

The Hon Patrick Conlon MP
Member for Elder

Submission No 33



Government
of South Australia

MFI09/004

The Clerk Assistant (Committees)
House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

RECEIVEDSM
02 MAR 2009
BY: LACA

Minister for Transport
Minister for Infrastructure
Minister for Energy
12th Floor, Roma Mitchell House
136 North Terrace
Adelaide SA 5000
GPO Box 2969
Adelaide SA 5001
DX 154
Tel 08 8226 1210
Fax 08 8226 0844

Attn: Secretary, House of Representatives Standing Committee on Legal and Constitutional Affairs

Dear Secretary

The South Australian Government has reviewed the House of Representatives Standing Committee on Legal and Constitutional Affairs; draft Disability (Access to Premises – Building) Standards 2009 and referenced documents.

The South Australian Government supports, in principle, the adoption of the draft Disability Standard under subsection 31 (1) of the Commonwealth *Disability Discrimination Act 1992*. The adoption of the Standard will mean certification of compliance with the Building Code of Australia (BCA) which will provide certainty to building owners and designers that building works will comply with the intent of the Commonwealth *Disability Discrimination Act 1992*. This is currently not the case when Building Rules Approval is given.

The recommended changes in the attachment are minor and do not alter the intent of the draft Disability Standard. The aim of the amendments is to improve the clarity and intent of the standards and provide consistency with the BCA.

I trust that the above information is of assistance. If you require clarification or additional information please contact the Department for Transport, Energy and Infrastructure, Building Management Director Project Services, Mr Peter Swift on

Yours sincerely

**HON PATRICK CONLON MP
MINISTER FOR INFRASTRUCTURE**

25 February 2009

PARLIAMENT OF AUSTRALIA

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

DRAFT DISABILITY (ACCESS TO PREMISES – BUILDINGS) STANDARDS

2009

SOUTH AUSTRALIAN GOVERNMENT SUBMISSION

The South Australian Government supports the adoption of the draft Disability Standard under subsection 31 (1) of the *Disability Discrimination Act 1992*. The adoption will mean certification of compliance with the Building Code of Australia (BCA), which will provide certainty to building owners and designers that building works will comply with the intent of the *Disability Discrimination Act 1992*. This is currently not the case when Building Rules approval is given.

The following five recommended changes are minor and do not alter the intent of the draft Disability Standard. The aim of the amendments is to improve the clarity and intent of the standards and provide consistency with the Building Code of Australia.

The recommended changes below are in italics:

1. Disability (Access to Premises-Buildings) Standard (Page 4):

Part 2 Scope of standards clause (3) A building is a new building, subclause (b) (ii) all of the following apply:

- (A) it is constructed for or on behalf of the Crown;
- (B) the construction commences on or after [commencement date]; and
- (C) no application for the approval for the construction is submitted, before [commencement date], to the competent authority in the State or Territory where the building is located.

Suggested change: to strengthen the meaning of sub-clause (b) (ii) in that all three (3) clauses of A, B and C apply to (b) (ii) the changed order reflects a typical program for building works;

- (A) it is constructed for or on behalf of the Crown; *and*
- (B) *no application for the approval for the construction is submitted, before [commencement date], to the competent authority in the State or Territory where the building is located; and*
- (C) *the construction commences on or after [commencement date].*

2. Disability (Access to Premises-Buildings) Standard (Page 5):

Part 2 Scope of standards clause (4) A building is a new part of the building- subclause (b) all of the following apply:

- (i) the building work is carried out for or on behalf of the Crown;
- (ii) the building work commences on or after [commencement date]; and
- (iii) no application for the approval for the construction is submitted, before [commencement date], to the competent authority in the State or Territory where the building is located.

Suggested change: To reinforce that all of the subclauses (b) (ii) is a condition based that all three (3) clauses of A, B and C apply to (b) (ii), the changed order reflects a typical program for building works;

- (i) the building work is constructed for or on behalf of the Crown; and
- (ii) no application for the approval for the construction is submitted, before [commencement date], to the competent authority in the State or Territory where the building is located; and
- (iii) the building work commences on or after [commencement date].

3. Disability (Access to Premises-Buildings) Standard Page 44 Part F2 Table F2.4 (a) Accessible unisex sanitary compartments

Comments

The proposed requirement that multiple sanitation banks to be 50% accessible could result in more accessible toilets to be installed, which is proportionally higher than the existing table F2.3 requirements. This results in additional building costs in the order of \$15,000 to \$31,000 for new buildings. This additional cost is likely to be significantly higher for existing buildings depending on the location of services and required building alterations to accommodate accessible toilet facilities.

The proposed change in requirements for accessible toilet facilities is not in proportion to actual wheel chair number users. This has the potential of imposing unreasonably high costs to building owners/developers and reduces functional space in providing accessible facilities. It also reduces the nett lettable areas, therefore reducing the building owner's returns on investment.

Suggested change to table; F2.4 (a) Accessible unisex sanitary compartments:

- Remove the existing row for Class 5, 6, 7, 8, and 9 – except for within a ward area of a class 9a health care building and replace with suggestion below;
- Add a separate row for class 9b School buildings.

The revised table aim is to maintain the current ratio of accessible toilets requirements to current established ratios found in the BCA Part F2 Table F2.3 Sanitary Facilities in class 3,5,6, 7, 8 and 9 buildings.

Table F2.4 (a) Accessible unisex sanitary compartments – *suggested changes*

Class of building	Minimum accessible unisex sanitary compartments to be provided
Class 5, 6, 7, 8, 9 9b (9a except for within a ward area of a class 9a health)	<ul style="list-style-type: none"> ▪ One unisex sanitation facility to AS 1428 part 1 is required to be provided on each floor level of a building in accordance with Part F2 Sanitary and other Facilities, Table F2.3 with directional signage to location; ▪ (a) where F2.3 require design capacity for-100 occupants; closet pans plus urinals, provide one wheelchair accessible unisex sanitation facility; or ▪ (b) where F2.3 require design capacity for 101-200 occupants; closet pans plus urinals, provide two wheelchair accessible unisex sanitation facilities; ▪ (c) where F2.3 require design capacity for more than 200 occupants; closet pans, plus urinals provide; three wheelchair accessible unisex sanitation facility; ▪ and, one additional accessible wheelchair accessible unisex sanitation facility for each additional 100 occupants thereafter.
Class 9b Schools; Primary and Secondary	<ul style="list-style-type: none"> ▪ For disability learning centres a unisex sanitation facility is required to be in or adjacent of toilet facilities in accordance with Table F2.3. ▪ For general learning buildings, one unisex sanitation facility is required to be provided on a floor level of a building with sanitation facilities with directional signage to the location.

4. Disability (Access to Premises-Buildings) Standard Part H2 Public transport buildings (Page 47):

Comments

Transport buildings Class 9b Public Transport Buildings will be the only section within the BCA that does not apply the four (4) tier hierarchy of assessment (i.e.; Objectives, Functional Statement, Performance Requirements, Building Solution). This is at odds with the BCA being a performance-based code, which encourages innovative alternative building solutions. The Australian Building Code Board (ABCB) wants to encourage innovation to foster cost effectiveness and accessibility within the building industry.

The approach of incorporating the current Disability Access Transport standard into the BCA is appropriate. However, for uniformity in determining transport buildings' level of compliance with BCA Part H 9b there should not be any exception in being able to apply the four (4) levels of hierarchy to encourage the use of cost effective solutions that are innovative. This will provide equity of access to Class 9b public transport buildings.

5. **A model Process to administer Building Access for People with a Disability 'The Protocol' 2008 Annex 1 (Page 10)**

Clause 1.3: Access Panel, Subclause 2;

'The more broad based the Access Panel's membership, the more likely it will be that access is achieved and less likely that any proposed building solution would result in a disability discrimination complaint being successful. Membership of an Access Panel should include, as far as possible, a minimum of three people. Members must have expertise relevant to the issues (eg lifts, sensory or mobility aspects of a building) and include a minimum of one person who is deemed or accredited to be a Person Competent in Access matters and where the panel is greater than three persons, at least one-third of the Access Panel must be represented by Persons Competent in Access matters. Where further expertise is needed, it is to be sought from advisers or the Access Panel enlarged.'

Suggested change: is to provide an example of another expert, which may be required on the panel for a Heritage Building, changes below highlighted in italics.

'The more broad based the Access Panel's membership, the more likely it will be that access is achieved and less likely that any proposed building solution would result in a disability discrimination complaint being successful. Membership of an Access Panel should, as far as possible, include a minimum of three people. Members must have expertise relevant to the issues (*eg lifts, sensory or mobility aspects of a building, and in the case of a heritage building a Heritage Conservation Architect should be also included in the panel*) and include a minimum of one person who is deemed or accredited to be a Person Competent in Access matters and where the panel is greater than three persons, at least one-third of the Access Panel must be represented by Persons Competent in Access matters. Where further expertise is needed, it is to be sought from advisers or the Access Panel enlarged.'