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16 MAR 2009BY: LACA**Southwest Advocacy Association****Submission to House of Representatives Standing Committee on
Legal and Constitutional Affairs**

on

Draft Access to Premises Standard**March 2009****Introduction**

Southwest Advocacy Association ("SWAA") is an independent, not-for-profit, community organisation that has been funded by the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs to provide advocacy and information to people of all ages and with all types of disabilities throughout south west Victoria since 1993. South west Victoria is comprised of some 24,000 square kilometres and has a dispersed regional population of some 100,000 people. It includes the municipalities of Warrnambool City and the Shires of Moyne, Glenelg, Southern Grampians and Corangamite, with major population centres in Warrnambool, Hamilton and Portland.

SWAA believes that universal access to all aspects of the built environment is a fundamental right and SWAA commonly advocates on behalf of individuals and groups of people with disabilities for improved access to the built environment. SWAA believes that Standards for Access to Premises under the Disability Discrimination Act are long overdue and desperately needed to help ensure that people with disabilities do not continue to be disadvantaged and discriminated against in this area. SWAA welcomes the opportunity to contribute to the development of the Access to Premises Standard and is hopeful that the comments it has made in this submission will prove useful.

SWAA wishes to acknowledge the work that has been done on the Access to Premises Standard by the Australian Federation of Disability Organisations and the Australian Human Rights Commission. SWAA's submission has been informed and directly influenced by the work that has been done by these organisations.

SWAA's fundamental position is that Australia's commitment to international human rights instruments, in particular the UN Convention on the Rights of People with

Disabilities, must form the basis for determining the content of the Access to Premises Standard.

SWAA has some concerns about the detail of the current draft Standard and these concerns are summarised below.

1. Many targets or quotas in the draft Standard are inadequate

The draft Standard sets out the number of things, like parking spaces or bedrooms in a building, which have to be accessible. Many of these targets are set at 10% of all facilities or lower. At present, 20% of Australians have a disability. Most of those (84%) have a physical disability. As our population gets older there will be more people with disabilities, so the need for universal access to buildings will clearly increase into the future.

In other cases, it is difficult to see how setting a target will work. For example, saying that one communal area on every floor of a building should be accessible means that a person with a disability might be able to access the gym but not the meals area of a sporting club, which would be discriminatory and completely unsatisfactory.

SWAA believes that the proportion of accessible car parking spaces in all categories in the draft Standard is far too low and that accessible parking requirements should be considered in conjunction with the work occurring on the National Accessible Parking Strategy.

2. The Standard should be more broadly applicable

If the draft Standard were adopted in its' current form, people with disabilities would only be able to get into some buildings or parts of a building and inequality and discrimination would be perpetuated.

SWAA believes that the requirements of the Standard must be applied more broadly and should include:

- existing buildings;
- newly built private homes;
- blocks of flats (Class 2 Buildings);
- newly built B&Bs, new cabins in caravan parks, and new eco-lodges;
- and
- communal toilet and shower areas in caravan parks and camping grounds.

Lift access must be required to all levels of Class 7a buildings.

Part D3.2 (Access to Buildings) must be amended to ensure that an accessible path of travel is available between any inaccessible entrance and at least one accessible entrance, which must be no more than 50m from the inaccessible entrance.

3. The Standard should aim to facilitate universal access for all

In some areas the draft Standard does not envisage the diverse needs of the of people with different types of disabilities. For example, when a floor above ground level is not accessible by lifts for wheelchair users, the draft Standard says it does not need to be accessible at all. This denies access to people with different disabilities, such as those with mobility disabilities who do not use wheelchairs, people who are vision impaired or blind, and people who have hearing impairments. All facilities on accessible levels must be accessible and at least one type of each facility that is located on an inaccessible level must be accessible.

4. Some things have been exempted from the Standard

When something is exempted from the Standard it means that it does not need to be made accessible unless the law is changed at a later date and this will be difficult to do. As a result, under the draft Standard people with disabilities will not be able to complain to the Australian Human Rights Commission about lack of access to some things, including:

- the first three floors above ground level of a new building which has a floor surface area of 200 square metres or less;
- holiday and accommodation units with less than three bedrooms;
- swimming pools with a perimeter less than 40 metres; and
- fire isolated areas like fire stairs.

The last of these is of particular concern as fire isolated stairs are exempt from requirements for access features that would assist people to evacuate safely. This will jeopardise evacuees (including blind people, vision impaired people and people with ambulant disability) and the people assisting them in a crisis who are forced to use the fire isolated stairs. Fire isolated stairs and ramps must be required to meet AS1428.1.

The list of exemptions under the Standard should be limited to those buildings and areas that are demonstrably not able to be made accessible. Where exemptions are sought for other areas/buildings, the applicant should be required to demonstrate that compliance would cause unjustifiable hardship.

Part 4.1(k) (possible grounds for unjustifiable hardship) of the draft Standard appears to allow a successful claim for exemption on the basis of “essential” or “incidental” significance of heritage features. SWAA is concerned that this may allow inconsequential heritage issues may to be used as excuses for not providing access. The wording of Part 4.1(k) should make it clear that exemptions are only applicable where new building works to facilitate access for people with disabilities would cause a significantly adverse and irreversible impact on the heritage significance of the premises.

SWAA also believes that further consideration must be given to the need for access features (such as tactile ground surface indicators, luminance contrast on stair nosings or handrails) on stairways in areas where concessions exist in relation to wheelchair access.

5. Some things have been left out of the Standard altogether.

There are some things which have been left out of the draft Standard altogether. SWAA is very concerned that it may well be difficult to get these things put into the Standard at a later date, and SWAA believes that it is necessary to include them in the Standard immediately in any case.

The things we are referring to include: accessible fit out features of buildings, including things like lighting levels, door designs and electrical switches; wayfinding standards, which would allow people who are blind or vision impaired to navigate their way around a building independently; universal signage requirements; and accessible features to cater for the specific needs of people with hearing impairments.

6. There is inadequate provision for monitoring and review of the Standard.

We understand that it is envisaged that the Standard will be reviewed once every five years. SWAA believes that because the Standard will be a fundamental instrument to safeguard and enhance the rights of people with disabilities, there must be ongoing monitoring to ensure that problems are spotted quickly and solutions applied.

The draft also Standard refers to a number of other Australian Standards which are made and reviewed by committees. At the moment people with disabilities may not have strong representation on those committees, and it is important that their voice is heard clearly and consistently in future, so some consideration needs to be given to how to facilitate this.

7. There is nothing within the draft Standard to ensure that people with disabilities will be able to understand and use the Standard

For some people with disabilities, especially those from Culturally and Linguistically Diverse (CALD) backgrounds or those who need things in plain English, this means the Standard itself may be inaccessible. Urgent consideration needs to be given to how to prevent this from happening.