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Victorian Access Consultants Network (VACN)

**Submission to
House of Representatives
Legal and Constitutional Affairs Committee**

**Inquiry into
Draft Disability
(Access to Premises – Buildings) Standards 2009**

February 2009

Victorian Access Consultants Network
Submission – Inquiry into Draft Disability (Access to Premises) Standards 2009

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Introduction

The Victorian Access Consultants Network (VACN) consists of professional Access Consultants operating in Victoria to improve access to the built environment. Most members of VACN are also members of the Association of Consultants in Access Australia (ACAA) and hold either Accredited or Associated membership status. Members have qualifications in a range of disciplines that support their expertise in addressing access issues. e.g. Architecture, Training, Building Surveying, Occupational Therapy and others. In addition, many members have significant personal experience in addressing access issues over many years.

Members operate businesses providing a range of access advisory, design, auditing and training services to a wide range of organisations both within Australia and overseas. Many members with significant expertise in access are recognised as 'experts' in access issues and are involved in other industry related areas as specialist advisors on access improvement issues. Many members also have extensive expertise in development and interpretation of disability related legislation and Standards. Some members are leading in the development and delivery of access related training across Australia.

Many members have previously submitted responses to the draft Access to Premises Standards (e.g. 2004 version) and will also be submitting individual submissions to these current draft 2009 Premises Standards for consideration.

Scope of this Submission

VACN generally supports the introduction of Access to Premises Standards and supports the aims of the Standards. VACN however wishes to provide comment in relation to a number of key 'high level' issues that are of concern in the current 2009 draft of the Premises Standards. This submission has been developed by VACN to specifically address these key issues and provide recommendations relating to these. Issues of 'fine detail' have not been included. These issues have been left to individual members to address in their own submissions if they so choose.

Key Issues and Recommendations

1. The objects of the draft Disability (Access to Premises – Buildings) Standards 2009 (dAPS) should reflect the objects of the Disability Discrimination Act (DDA). This is currently not the case. Whilst reference is made to 'equity' in the dAPS, (as per the DDA), there is no reference to 'dignity' for people with disabilities in accessing buildings. In fact, the objects of the dAPS are:
 - a) *To ensure that reasonable achievable, equitable and cost effective access to buildings, and facilities and services within buildings, is provided for people with disabilities; and*

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- b) *To give certainty to building certifiers, building developers and building managers that, if access to buildings is provided in accordance with these Standards, the provision of access, the extent covered by these Standards, will not be unlawful under the Act.*

The issues related to 'dignity' are not included. This is reflected in a number of clauses in the dAPS. For example the dAPS now provide the opportunity for a sling or platform lift to be used as the **only** means of access into a swimming pool (subject to the perimeter size of the pool). It can be and is often strongly argued, that neither of these means of access are a 'dignified' means of entry into a swimming pool.

VACN recommends that:

- the objects of the dAPS reflect the objects of the DDA;
 - that the dAPS require, as a minimum, either appropriate ramp or beach entry for access into a swimming pool and that in addition, the provision of an alternative e.g. sling or platform lift also be considered.
2. The name of the dAPS is misleading. The dAPS do not relate to 'premises' as per the DDA definition of premises, they relate to Buildings (new and upgrades).

VACN recommends that:

- Any reference to premises is removed from the name of the dAPS and that they be known as the ***Disability Access to Buildings – Standards 2009***
3. The consultation period and process for submissions in relation to the dAPS is very limited and may restrict some people from participating in the consultation process. Given that the revised and updated draft **Australian Standards AS1428.1, AS1428.4.1 and AS 2890.6** have only just been released for comment in the past two weeks, additional time is required for review, digestion and reflection as well as submission preparation.

VACN recommends that:

- The consultation timeline for submissions relating to the dAPS be extended for 4 weeks from 27th February 2009; and
 - that the scope of consultation incorporate appropriate access for people with a range of disabilities who may wish to participate in the process.
4. *Persons to whom the Standards apply* – clause 2.2 in the dAPS does not include Access Consultants. Quality developers and builders have, for a long time, already been regularly appointing Access Consultants as part of their design and development teams, to ensure that their buildings meet the intent

of the DDA. Given the important nature of Access Consultants professional expertise in access related to the built environment, and the increasing reliance on Access Consultants to provide this specialist professional advice, it is imperative that Access Consultants are included.

VACN recommends that:

- Accredited Access Consultants (*Accredited with the Association of Consultants in Access Australia (ACAA)*) be included as persons to whom the Standards apply in clause 2.2 in the dAPS; and
 - That in the 'Administrative Protocol' – *A Model Process to Administer Building Access for People with Disability 2008*, prepared by the Australian Building Codes Board, that the definition of a 'Person Competent in Access' is an Accredited Member of ACAA.
5. There are some anomalies in the '*draft Access to Premises Guidelines*' that have been released in conjunction with the dAPS. Whilst the purpose of the Guidelines is: '*to provide information and comment on the draft Standards*' and are '*not mandatory*', there appears to be some elements that imply they are mandatory and in fact these elements are not included in the dAPS.

VACN recommends that:

- That the dAPS Guidelines be reviewed to ensure they provide guidance and advice only and that any mandatory issues are incorporated directly within the dAPS.
6. Currently there is some inconsistency between the dAPS Guidelines, the dAPS and the Australian Standards in some areas. This includes issues relating to referencing of documents, as well as the lack of dates relating to some referenced documents. There are also some references that appear to contradict each other.

VACN recommends that:

- A review of the draft documents is undertaken to ensure clarity and consistency is achieved relating all documents referenced by the dAPS.
7. The ability to include updates to referenced Australian Standards is not incorporated into the dAPS, prior to the 5 year review period.

This has the potential to create confusion as people attempt to use and interpret the dAPS and new or updated Australian Standards are introduced.

VACN recommends that:

- The dAPS be amended to include the ability to utilise new or updated Australian Standards as '**minimum required**' Standards (as they are introduced), under the dAPS. These would then replace and supersede outdated Australian Standards.
(Consideration could be given to replacing dated Australian Standards with alternative references.)
- 8. There is inconsistency in the content of the detail of technical specifications within the draft dAPS. Some sections of the dAPS include specific and detailed specifications whilst others only call up or reference relevant Australian Standards.

VACN recommends that:

- Technical specifications are removed from the draft Standards and incorporated as a technical specification document that is an appendix to the Standards incorporating all of the required technical specifications for ease of use and reference.
- 9. There is potential confusion in relation to the inclusion of the buildings elements from the Public Transport Standards into the dAPS. The Transport Standards incorporate a timetable for compliance. This is not the case for the dAPS however, as this timetable is included within the dAPS there is a risk that users of the documents will interpret this timetable as also relating to the dAPS.

VACN recommends that:

- The timetable for implementation of the Transport Standards is removed from the dAPS and incorporated as an Appendix to the dAPS Guidelines.
- 10. The dAPS incorporate a timetable for review which is to occur 5 years after the dAPS commence. This appears to be a lengthy period to wait until a review is undertaken. It is expected, (as with the Transport Standards), that issues impeding effective implementation will occur and be apparent much earlier in the implementation stage.

VACN recommends that:

- Consideration be given to commencement of a review after the second year of implementation of the dAPS with ongoing review and monitoring up to five years when a full review is undertaken.

11. A number of key elements of buildings are either not covered or not adequately covered in the dAPS and therefore the dAPS cannot fully provide equitable, dignified access for people with disabilities to buildings. Also, they cannot provide certainty for building designers etc. that all elements of all buildings will provide appropriate access under the DDA.

Some key elements not covered or not adequately covered include:

- Access to swimming pools
- Way finding and signage
- Emergency egress (including visual indicators and clarification of fire isolated ramps and stairways)
- Class 2 buildings
- Accessway widths
- Access to some buildings
- Definition of exemptions e.g. the term 'or the like' in relation exempted areas

VACN recommends that:

- Key elements that impact on accessibility of buildings be incorporated into the dAPS to truly ensure equitable, dignified access is available to people with disabilities in relation to access to buildings.

12. VACN recognises that the dAPS are limited to those aspects of buildings that are covered by the Building Code of Australia, and that they therefore do not incorporate fit out and fixtures in buildings. However this exclusion significantly reduces the access provided for people with disabilities in accessing buildings.

VACN recommends that:

- Consideration be given to the development and incorporation of appropriate Access Standards for fit out and fixtures to be included in the review and update of the dAPS.

VACN thanks you for the opportunity to provide feedback and this Submission in relation to the draft Disability (Access to Premises – Buildings) Standards 2009 and is happy to provide any further information or answer any questions in relation to this submission.

Yours faithfully

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VACN Convener

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- Anthony Nichols - Institute of Access Training Australia
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- Bob Kellow – Disabled Access Consultancy
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- Claire Bernadou – Philip Chun
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