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Government of South Australia

Department of Planning
and Local GovernmentDoc: eA70925
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Committee Secretary
House of Representatives
Standing Committee on Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

RECEIVED
12 FEB 2009

BY: LACA.....

Dear Sir/Madam

RE: Inquiry into the draft Disability (Access to Premises – Buildings) Standard

It is noted the Committee has released the draft Premises Standards and asked for submissions to inform the Committee in its assessment of the documents.

The Terms of Reference for the Committee specifically include *the interaction between the Premises Standard and existing regulatory schemes operating in State and Territory jurisdictions, including the appropriateness and effectiveness of the proposed Model Process to Administer Building Access for People with Disability.*

Accordingly, I can provide the following comments with regards to the regulatory scheme operating in South Australia:

- South Australia was one of the first jurisdictions to implement mandatory requirements for access in 1980 and although the Building Code of Australia (BCA) now covers most of the South Australian requirements there are still a number of State variations dealing with access. The Premises Standard for buildings, and the incorporation of those requirements into the BCA, will make it possible for the last of these State variations on access to be removed.
- The Model Process requires the establishment of an "Access Panel" for disability matters. It is envisaged that in South Australia this Panel would be part of the Building Rules Assessment Commission (BRAC) which is already established to provide expert advice on compliance with the performance requirements in the BCA for specific building proposals. The membership requirements for an "Access Panel" may mean some changes to the membership of BRAC as at the moment there is only one person with expertise in disability matters, but this is not likely to be a significant issue. Currently, BRAC is empowered to provide an **opinion** on performance-based "Alternative Solutions" which is taken to be similar to a **recommendation** as provided in the Model Process. Some changes to the Development Act 1993 will also be necessary to ensure that the BRAC has the necessary powers to deal with the range of matters set out in the Model Process.

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- One item that is a concern is Article 6 where it requires the Administration to establish a process that provides for a Building Upgrade Plan on an existing building to be achieved. It is almost impossible to provide a process that will guarantee such an outcome in the event of a building owner defaulting on the agreed works. Failure to meet an agreed timeframe for upgrading an existing building could be made an offence but that will not necessarily result in the work actually being undertaken. A range of factors (such as changed market conditions or even bankruptcy) can result in a building owner not proceeding with work on an existing building. Time frames for the implementation of a Building Upgrade Plan could be re-negotiated and a process could be put in place that ensures prospective purchasers are made aware of the upgrading requirements, but these may not be sufficient to meet the intent of Article 6 as currently worded. It is suggested that the requirements of Article 6 be amended to, *a process that provides a reasonable level of certainty for the Building Upgrade Plan to be achieved.*

Yours sincerely

Ian Nightingale
CHIEF EXECUTIVE
DEPARTMENT OF PLANNING AND LOCAL GOVERNMENT

11/12/2009