

VDAC
Victorian Disability Advisory Council

Submission No 80

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**Draft Disability (Access to Premises-
Buildings) Standards**

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Summary of Considerations

- 1) Consideration should be given to the adoption of National uniform standards for accessible public and private housing.
- 2) Consideration should be given to amending the Standards to require the provision of access 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.
- 3) Consideration should be given to amending the threshold trigger for access in class 5, 6, 7b and 8 buildings to 150 square metres for each storey.
- 4) Consideration should be given to the Standards requiring access to upper and lower floors of class 5, 6, 7b and 8 buildings in which the following services are provided:
 - the public reception area of a company offering services to the public;
 - offices or facilities for a Commonwealth, State, Territory, or local government department or a government agency;
 - the professional office of a health care provider, medical consulting rooms, or dental surgery;
 - a retail financial institution;
 - a retail shopping outlet and
 - a restaurant/café.
- 5) Consideration should be given to coverage of wayfinding within the Standards.

Summary of Recommendations

- 1) The Standards should state that where there are 3 or more bedrooms or cabins in a class 1b building, at least one must be accessible with associated accessible sanitary facilities.
- 2) Constant pressure controls should not be used in lifts.
- 3) The issue of locked lifts should be investigated as a matter of urgency to determine if there are solutions that increase accessibility and independent operation. if so, the Standards should require implementation of solutions.
- 4) The Standards should require access features on stairways to be installed on all stairways, including fire isolated stairways.
- 5) The Standards should require the coverage of receivers to be increased to 15% in all applicable rooms or spaces.
- 6) A voluntary administration protocol that integrally involves people with a disability in discussions and decisions should be established.

About the Victorian Disability Advisory Council (VDAC)

The Victorian Disability Advisory Council's (VDAC)'s key role is to provide independent, impartial advice to the Minister for Community Services on whole of government policies and whole of government strategies in order to assist the government to maximise the inclusion of people with a disability in all aspects of Victorian life.

Introduction

Accessibility of the built environment is a key factor in people with a disability achieving autonomy, social inclusion and participation. VDAC welcomes the release of *the Draft Disability (Access to Premises- buildings) Standards* (the Standards) for comment, as a first step towards a framework for developing a built environment that promotes full inclusion and social equality.

A building's design should make it equally usable by everyone. Ideally, the means by which people use the building should be identical. If this is not possible, the means of use must be equivalent in terms of their privacy, safety and convenience. The building design must never employ means that isolate or stigmatise any group of users or privilege one group over another.

VDAC understands that this iteration of the Standards is intended to clarify accessibility requirements under the *Disability Discrimination Act 1992 (DDA)*, and to ensure Australia wide consistency between the *Building Code of Australia (BCA)* and the DDA.

There remain some clear incompatibilities between the Standards and important human rights principles, including those enshrined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* (the Victorian Charter) and the *United Nations Convention on the Rights of Persons with Disabilities 2006*, (CRPD).

For example, Article 9 of the CRPD on *Accessibility* requires States parties to ensure that the built environment is accessible for all members of the community. The principles of the Victorian Charter mandate freedom of movement and the right to participate in public life without discrimination.

Structure of this Submission

This submission first notes critical areas which, inter alia, prevent the Standards from achieving compliance with the CRPD and the Charter. While mindful of the great complexities of many of the issues involved, including the need to avoid unjustifiable hardship, VDAC is hopeful that future iterations of the Standards will enable provision of the greatest degree of access possible in the shortest time possible.

The submission goes on to focus on key aspects of the Standards that could usefully be adjusted now, without delaying the adoption of the Standards, to bring them closer to compliance with obligations under the CRPD and the Victorian Charter.

Areas for Future Consideration

Class 1a Buildings

Class 1a buildings are typically detached residential houses and attached townhouses, row-houses and villas. The draft Standards do not cover Class 1a buildings.

Housing is lagging behind the access we now expect in public buildings. The Royal Institute of Australian Architects notes that '*Currently, the demand for visitable, adaptable or accessible housing far exceeds supply*'.¹ Anecdotal evidence indicates that people with a disability often experience problems accessing housing, particularly in the private rental sector, due to the lack of appropriate housing and/or rejection by landlords.

Housing incorporating universal design principles can be adapted to meet the changing needs of any occupant, including the needs of a person with a disability, or a person progressing through different stages of life. It is usually less costly to incorporate accessible features during the initial construction than it is to add them later.

The need to ensure access for people of all abilities, including Australia's rapidly growing ageing population, suggests that the adoption of uniform standards for accessible public and private housing will become critical in the near future.

For Consideration

1. Consideration should be given to the adoption of National uniform standards for accessible public and private housing.

Class 2 Buildings

Class 2 buildings are typically residential apartment blocks. Access to and within Class 2 buildings and associated facilities is not regulated by the Premises Standard, although this was included in the 2004 draft. Class 2 buildings will continue to be covered by the general complaints provisions of the DDA.

This is clearly discriminatory, for both residents and visitors with a disability.

For Consideration

2. Consideration should be given to amending the Standards to require the provision of access 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.

Class 5, 6, 7b and 8 'small buildings'

These classes include offices, shops, premises in which goods or services are offered for sale (including dining facilities) or in which goods are stored. The Standards do not require access to the upper levels of a business or service located in a building of this class with one or two storeys above the entrance level or below it, if the size of each storey (other than the entrance level) is less than 200 square metres.

This may create a situation where most of the buildings outside the major cities are inaccessible. Many of these buildings may be offering essential services, such as medical or banking services.

For Consideration

3. Consideration should be given to amending the threshold trigger for access in class 5, 6, 7b and 8 buildings to 150 square metres for each storey.

Targeted exclusions for these buildings should consider usage, so that people with a disability are able to access essential services and key social facilities.

4. Consideration should be given to the Standards requiring access to upper and lower floors of class 5, 6, 7b and 8 buildings in which the following services are provided:
 - the reception area of a company offering services to the public;
 - offices or facilities for a Commonwealth, State, Territory, or local government department or a government agency;
 - the professional office of a health care provider, medical consulting rooms, or dental surgery;
 - a retail financial institution;
 - a retail shopping outlet and
 - a restaurant/café.

Wayfinding

An accessible building should provide all essential information in a variety of modes (e.g., written, symbolic, tactile, audio) to ensure effective communication with as many users as possible, regardless of their sensory or cognitive abilities. Broader than signage of accessible facilities, this wayfinding information should enable users to get to where they want to go in the building.

VDAC understands that appropriate standards have not yet been developed for wayfinding. Complaints about wayfinding are currently dealt with under the DDA, but, as there is no deemed satisfactory solution, there is continued protection for complaints.

For Consideration

5. Consideration should be given to coverage of wayfinding within the Standards.

Recommendations for amendments to the Draft Premises Standards

Class 1b Buildings

Class 1b buildings include Bed and Breakfast accommodation, cabins in tourist parks and farmstays. The provision in the current Standards for class 1b buildings is that if there are 4 or more units, at least 1 has to be accessible.

Where there is less than 4 bedrooms or cabins, although the premises are exempt under the Standards, the current DDA complaints mechanism still applies; a situation that is inconsistent with the aims of the Standards.

However, applying the exemption to all class 1b buildings would be clearly discriminatory and inconsistent with existing rights under the DDA.

There is evidenceⁱⁱ that a trigger of 4 bedrooms would effectively exclude more than 60% of the industry from the need to provide any access, whereas a trigger of 3 bedrooms would exclude about 40% of the industry.

Recommendation

1. The Standards should state that where there are 3 or more bedrooms or cabins in a class 1b building, at least one must be accessible with associated accessible sanitary facilities.

Stairway platform lifts (AS 1735.7)

This type of lift is generally unenclosed and follows a stairway up to another level. The Standards allow it to be used in limited specified situations.

VDAC has concerns that independent operation of these lifts is not always possible, meaning that buildings that are required to be accessible become effectively inaccessible at some times or for some people.

Concerns include that:

- constant pressure controls, which require the passenger to maintain pressure on a button are allowed in these lifts, contrary to the 2004 draft which prohibited their use in every lift in an accessible building. Constant pressure controls are difficult or impossible for people with impaired arm or hand function to use.
- lifts may be 'locked off' and only accessible when the building manager or security staff can be located.

Recommendations

2. Constant pressure controls should not be used in lifts.
3. The issue of locked lifts should be investigated as a matter of urgency to determine if there are solutions that increase accessibility and independent operation. If so, the Standards should require implementation of solutions.

Fire isolated and small stairways

Access features, such as tactile ground surface indicators (TGSI), luminance contrast on stair nosings or handrails, are not required by the current draft Standards in fire isolated stairways and areas that are not required to provide for wheelchair access, such as for instance, on stairways in small buildings.

This clearly discriminates against people with sensory and ambulant impairments who may need to use these facilities.

Recommendation

4. The Standards should require access features on stairways to be installed on all stairways, including fire isolated stairways.

Hearing Augmentation

Research shows that one in six Australians suffer from some form of hearing loss, projected to increase to one in four by 2050.ⁱⁱⁱ The draft Standards state that in a system requiring the use of receivers, the number of receivers provided must be not less than from between 4% to 2.75%, of the room or space capacity, depending on the capacity of the room or space.

Given the research figures quoted above, this percentage of receivers is not adequate now and will become less so in the future.

Recommendation

5. The Standards should require the coverage of receivers to be increased to 15% in all applicable rooms or spaces.

Administration Protocol

To ensure consistency and transparency in considering applications to vary the building code, VDAC supports the establishment of a voluntary Administrative Protocol and recommends that people with a disability be integrally involved in discussions and decisions.

Recommendation

6. A voluntary administration protocol that integrally involves people with a disability in discussions and decisions should be established.

ⁱ RAlA *Policy on Universal Access, 2007*, viewed on 22 February 2009 at http://www.architecture.com.au/policy/media/Access_policy.pdf

ⁱⁱ From a presentation by Michael Small, Disability Rights Unit, Australian Human Rights Commission, Melbourne, February 2009.

ⁱⁱⁱ Access Economics: *Listen Hear! The economic impact and cost of hearing loss in Australia*, February 2006