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## Position Paper: Access to Premises Standard

**Physical  
Disability  
Australia**

The Physical Disability Australia is the national peak disability organisation representing the interests and views of people with physical disability in Australia.

### Background

The Disability Discrimination Act 1992 (DDA) makes it unlawful to discriminate against a person with a disability with respect to, inter alia, access to premises. However, the Act does not specify what features an “accessible” building should have. The Building Code of Australia (BCA) requires compliance with Australian Standard 1418 part 1 Design for Access and Mobility (and other Australian Standards), but only for some types of buildings and only in some parts of those buildings.

It is generally accepted that the level of access required by the Building Code is, in many cases, insufficient to avoid a successful complaint of discrimination under the DDA.

This situation has caused considerable confusion and needs to be addressed.

In 2004 a draft Access to Premises Standard was circulated for comment. It was intended that this standard be incorporated into the DDA and that the BCA be amended to mirror the standard’s provisions.

The draft standard was developed by the Building Access Policy Committee of the Australian Building Codes Board.

Comments on the draft standard by the “building industry” mostly adopted the view that the draft standard provided for more access than required and or that it could not be afforded, while the “disability community” took the view that the draft standard did not provide adequate access for many

people.

Physical Disability Australia understands that the delegates representing the interests of people with disabilities on the Building Access Policy Committee (BAPC) were active participants in the negotiation process on the content of the standard from 2004 to 2006 when the ABCB disbanded the Building Access Policy Committee.

At that point there were a number of issues about which consensus could not be reached.

This paper addresses those “contentious” issues.

## **Present situation**

Physical Disability Australia understands that the ABCB has forwarded a “final draft” of the Access to Premises Standard to the Attorney General and to the Minister for Industry, Tourism and Resources.

No consultation involving people with disabilities or their representative organizations has been held on this “final draft”.

The building industry has ongoing access to the ABCB via membership of that body. The disability community has no such access.

There has been no statement by the Government nor the ABCB which indicates the nature and scope of the proposed provisions of the standard.

Physical Disability Australia believes that the “final draft” reflects the position of the building industry to the exclusion of the disability community’s needs.

Physical Disability Australia is very concerned that this “final draft” does not provide for adequate access for people with physical disability, particularly wheelchair users.

## **Why access is important**

### **The People:**

The Human Rights and Equal Opportunity Commission states on the web page *Access to buildings and services: Guidelines and information:*

*"Almost 4 million Australians have a disability. About 50% of people aged over 55 have some difficulty with their mobility, hearing or vision. If we add their families, friends and work colleagues the number of people affected by disability and access issues is larger still."*

***[http://www.hreoc.gov.au/disability\\_rights/buildings/guidelines.htm](http://www.hreoc.gov.au/disability_rights/buildings/guidelines.htm)***

The Beyond Compliance Initiative in Western Australia, recognises *that following the trend of an 'ageing population', the number of people with a disability will nearly double in the coming twenty years (WA Perth Convention Bureau 2006).*

### **The Benefits of Adequate Access:**

The Regulatory Impact Statement on the draft Access to Premises Standard notes the following benefits:

- *One tangible benefit is the likely increase in participation in employment for people with a disability due to the availability of more accessible workplaces.*
- *Another potential benefit is the likely reduction in the costs of living for people with a disability that would result from the implementation of the Premises Standard.*
- *Realisation of these benefits would not be felt in full for a number of years, as they are dependent on the stock of buildings becoming accessible over time.*
- *If these benefits come to fruition, it will mean that the adoption of the Premises Standard has substantially improved the economic position of some of the most disadvantaged members of society and thus would be responsible for a significant and positive redistribution of income from within society*

*(Draft Regulation Impact Statement Summary (ABCB February 2004)).*

In addition, the Tourism Industry stands to gain considerable custom if motels, hotels, holiday accommodation and "bed and breakfasts" have improved access for people with disability.

Research by Simon Darcy of UTS found that people with disability do travel and do spend tourist dollars. In summary:

- An estimated 3.7 million trips per year are taken by

individuals with a physical disability, totaling to some 29.8 million nights.

- The average size of travel group for people with a disability is four.
- There is a myth that the disability market does not spend because of income restraints. The disability market does have some income restraints but tends to travel on a level comparable with the rest of the population.
- The total amount spent by all people with a disability on their last holiday adds to approximately \$472 million Australia wide.

*(Darcy, S (1998) Tourism and People with Physical Disabilities)*

This market could be placed in jeopardy if adequate access is not prescribed in the Access to Premises Standard.

## **Costs of Providing Access**

Regulators in overseas nations are recognizing that their access standards are inadequate and they are being reviewed. In the USA it is now recognized that its regulations are not in accord with the Americans with Disabilities Act and a review is underway.

Australia, in developing an Access to Premises Standard within the DDA (1992), has an opportunity to enact a standard that will provide for adequate access without placing an undue financial burden on the building industry.

Real Estate values in many parts of Australia have increased considerably since the draft of the premises Standard was released in 2004. Construction costs have not increased in line with real estate. The argument that accessibility adds significantly to cost is steadily weakening as the construction cost component of a development's overall cost continues to diminish. Further, market forces have of late been enshrined as a great public good and these forces will contain construction costs and ensure competitively priced tenancies in the completed commercial developments.

## **Discussion**

Physical Disability Australia's understanding is that the main objection by the building industry to the draft standard is centered on perceived costs. As indicated above, we hold the view that costs of providing access relative to the total

value of the project are falling rapidly.

In any case, it seems to Physical Disability Australia that denying access to jobs, small businesses, study, health, relatives' and friends' homes, holiday accommodation or recreation activities is an unsupportable position.

And yet that would be the result if the "final draft" is implemented.

Physical Disability Australia will welcome and endorse any Standard that enshrines the rights of people with physical disability to be included in all aspects of Australian society – but the "final draft" doesn't do that.

The proposed lawful exclusion of people who use a wheelchair or have a significant physical disability to general areas of some public buildings that would normally be open to other Australians who don't use a wheelchair is untenable in the 21<sup>st</sup> century.

To ensure that any new Standard will enhance the capacity of people with disability to access their community, the Standard must take into account specific needs in relation to physical disability.

Physical Disability Australia calls on the federal Government to initiate a strategy to enable public scrutiny of ongoing draft Standards to facilitate further public comment.

### **13 Contentious issues**

At the conclusion of the deliberations by the Building Access Policy Committee there were some 13 unresolved issues that threatened the viability and effectiveness of the Access to Premises Standard.

It must be emphasised that the following discussion on the 13 contentious issues is predicated on the understanding that **all other clauses in the draft Access to Premises Standard have remained as they were in the draft which was circulated in 2004.**

In general, members of Physical Disability Australia hold the view that "we have given up enough" during the Building Access Policy Committee (BAPC) phase of the development

of a Draft Standard, and that further compromise is unjustified and would result in a Standard that significantly erodes the rights bestowed by the Disability Discrimination Act (1992) as it currently sits.

However, Physical Disability Australia is prepared to agree to the following positions on each of 13 contentious issues.

Each issue is discussed in turn with reasoning behind our stance provided in each case.

The 13 Contentious issues in the current Draft Standard are:

- Issue 1: Application of provisions to 90% of users
- Issue 2: Number and location of sanitary facilities – clause F 2.4
- Issue 3: Accessible entrances – clause D 3.2
- Issue 4a: Step Ramps – Clause D 3.11
- Issue 4b: Threshold ramps – clause D 3.11
- Issue 5: Passing and turning spaces – clause D 3.3
- Issue 6: Access to class 2 buildings – Table D3.1.
- Issue 7: Small buildings – clause D 3.4
- Issue 8: Lift floor dimensions – Clause E3.6, Tables E 3.6(a) and E 3.6(b)
- Issue 9: Constant pressure devices in lifts – Table E 3.6b
- Issue 10: Signage - Clause D.3.6
- Issue 11: Swimming pools
- Issue 12: Number of dwellings/rooms to be accessible in class 1b & class 3 buildings – Table D3.1
- Issue 13: Ceiling Height of undercover car parks

## Physical Disability Australia Issues and Recommendations

### **Issue 1: Application of provisions to 90% of users**

#### *Background:*

The current BCA and AS1428.1 provide for 80% of wheelchair users. The public comment version of the draft Access Code recommended that the Premises Standard accommodate 90% of wheelchair users. Physical Disability Australia supports that view.

The RIS identified that the cost impact of moving to accommodate 90% of users was significant. Many public comment submissions believed that there was a lack of supporting evidence to justify increasing the spatial dimensions.

The building industry sector does not believe that there is sufficient justification for increasing the spatial dimensions to accommodate 90% of users but that provisions should remain at the status quo.

The disability sector remains steadfast in the belief that the Premises Standard must, in general, accommodate 90% of people with disability including people who use wheelchairs. The disability sector is of the view that the RIS was flawed and underestimated the financial benefits to industry emanating from providing adequate access for people with disability.

Physical Disability Australia is prepared to move away from that position as below.

#### **Recommendation 1:**

**That requirements of the Premises Standard meet the needs of 90% of people with disabilities except that the requirements for the spacing of passing spaces, the spacing of turning spaces and lifts in 2 and 3-storey buildings may be limited to the needs of 80% of people with disabilities.**

#### *Reasoning:*

The disability sector does not support the restrictions on access imposed by AS1428 Part 1-2001. The provisions of this Standard are inadequate in all areas, yet to reduce costs, the disability sector has conceded to agree that the requirements for the spacing of passing spaces, the spacing of turning spaces and lifts in 2 and 3-storey

## **Issue 1: Application of provisions to 90% of users**

buildings may be limited to the needs of 80% of people with disabilities.

The accessibility provisions of the current BCA and Australian Standards, which potentially exclude 20% of wheelchair users, have not altered significantly since 1988. The public comment version of the draft Access Code recommended that the Premises Standard accommodate 90% of wheelchair users.

The data used for the Australian AS1428 suite of Access Standards is based on anthropometric data for Australians with disabilities researched by John Bails in the early 1980s. The anthropometrics of Australians have changed significantly since 1980 and John Bails' data no longer adequately describes the current population (24 years later). The current US standards, which are being reviewed, are based on anthropometric data derived in 1970 from able bodied persons for military purposes. No people with disability were in the sample. The current UK standards are similarly flawed.

In 2005 researchers in US published the findings of a new study on the anthropometrics of people with mobility disabilities in USA. These findings confirm the inadequacy of the current US Standards and support the use by Australia of the data from John Bails' research to accommodate 90% of people who use wheelchairs.

The Premises Standard RIS stated that the cost impact of moving to accommodate 90% of users was significant. Many public comment submissions believed that there was a lack of supporting evidence to justify increasing the spatial dimensions.

The disability sector is of the view that the RIS was flawed in the assessment of financial benefits to industry emanating from providing adequate access for people with disability. Research has shown these benefits to industry to be significant.

The social confidence gained by users of building especially people who use wheelchairs was not evaluated by the RIS, nor was there an evaluation of the pain and suffering which results from exclusion. Every day Courts have no difficulty ruling on damages due to libel or slander, deprivation of liberty, or the cost of pain and suffering. Pain and suffering due to exclusion from a building is not a one-off event, but experienced every time exclusion is faced. These figures should have been determined and incorporated into the RIS.

## **Issue 1: Application of provisions to 90% of users**

On the other hand, knowing that a venue and service will be accessible provides all users of buildings the assuredness and confidence to participate in all aspects of life at will, the value of which was not assessed in the RIS.

## **Issue 2: Number and location of sanitary facilities**

The building industry has argued for accessible toilets on every second floor and at only 50% of the banks of toilets on those floors. The disability sector has argued for an accessible unisex toilet located with every bank of toilets in any new building.

Physical Disability Australia is prepared to move away from that position as below.

### **Recommendation 2:**

**That an accessible unisex toilet be provided on every floor on which toilets are located, and be located in the same secured area as the other blocks of toilets.**

### **Reasoning:**

*Increasingly multi-storey commercial office buildings are tenanted floor by floor, and incorporate secure access to the whole floor including lift access to that level. There are instances where the floor on which the accessible toilet is located is not available to other building occupants. Consequently gaining access to the accessible toilet is at least difficult and sometimes impossible, which is contrary to the DDA.*

*Having access to a toilet on each floor would ensure that a building will provide access to a unisex accessible toilet for a person who uses a wheelchair regardless of where in the building the person may be working or visiting. This would provide equitable access for personal hygiene in a manner similar to people who do not use a wheelchair.*

### **Issue 3: Accessible entrances**

The disability sector has argued that all entrances of all buildings greater than 500 sq metres should be accessible.

Physical Disability Australia is prepared to move away from that position as below.

#### **Recommendation 3:**

**That 50% of entrances in all buildings must be accessible provided no accessible entrance is more than 50 metres from an inaccessible entrance.**

#### ***Reasoning:***

*Buildings may have an accessible entry some unreasonable distance from the inaccessible entry, which is contrary to the objectives of the DDA.*

***An example:*** HREOC is located in Piccadilly Tower, which has two street frontages at Pitt and Castlereagh Streets, Sydney. The Castlereagh Street entrance is accessible while the Pitt Street entrance is not accessible, which requires a journey of some 300 metres around a large city block to reach an accessible entry.

## **Issue 4: Step ramps and threshold ramps**

The building industry has argued that both step ramps and threshold ramps must be allowed to accommodate some building features.

The disability sector has argued that step ramps and threshold ramps are hazardous and do not need to be used if buildings are correctly designed.

Physical Disability Australia is prepared to move away from that position as below.

### **4(a) Step ramps: Recommendation 4(a):**

**That step ramps be allowed only at external entrances and at defined situations within buildings, namely at lift landings on the lowest stop and in rooms housing a main-frame computer.**

### **4(b) Threshold ramps: Recommendation 4(b):**

**That threshold ramps be allowed at external entrances to buildings and have a maximum vertical rise of 32mm.**

***Reason:** While step and threshold ramps are a trip hazard within a building, especially along a corridor or open pedestrian area, PDCA holds the view that threshold ramps should be permissible at external doorway entrances. In particular at external doors where there is no overhead awning and where the threshold ramp can assist in weather protection to avoid water penetration. Threshold ramps are also necessary in circumstances where an entrance doorway is flush with the property/building line and adjoins a footpath with a longitudinal slope exceeding 1:100, which is the overwhelming majority of retail shopping strips / commercial precincts.*

## **Issue 5: Passing spaces and turning spaces**

The building industry has argued for no passing spaces to be required.

The disability sector has argued for passing spaces at every point along an accessway where there is no line of sight from end to end and at intervals along accessways greater than 20 metres in length.

Physical Disability Australia is not prepared to move away from that position.

The building industry has argued for no turning spaces to be required along corridors, but has agreed to turning spaces at the end of corridors.

The disability sector argued for turning spaces at the end of blind corridors and at intervals along accessways greater than 10 metres in length.

Physical Disability Australia is not prepared to move away from that position.

### **5(a) Passing spaces: Recommendation 5(a):**

**That passing spaces be required at intervals of at least 20 metres along all accessways, and at each location along an accessway where the clear line of sight ceases.**

### **5(b) Turning spaces: Recommendation 5(b):**

**That turning spaces be required at least every 10 metres along accessways and at the end of corridors.**

### **Reasoning**

*Passing and turning spaces are essential in any workplace or business. These benefit all staff and users of the building, such as delivery persons, staff moving trolleys and supplies, people with disability, people passing in corridors, parents with children and prams, elderly people requiring walking frames or other equipment for mobility. It is not a luxury but an OH&S issue.*

*Provision of passing spaces is also a productivity issue due to time wasted while waiting and the energy expended on reversing or traveling forward to the next turning space is an OH&S issue.*

## **Issue 6: Access to class 2 buildings**

The building industry argues that no areas of class 2 buildings should need to be accessible unless they are serviced apartments.

The disability sector has argued that access to common areas of class 2 buildings is essential to allow people with disability to visit family and friends living in class 2 buildings and to provide for the possibility of purchasing a home unit and making it accessible.

Physical Disability Australia is not prepared to move away from that position.

### **Recommendation 6:**

**That access be provided to all common areas within all class 2 buildings on the ground floor, and to all common areas above or below the ground floor where these are serviced by lift or ramp, and to all external common areas associated with the building.**

### ***Reasoning:***

*Recently in Queensland the Body Corporate of a building was found to discriminate against a tenant of the building in areas of operating heavy doors to the building, security being out of reach, and safety locks to the swimming pool, thereby the pool was not reachable. The court found in the tenant's favour as the Body Corporate was found to be operating a service to public areas of the building.*

## **Issue 7: Small buildings**

The building industry has argued for no requirement for lifts in 2 and 3 storey buildings, but has agreed to a requirement for lift access to upper floors in two and three storey buildings where each upper level has an area of at least 500 sq metres.

The disability sector has argued for access to be mandated to all levels of all buildings either by a general purpose passenger lift or smaller low rise lift as described in Table E3.6, with the issue of uneconomical lift access to be managed by the unjustifiable hardship provisions.

Notwithstanding this position Physical Disability Australia accepts that it maybe less economical for some smaller buildings to provide a lift. However, it is unimaginable that a low rise lift costing less than \$75,000 in a **new** 3 storey building with a 250 square metre footprint would be uneconomical over the life of the building.

Physical Disability Australia is prepared to move away from that position, as follows:

Physical Disability Australia has adopted a compromise position that floors at levels other than the principal entrance's floor (including any basement area), have areas of 350 metres before requiring lift access.

### **Recommendation 7:**

**That access be provided to all parts of all class 3, 5, 6, 7, 8 and 9 buildings but that access not be required in class 3, 5, 6, 7, and 8 buildings with other than principal entrance floor areas of less than 350 square metres, and that any organisation providing a service in a building with no disability access to other than principal entrance levels provide an equivalent service in an accessible area of the building.**

### ***Reasoning:***

*It is imperative that access be provided to public buildings to facilitate access to employment, goods and services for people with physical disabilities. The threshold issue of lifts in smaller buildings must be equitably resolved in the favour of people with disabilities. The impact of the draft Standard will have even greater discriminatory effect in fringe urban areas and regional rural Australia where 2 and 3 storey*

*buildings are more common than in the major cities.*

*Physical Disability Australia is also of the opinion that the cost of installing lifts is reducing year by year and in relative terms they are cheaper today than when the RIS was undertaken in 2003.*

*Physical Disability Australia believes that a standard for the future should be cognizant of future benefits and proposed costs, and not consider only the past.*

**Example:** *In a recently completed (July 2007) commercial office building in the Sydney metro area it was observed that a four storey building plus basement building had been constructed with on-grade wheelchair accessible entry foyer which includes a lift to the main upper floor levels and some basement carparking. Ironically, the ground floor mezzanine which occupied approximately 500 M<sup>2</sup> included 6 steps from the ground floor entry lobby, which is the only means of access. While this example exploited the deficiencies in the current BCA it is evident that the draft Standard would perpetuate this kind of discrimination against people with physical disabilities.*

## **Issue 8: Lift floor dimensions**

The building industry argues for all lifts to comply with AS1428 part 1.

The disability sector has argued for floor sizes of lifts to reflect the provisions of AS1428 part 2. Negotiations in BAPC have seen the disability sector agree to a compromise where lifts in large buildings comply with AS1428 part 2, while low rise lifts comply with AS1428 part 1.

Physical Disability Australia is not prepared to move away from that compromise position as follows.

### **Recommendation 8:**

**That all passenger lifts with a vertical path have automatic operation, and passenger lifts providing a vertical rise greater than 12 metres meet the needs of 90% of people with disabilities, but that passenger lifts providing a vertical rise of 12 metres or less may be limited to the needs for 80% of people with disabilities.**

### **Comments:**

*Lift car should be 1400mm wide X 1600mm deep for lifts travelling more than 12metres (above 3 storeys). All vertical lifts should have automatic operation.*

## **Issue 9: Constant pressure devices in lifts**

The building industry argues for constant pressure switches to be allowed.

The disability sector has argued that lifts with constant pressure controls are not able to be operated by many people with limited hand or arm function and therefore should not be allowed. ***This is supported by international research.***

Physical Disability Australia is not prepared to move away from that position as follows.

### **Recommendation 9:**

**That constant pressure controls not be used on lifts, but that constant pressure controls may be limited to over-the-stair platform lifts.**

## **Issue 10: Signage**

Physical Disability Australia believes that Signage impacts on all users of buildings regardless of disability. This issue also impacts on the safety of all building users.

### **Recommendation 10:**

**That way-finding signage be required to indicate the accessway from each entrance of the building to each accessible facility, and that this signage be located at a height between 1200mm and 1600mm, and employ raised tactile text and symbols and Braille.**

## **Issue 11: Swimming pools**

The building industry argues that only pools larger than 40 metres perimeter should be required to be accessible.

The disability sector has argued that all pools the public has access to (including ones in motels and gymnasiums) should have a means of access for wheelchair users. The unjustifiable hardship provision, it was argued, could be used where it is uneconomical to provide access.

Physical Disability Australia is prepared to move away from that position as follows.

### **Recommendation 11:**

**That swimming pools accessed by the public which have a perimeter greater than 40 metres be accessible by ramp or an independently accessible occupant operated automatically controlled pool-side hoist with interchangeable lifting devices including slings, seats and wheelchair platforms.**

### **Comments:**

*There are a large number of pool lifts on the market that are occupier operated. Most pool lifts have interchangeable devices to lift people, eg. slings, seats, wheelchair platforms.*

**Issue 12: Number of dwellings/rooms to be accessible in class 1b and class 3 buildings**

The building industry argues that the threshold number should be 5 bedrooms and above.

The disability sector has argued that all commercial dwellings should be accessible but has agreed to a compromise of accessibility being required only when the number of bedrooms in some types of accommodation, such as Bed and Breakfast accommodation or in caravan parks, reaches a threshold number of three.

Physical Disability Australia is not prepared to move away from that compromise position as follows.

**Recommendation 12:**

**That an accessible bedroom and associated sanitary facilities be required in all class 1b buildings having more than 3 bedrooms.**

**Comments:**

*In addition, consideration needs to be given to the layout of the room. For example: circulation in the room, bed sizes, circulation around bed (reachable from both sides) access to tea and coffee making facilities, robe areas, switches etc.*

### **Issue 13: Ceiling Height of undercover car parks**

*The 2300mm entry height (as per draft **AS2890.6.**) to accessible parking spaces was derived by the accepted method used by Standards Australia to review existing makes and models of vehicles.*

*The 100mm increase from 2200mm to 2300mm height reflects modern cars and vans and applies to areas where accessible spaces in new car parks and not the whole car park or existing car parks.*

*Physical Disability Australia supports the outcomes of the Standards Australia review.*

#### **Recommendation 13:**

**That the height clearance of under-cover car parks be 2300mm minimum and that this clearance be limited to the path of travel from the car park entrance to the accessible parking bays and return to the exit, and that the height clearance for an accessible parking bay be limited to 2500mm as described in the draft AS2890.6.**

#### **Comments:**

***Reason:** An increasing number of wheelchair users are purchasing vans which have roof heights of up to 2200mm. Physical Disability Australia urges the Government to respond to the the findings of Standards Australia in terms of vehicles height. To ignore these findings will mean that many popular passenger vans and their passengers will be denied access to multi-deck carparks.*

*This document has been compiled by Physical Disability Australia, (c) 2007 and reflects the views of our members and constituents. It is also supported by many disability and community agencies as shown in accompanying documents.*