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## DDA Access to Premises Standard Draft Submission 2009

The Spinal Injuries Association is the peak body representing people with spinal cord injury in Queensland. We make this submission on behalf of our members. The Association has been engaging continuously on access issues since our involvement in the first national test case on discrimination legislation in 1994 involving the State government building known as the Brisbane Convention and Exhibition Centre.

### The rights of ordinary Australians:

The rights of ordinary Australians need to be clearly in focus by the parliament in this process of review and we turn your attention to the:

#### *UN Convention on the Rights of Persons with Disabilities*

The Convention on the Rights of Persons with Disabilities, ratified by Australia 17 July, 2008 and entering into force for Australia 16 August, 2008 states:

#### Article 9 Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life. States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces.

Ends....

The proposed Access to Premises Standard will fall short of meeting even the principles of Article Nine. In the omitted areas and those omissions articulated in Article Nine, Government must both legislate and regulate to ensure a non-discriminatory built environment. The onus is upon Government to honour the Convention that it has ratified and allowed to take effect.

The impact of an inadequate Standard will be significant, affecting employment, recreation, services and lifestyle against a backdrop of an aging community that is living longer but losing sensory and physical functionality as a result of aging; a society who in the next 40 years will increasingly require safe, convenient, accessible, user friendly outcomes or they will not be able to participate or contribute to their community the way they should. The detriment of an inadequate Standard will not be fixed by a five year review as thousands of buildings will be constructed in that time and will be in use for a minimum of forty years or more while societal views will have progressed!

### **Comment on the compartments of the proposed Standard:**

The comment that follows results from this Association's years of experience in understanding the issues associated with accessing daily living requirements by Australians with spinal cord injury, namely people with paraplegia, quadriplegia, post-polio and transverse myelitis. This group comprises the membership of the Spinal Injuries Association and hence, in our comment about the proposed Standard we use the term, **Our members require...**

### **Table D3.1: Requirements for access for people with a disability**

#### **Class 1B (a)**

Currently:

Dwellings located on one allotment\* and used for short-term holiday accommodation consisting of:  
4 to 10 dwellings (etc)

Our members require:

The first dwelling at any location should be accessible and include an accessible unisex bathroom.

Dwellings on one allotment:

Members of the Spinal Injuries Association use this type of accommodation commonly as it is convenient and accessible to get their equipment and aids into, e.g. hoists and shower chairs.

Under the proposed Standard as presently written, we are concerned that you could have 100 dwellings and link with a covered walkway or just a linking pathway and virtually have a single level motel instead of a multi story motel without the same requirements needed to meet compliance for a motel.

Class 1B cabins are commonly used for variously priced accommodation or unique natural settings accommodation. They tend to offer a service no different to a Class 3 building so should not be treated differently to a Class 3.

In our opinion, the table for Class 1B buildings should be the same as for Class 3 buildings.

**Class 1B (b)**

Boarding House, Bed and breakfast, guest house, hostel or the like;

Currently:

Under Access requirements...

'not less than 1 of each type of room or space for use in common by the residents or guests, including a cooking facility, sauna, gymnasium, swimming pool, laundry, games room, eating area, or the like; and

Our members require:

The first bed room shall be accessible and have an accessible unisex bathroom.

Where there is more than 10 rooms, a second bed room shall be accessible and have an accessible unisex bathroom.

Therefore, our members require deletion from the existing table of the following:

'not less than one of each type of'

And pluralise room and space to  
'rooms or spaces'

Note:

In many regional and remote areas, these are often the ONLY form of accommodation.

## **Class 2**

Currently:

The 2009 draft no longer includes Class 2 buildings.

Our members require:

Class 2 buildings to be included within the proposed Standard in order to give the Disability Discrimination Act certainty to building owners and managers – and access to short term and long term accommodation for people with disabilities. There is a predominance of Class 2 buildings in Queensland.

Note:

In Queensland in 2005, a precedent case was established concerning access to the common areas of a Class 2 building in Brisbane in the Anti Discrimination Tribunal. The case is identified as C & A. Queenslanders will continue to rely on this legal finding.

## **Class 3**

Currently:

Common areas: under Access requirements

'From a pedestrian entrance (singular)

Our members require:

Pluralisation of entrance to entrances so the line would read:  
From pedestrian 'entrances'

Second point is:

The proposed Standard currently says: to and within not less than one of each type of room or space.

Our members require:

Delete the existing words: 'not less than one of each type of'

And pluralise room and space to 'rooms and spaces'

Sole occupancy units:

We want to lift the limitation in the sole occupancy units, under Access requirements.

It currently reads:

Where more than 2 accessible sole-occupancy units are required, they must be representative of the range of rooms available.

Our members require:

remove 'more than 2'

If this is not done, you are not able to give a representative range of rooms.

Note:

What is currently proposed in the Standard is LESS access for the entrance level than that currently required in the Building Code of Australia. This is regressive!

We assume this is a formatting error as the outcome was proposed for a Class 2 building, not a Class 3

Note: when a lift or ramp is provided, access to all rooms and spaces is available to all.

**Class 5 we support**

**Class 6 we support**

**Class 7B, 8, 9A and 9E we support**

**Class 7A**

**Car park**

Our members require:

7A to read the same as 7B

Given the federal government's policy for employment of people with a disability, employers offering car parking need to ensure there will be access to their level of car parking in multi story buildings. This cannot be offered if the infrastructure e.g. lift, has not been provided.

**Class 9B**

Our members require:

D3.9 to require a booking policy to ensure it operates as intended by the Standard, i.e. that it offers a service that is no less favourable than that for a person without a disability.

## **Class 9C**

Our members require:

Removal of the limitation of 'to and within not less than one of each type of'  
And add pluralisation of room and space to 'rooms and spaces'...

Maintain the current table in the draft Standard for 5% accessible sole occupancy units but require that all other sole occupancy units shall be built to universal design principles and guidelines in order meet the demand of an aging population that is living longer. This also allows for individual needs to be met as life progresses through phases of decreasing physical and sensory functionality.

## **Class 10A we support**

### **Class 10B**

Swimming Pools

Currently:

To and into swimming pools with a total perimeter greater than 40 metres associated with a Class 1b, 3, 5, 6, 7, 8, or 9 building that is required to be accessible, but not swimming pools for the exclusive use of occupants of a 1b building or a sole-occupancy unit in a Class 3 building.

Our members require:

a maximum perimeter of 30 meters

The draft Standard should be re-visited to include smaller pools, which is a size so frequently found in average hotel/ motel accommodation. A form of independent pool access shall be required.

On the issue of Class 1b and 3 buildings:

Our rationale is that if a person with a disability wants to hire a room or space that offers a pool or spa, they should be able to have access to this amenity that provides a service. That would be equitable. Cost is not an issue for premium priced rooms.

Our members require the removal of the limitation, i.e. remove:

'but not swimming pools for the exclusive use of occupants of a 1b building or a sole-occupancy unit in a Class 3 building.'

## **Toilets:**

### Table F2.4 A

Currently:

(b) where private accessible unisex sanitary compartments are provided for an accessible bedroom, common accessible unisex sanitary compartments need not be provided.

Our members do not accept the restriction for Class 1B

Our members require item b changed as follows:  
Remove 'need not' and replace with 'shall'

In 5,6,7,8 and 9 there should be an accessible unisex toilet at each bank of toilets.

What is proposed in the draft Standard, i.e. only 50%, will have a major impact on our members as this will reduce their ability to go to shopping centres, theatres, sporting stadia and office complexes as they will have limited access to sanitary facilities. PWD have less warning and less capacity to travel distance when requiring the use of a toilet. They take longer too. In stadia, theatres and function centres there is the added restriction of time and increased demand, e.g. short intermissions.

Our members experience tells us this would severely limit their ability to participate within their community. Let's be real – we are talking about going to the toilet. This is a basic health and hygiene issue. Currently in Queensland, we are finding that developers of the said classes of building are putting in accessible unisex toilets at each bank of toilets without undue hardship. And we note in the mid 90's, the Brisbane Convention and Exhibition Centre provided this. It appears then, we are going backwards; that the proposed Standard is making Australians worse off.

Our members require an accessible unisex toilet at each bank of toilets.

### **Exemptions: 3.4 part F in a Class 5, 6, 7B or 8 building**

Given the existing and the growing range of services conducted throughout Australia, it is not tenable to make these buildings exempt. These are the buildings most Australians use in their local area to work, to shop, to access the services required for daily living within their community.

Our members again refer you to Article 9 of the UN Convention which states people with disabilities shall have access to facilities and services in urban and regional areas.

We believe the omission of putting lift access into these buildings will damage Australia's social and economic performance for many years to come. It will restrict access to the aging population which the government's figures indicate will become the single biggest group in the near future, both numerically and financially. They are also working longer and will need to work longer given the low birth rate and the need to contribute to Australia's economy and their own financial security.

### **Passenger lifts**

Currently:

Some lift types require key operation.

Our members require:

Lifts without key operation. Loss or diminished use of arm/finger control renders key use impossible. Therefore independent use of the lift is not possible.

### **Passenger lifts E3.6 (c)**

Currently:

'not rely on a constant pressure device for its operation if the lift car is fully enclosed'

Our members require:

Unenclosed lifts that do not require constant pressure devices. Given the range of users, it is absurd to even contemplate a population reliant on managing a constant pressure device to achieve access between levels of a building or space.

### **E3.6 (b)**

Currently:

Lift floor dimensions of not less than 810mm x 1200mm:  
A stairway platform lift complying with AS 1735.7.

Our members require:

Lifts that will accommodate mobility devices in the 1200 to 1300mm range.

Note:



There is an inconsistency between the Transport Standard and the Access to Premises Standard: the Transport Standard permits carriage of mobility devices up to 1300mm long.

In regard to stairway platform lifts complying with AS 1735.7 there are the following significant issues:

restricted use

require assistance to get on and get off

are of a limited size, e.g. not long enough

they require constant pressure to operate – this is absurd

They do not meet requirements for independent use.

Our members cannot use these. They should be removed without further debate.

### **D3.2 Access to Buildings**

Currently:

(a) Through not less than 50% of all pedestrian entrances including the principal pedestrian entrance;

Our members require:

Access to all entrances as well as Egress from all entrances in order to meet emergency egress provisions. All people have the same thing in common: they expect the same options to enter and exit buildings and that has a direct relationship to the various means by which they arrive in the precinct and at what points around the building they alight at or are required to approach from. On the issue of egress, fire, flood, systems failure and now terror require practical, efficient egress and therefore, accessible entry/exits should be a given in order to protect human life and minimise injury.

### **The 90<sup>th</sup> percentile footprint**

Readers should be aware that currently, Australian Standard 1428.1 shows a mix of 80<sup>th</sup> and 90<sup>th</sup> percentile dimension requirements. It is a ridiculous state of affairs.

Our members require the 90<sup>th</sup> percentile.

### **And finally....**

The 2004 draft Standard was an infinitely better outcome than what we are commenting on now. Whilst it still had a measured level of discrimination, it was at a point that our members may have accepted it, given that through the

negotiation process we had given many concessions to the property sector in order to achieve an outcome that the majority of our members might accept at that time. However, we are 5 years further on and matters have actually regressed.

Moreover, a telling comment that Australians should note is this: the proposed 2009 Standard before us was not agreed to by the Disability sector.

Further, we wish readers to note this Standard only covers the built environment and even then, it excludes housing. The Standard does not cover services or employment provided within buildings. Do you think a high profile jeweller or dentist or radiography service or superannuation fund or solicitor on the first floor in the exempted buildings could claim unjustifiable hardship?

The more the proposed Standard has exemptions and limitations, the more vulnerable building owners and lessees will become, given a population that will increasingly expect equal access to goods, services and information.

If we want to maximise the community's participation in anything, first, we must maximise their access to it.

Members of parliament would agree they want the people they were elected to represent to have access to services and participate in Australia's way of life. An Access to Premises Standard is the lever to achieve that. Critically, against the background of Australia operating within a global economy and where the aged will soon become the most dominant cohort both numerically and financially, it is the lever that can maximise Australia's social and economic performance. It is a lever that must be equal to that task.

Yours sincerely,

John Mayo  
Manager – Community Relations  
Recipient, international Year of the Built Environment Award 2004

Attachment: Access factors and Influences

**Access Factors and Influences:**

**Access:**

Access is not about so called 'disabled access'.  
Strategies to develop An Accessible Australia are based on achieving equity, equal opportunity and equitable access for all the community. It is true that people with a disability are among the strongest advocates for access quite simply because their lives are the most limited without it. However, a parent with a twin side by side stroller, the aged, people with temporary mobility impairment (e.g. through injury) and people with a medical condition all have similar access needs.

**Numbers:                      Population - Australian Bureau Statistics 2003 2004**

People with permanent disability	20%
Aged 60+	17%
Parents with prams (children aged 1 to 4)	6%

**Sub Total: 43%**

People with temporary mobility impairment

Note: Medibank Private August 2003 says

1 in 17 Australians have temporary injury

due to sport, i.e. 1.2 million Australians. 5.8%

Work based injury (Injury Research Centre SA) anticipated at 7.4%

Carers for people with disabilities 13%

People with a medical condition- ?

Comprising: illness, muscular, respiratory, cognitive

Note: among these four sub sets read -

Arthritis 16.4 %

Asthma 25%

children

10%

adults

Osteoporosis 10% +

to name a few.

## **Note: The potent influence of an aging population**

In 2003, Australians aged 55+ = 21% population but control 39% of the nation's wealth

The Queensland Department of Housing forecasts in 2051, the demographic with the greatest increase will be people aged 71+

South East Queensland Region of Councils (SECROC) forecasts people aged 60 + will equal 26% of population by 2031

Increased lifespan is another critical factor to be taken into account: Males to 93 and females to 95 before the year 2050 (note: females consistently live 2 years more)

According to the Bureau of Statistics (2003), 51% of people aged 60+ have a disability. The proportion of older people with disabilities increases dramatically with age. 92% of people aged 90+ have a disability.

### **Seamless connections:**

The way to maximise the performance of buildings and precincts is to create seamless connections. In this way, the community is connected to goods, services and information, and the investment in buildings, places and infrastructure is maximised.

Moreover, there is increasing evidence that accessible buildings and precincts **appreciate faster, offer more secure rentals, reduce public liability and maintenance costs.**

In dealing with these issues there is a fundamental tenet:  
In order to maximise the community's participation in anything, first you must maximise their access to it.

An Accessible Australia offers the benefits of raising the bar for social justice and the economy, the latter because Australia will have maximised the performance of its assets, services, information, markets, sales and profits.

### **Safety and Access**

Planning and thought to the accessibility of premises and infrastructure automatically reduces the effort and planning required to meet workplace health and safety requirements. In fact, safety and accessibility are one and the same.

For deliveries: it is much safer for heavy objects to be wheeled up ramps instead of carried up stairs. Wide corridors allow delivery personnel to have trolley access.

For evacuation: accessible evacuation routes are safer and more efficient paths of egress than non-accessible routes. Accessibility can significantly expedite emergency egress.

For alarms: alarm systems designed to alert all people (including people with sensory impairments) are less likely to be missed or misunderstood.

Accessibility and safety are essentially the same concern and if the effort taken to make premises compliant in terms of Workplace Health and Safety requirements is put into making premises accessible, two issues can be resolved at once.

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