach were voluntary, the housing industry leaders would deliver because they had committed to the 2020 target (Shorten 2010b).

Reason for the voluntary approach.

Why was the voluntary approach agreed to despite the evidence that it was unlikely to work? From our analysis of correspondence, documentation of policy intent, and reports on progress (ANUHD/RIA 2015; COAG 2014) we suggest the Australian Government was unwilling to lock into conflict with the housing industry and agreement to a voluntary approach satisfied them that regulation was off the agenda for the foreseeable future. The building industry had previously advocated against the Australian Government's Access to Premises Standard (2010b) and its regulation within the NCC, arguing unjustified cost that benefitted only a small number of people and market forces should prevail (Bringolf 2011). They had also argued that accessibility in housing should not be imposed; rather, it should be market-driven (Housing Industry Association 2010, 2011). Accessibility should not be imposed by diktat from government—if the market wanted access they would ask for it.

The industry agreement resolved two other issues for the Government. It was seen to take tangible action within its commitment to the UNCRPD, and it convinced key economic policy advisors, such as the Productivity Commission (2011a: 277-281; 2011b: 213), that more accessible housing would be supplied with little cost or political fallout to government.

Post agreement activities

If voluntary agreements are to appear plausible, some kind of follow up action is required. This perhaps best explains why the Government provided start-up funds in 2011 for a not-for-profit company, Livable Housing Australia (LHA), to implement the *Livable Housing Design*

initiative. LHA expected ongoing financial sponsorship from the housing industry, given its support for the voluntary approach (Livable Housing Australia 2013). LHA's task was to promote the *Livable Housing Design* guidelines, establish an accreditation mechanism with trained assessors, and certify dwellings that comply (Livable Housing Australia 2012). The National Dialogue had served its purpose.

Opposition and dissent.

Our critical reading on the policy rhetoric within government texts is informed by the theoretical frame provided by Fairclough but additional evidence is provided to support the veracity of our claims. First, we note the extent to which government agencies were willing to participate in what had been shown in the past to be a chimera. Second, we cite disability activists who questioned the progress of the *Livable Housing Design* initiative. The Australian Network for Universal Housing Design (ANUHD), a coalition of individuals across Australia, had lobbied since 2002 for regulation of minimum accessibility for housing in the NCC (ANUHD 2013). They reserved judgement on the voluntary approach until 2013 when the first target of 25% was to have been met. (After all, they had been one of the signatories to the industry agreement.) By late 2013, the lack of any review process catalysed ANUHD, with another group, Rights and Inclusion Australia (RIA), to assess the progress of the industry agreement themselves.

Assessing the progress

ANUHD and RIA deployed three methods to assess the progress of the industry agreement. The first was to track the adoption of *Livable Housing Design* guidelines in the policies and practices of government and the housing industry; this was done through monthly teleconferences with their members across Australia, and reports from Livable Housing Australia's staff. The second was to elicit the views of stake-holders in four public forums on the progress of the industry agreement. The third was to undertake a survey of members of

the National Dialogue and State Housing Ministers on their performance over the last two years and future plans with regard to the *Livable Housing Design* initiative (see ANUHD/RIA 2015 for the full report.).

Policy documents at the national, state and territory, and local governments cited the National Dialogue agreement as the key strategy to improve the supply of housing for people with disabilities and older people in Australia. Noticeable was an absence of critique on the potency of a voluntary approach. The Commonwealth report on the state of Australian cities in 2012 is a good example:

> Older people and people with disability may be helped with everyday activities and mobility at home and in their communities by improved design of housing, neighbourhoods and transport. Increased application of universal housing design is being promoted nationally by Livable Housing Australia (Major Cities Unit 2012: 223).

The Grattan Institute (Kelly and Breadon 2012), which specialises in independent public policy analysis, was the exception; it identified the importance of the policy, anticipated disjuncture between rhetoric and outcomes, and suggested monitoring and possible abandonment of the agreement:

> It makes financial sense for the Livable Housing Australia guidelines to be adopted as the industry standard sooner rather than later. Every year that their implementation is delayed tens of thousands of new homes in growth areas will be built without accessibility and adaptability. Because the costs of not being accessible are so high – to people, households and government – the progress of Livable Housing Australia should be reviewed before their 2020 deadline. Depending on its development, it may be necessary to mandate accessibility in the Building Code of Australia. (Kelly and Breadon 2012: 38)

Outcomes of Livable Housing Design initiative

By November 2014, LHA reported the financial support of twenty-two industry organisations including large development companies (Stockland, Grocon and Meriton). Grocon committed

to '[building] all future Grocon residential developments to meet the national *Livable Housing Design* guidelines' (Grocon 2014). LHA reported that over 350 projects had achieved a formal certification since early 2013, with fifty-five of these known to be built. Approximately 2050 dwellings had registered for certification; that is, they are in the process of being assessed for a design rating. Eighty-five per cent of these properties are in the private market. Around 300 projects have been reviewed using the self-assessment portal since it was launched in July 2014. In 2013 and 2014, approximately 4000 new social and 'affordable' housing dwellings were reported to have minimum access features. A further 2600 projects were identified by their developers, although no checks for compliance were done.

The take-up of the *Livable Housing Design* guidelines by State and Territory housing authorities varied. For example, Western Australia would not commit to the National Dialogue agreement and Northern Territory and ACT cited Australian Standard 4299 (Standards Australia 1995) rather than the *Livable Housing Design* guidelines, and South Australia and Western Australia had developed their own standards. Although there was activity in all the state and territory-based housing authorities, the voluntary industry agreement did not result in a reliable or consistent standard of accessible social housing across Australia, nor were the social housing targets met (ANUHD/RIA 2015).

ANUHD assessed that, within the estimated 140,000 approvals for private housing per year (National Housing Supply Council 2013), the housing industry needed to provide a total of 770,000 accessible dwellings to reach the 2020 target. By late 2014, LHA estimated that approximately 9300 projects have been planned or built to an unverified LHA silver level of access or above. See *Figure 1* below for a comparison of the industry agreement targets and the LHA reported outcomes. If the LHA continues with its current approach, a generous estimation is that 5% of the National Dialogue's 2020 target will be reached.
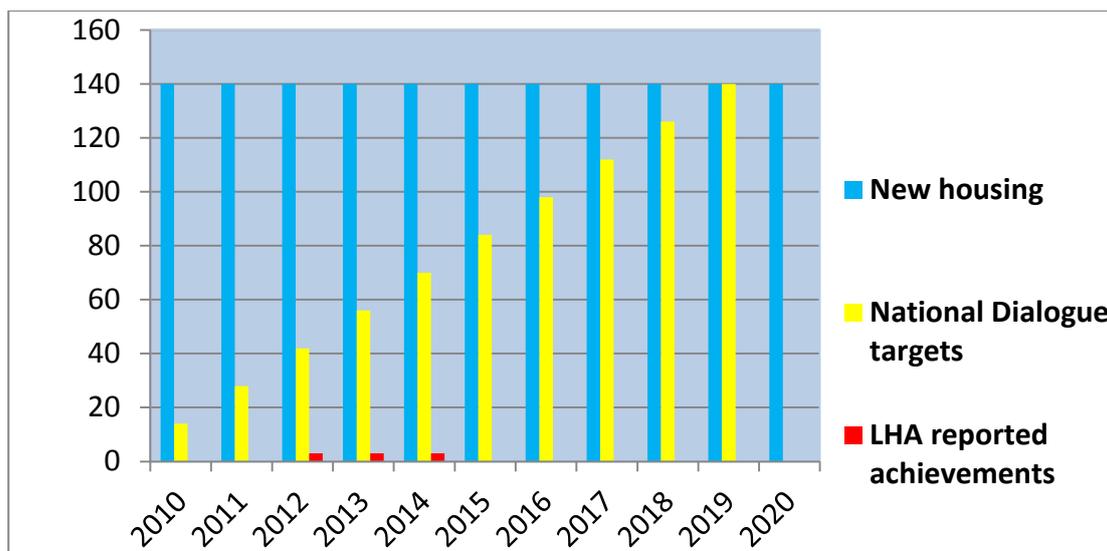
Figure 2: LHA reported outcomes against agreed industry targets

We accept the reported figures are open to interpretation, and therein lies the problem of the voluntary approach—there are no reliable measures of compliance that one finds in the certification of mandated standards within the NCC.

At the end of 2014, LHA reported that government funding and employment of staff had ceased. Future strategies to meet the targets of the industry agreement are not available. This effectively closes off scope to scrutinise the efficacy of the voluntary approach in place.

There is a large body of research that sets out the reasons why voluntary approaches are unlikely to stimulate the housing industry to provide accessibility, let alone to reach targets. (See, for example: Imrie, 2003; Kose 2003, 2010; Malloy 2011; Milner and Madigan 2001; Nishita, Liebig, Pynoos, Perelman, and Spegal 2007; Ward, Franz and Adkins 2014). The reasons include a lack of demand, unnecessary risks to profits, and concern about the validity of expressed 'need', and inertia within housing design and construction practice. The educative effect of the *Livable Housing Design* initiative and its predecessors is likely to have stimulated the provision of some access features, such as step-free showers, wider doors and corridors, and larger bathrooms, to be provided in some housing. Provision is inconsistent and unreliable for a number of reasons, including changing fashion trends, client preferences

or changing practices (Ward and Franz 2015). The poor outcomes from the voluntary approach cause us to endorse Gleeson's (1999) claim that neo-liberal forms of governance are prone to neglect people with disabilities, and Imrie's (2011) judgement that a value-free adoption of universal design technology is insufficient as a policy instrument to address discrimination.

Conclusion

What policy and methodological conclusions can be drawn from this study? In respect of policy, the voluntary industry agreement and the *Livable Housing Design* initiative is ineffective as an instrument to increase the supply of accessible housing as hoped. In spite of this, governments at all levels remain committed to the agreement and resist the demands of the disability activists to adopt a regulatory approach. Clearly, the housing industry lobbyists have achieved their objective, and their success can be attributed to three factors. First, the current political aversion to regulatory measures can be sourced to the hegemony of neoliberal 'market' ideology that seeks to frame government regulation as an imposition and in opposition to consumer preferences. Second, the government has paid lip service to its obligations under the UNCRPD to improve provision of accessible housing, and has avoided putting in place instruments that deliver and measure tangible outcomes. This suits both government and industry for they give the illusion to the wider public that action is underway and progress is being made. Third, the disability activists are hampered by the lack of data, the obfuscation of government policy rhetoric and the housing industry's aversion to regulation.

We conclude that the disjuncture between policy rhetoric and outcome can be attributed to the power of lobbyists, the reliance on the private market to address discrimination, and the current antipathy to regulatory enforcement. We suggest both the government and the private sector interests are maintained by overlooking any sustained critique by activists working for

people with disabilities. It is forlorn hope to think that the failure of the agreement will prompt a review and result in a regulatory framework with strategies to impose compliance and to meet the targets.

In respect of methods, it is hoped that the critical discourse frame set out in this paper offers a basis for researchers to be more purposeful and incisive in their critique of government policy. At the very least, there is a need to interrogate the language deployed in policy texts, and to recognise that statements of intent are often crafted to maintain legitimacy rather than delivering lasting change. Our study has focussed on one such example of policy making, improving the supply of accessible housing through a voluntary industry agreement. We suggest that similar gaps between rhetoric produced by government and subsequent outcomes are evident in the area of social reform.

Endnotes

1. There is insufficient space for detailed discussion other than to note that some commentators have pointed out that the campaigns for the implementation of universal design are too narrowly focused on the technical aspects of design and not on the wider politics (see Imrie and Luck 2014).
2. Mace's (1985) definition of universal design is 'the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design'.

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