



Spinal Cord Injuries Australia

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**Submission to the draft Disability (Access to Premises
- Buildings) Standards**

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From:
Sean Lomas
Policy and Information Manager and
Greg Killeen
Policy and Advocacy Officer
Spinal Cord Injuries Australia

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BY: LAA

To:
Committee Secretary
House of Representatives Standing Committee on
Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA
Phone: 02 6277 2358
Fax: 02 6277 4427
Email: laca.reps@aph.gov.au

Dear Committee,

Thank you for providing the opportunity to make this submission to the Inquiry into the Draft Disability (Access to Premises – Buildings) Standards.

Background:

Spinal Cord Injuries Australia is Australia's leading Charity supporting people catastrophically injured with a spinal cord injury and similar conditions. Our organisation, currently in its 40th year, has a long history of providing services to our members and being a voice for their concerns both socially and to Government.

In consideration of the terms of reference of the inquiry into the Draft Access to Premises.

- the appropriateness and effectiveness of the proposed Premises Standards in achieving their objects;
- the interaction between the Premises Standards and existing regulatory schemes operating in state and territory jurisdictions, including the appropriateness and effectiveness of the proposed Model Process to Administer Building Access for People with Disability;
- whether the Premises Standards will have an unjustifiable impact on any particular sector or group within a sector;
- and any related matters.

SCI Australia will be focusing on 4 key areas in its submission:

- 1) The Access to Premises Standards (Premises Standards) should provide a 'plain English' summary**
- 2) As the Premises Standards are only applicable for new buildings, or existing buildings planning to undergo renovations or additions, the Premises Standards should inform and encourage building owners of existing inaccessible buildings to operate using "best practice" and promote the benefits of access and equity by including information on**
- 3) The establishment of a milestone framework for the modification of existing public buildings. (5-15 years)**
- 4) The expansion of access requirements to cover small buildings (1a, 1b and 2) where essential services are being delivered.**

Submission:

1) The Access to Premises Standards (Premises Standards) should provide a 'plain English' summary explaining issues including:

- The intent of the Premises Standards and how they are to provide and/or improve access for people with a disability
- How the Premises Standards relate, or differentiate, to the Building of Australia, relevant standards, local government regulations, the Federal Disability Discrimination Act and various State Antidiscrimination Laws etc will stop
- An explanation as to how the Premises Standards relate to relevant buildings that are inaccessible which have been built prior to the Premises Standards becoming law.
- An explanation as to how the Premises Standards relate to relevant buildings that are accessible (regardless of whether being built pre-or post-Premises Standards) but whereby its facilities and services have become inaccessible or unavailable due to inappropriate or poor management
- Details and/or examples of what may be considered a breach of the minimum requirements for relevant buildings to provide access and equity under the Premises Standards and advise as to if and/or when a person with a disability is able to lodge a complaint against the relevant owner or occupier.

Providing 'plain English' summary as to how the Premises Standards relate to existing access codes, standards and discrimination law legislation should provide a clearer understanding of its requirements for all stakeholders with the aim of avoiding misinterpretations of the Premises Standards and preventing design problems that would create inaccessibility and inequity followed by the possibility of lengthy and costly disability discrimination complaints and the related cost and inconvenience of rectifying the building or its facilities and services.

If Access to Premises 'Guidelines' is also going to be provided (as is the case with the Transport Standards for Accessible Public Transport) they should also be in 'plain English' and clear as to how the Premises Standards are to be interpreted to assist all stakeholders, particularly the building designers and developers.

2) As the Premises Standards are only applicable for new buildings, or existing buildings planning to undergo renovations or additions, the Premises Standards should inform and encourage building owners of existing inaccessible buildings to operate using "best practice" and promote the benefits of access and equity by including information on:

- The social, financial and other related benefits of access and equity to buildings, services and facilities
- how building owners could plan to improve access and equity to their non-compliant buildings by undertaking an access audit of the building, facilities and services, including the cost of making it compliant, and encouraging the allocation of the necessary budget and implementation milestones.

Providing information about the benefits of creating access and equity to buildings, facilities and services, as well as the processes of undertaking a Disability Action Plan and related access audits, will inform stakeholders and hopefully encourage the building owners to undertake this process and operate using "best practice".

Some buildings may require minimum upgrades or relatively small costs to make them compliant but the building owners are unaware.

3) As 2.2 'Persons to whom the standards apply' includes:

(4) A building manager, for a relevant building, is a person who has responsibility for, or control over, any of the matters in the Access Code that apply to the building other than matters about the design or construction of the building.

Example:

The following persons could be building managers for these Standards:

- (a) Property owners;*
- (b) Property lessees;*
- (c) Property managers;*
- (d) Operational staff.*

the Premises Standards should include appropriate information and guidelines to ensure that if accessible and designated facilities and services are included in the development to be compliant, such as car parking, unisex toilets, lifts, wheelchair spaces/seating, it should also ensure these facilities are always maintained and available to people with a disability and their acquaintances and have the jurisdiction to allocate the responsibility and onus for this on a person such as the building manager.

Accessible Facilities

Car Parking

In relation to 'Part D, (Section DP8) Access and Egress' of the Premises Standards regarding designated car parking spaces that are located within the building 'premises', the Premises Standards should direct the building manager (or other relevant person) to be responsible for the management and policing of the designated accessible car parking spaces to ensure that they are available to people with a disability and their acquaintances.

However, if the Premises Standards is unable to give this jurisdiction to the building manager, then the Premises Standards should include information on what authority is responsible and how the building manager can engage with such authority for it to be responsible for the management and policing of the designated accessible car parking spaces.

With designated car parking spaces being provided on private building premises such as theatres, shopping centres, public transport infrastructure etc. SCI Australia is aware that some building managers have contractual agreements with local councils to enable their Parking Police/Rangers to enter the private building premises to police, and issue fines were appropriate, to people misusing the designated car parking spaces.

In conjunction with the information about the size, quantity and location of designated car parking spaces, the Premises Standards needs to provide information about the policing of these car parking spaces located within the building premises (particularly when they are required for the building to be compliant with the Premises Standards) to ensure building managers have an understanding of their role and responsibility (if the Premises Standards places the jurisdiction and onus on the building manager) and/or provide the appropriate process required for the building manager to engage the relevant authority to undertake the care, control and maintenance for policing purposes. Providing such information to ensure a building is compliant with the Premises Standards will give all stakeholders a clear understanding as to what is required and who is responsible when the building is completed and occupied.

Wheelchair Spaces/Seating

In relation to 'D3.9 Wheelchair Seating Spaces in Class 9B Assembly Buildings' of the Premises Standards, the information provides details of the minimum number and location of wheelchair spaces/seating that should ensure people with a disability and their acquaintances are provided with a choice of seating areas and ticket pricing categories, however, the Premises Standards does not provide information to encourage the building manager to operate using 'best practice' to ensure the wheelchair spaces/seating are always made available to people with a disability and their acquaintances.

Many existing venues have wheelchair spaces/seating located in only one part of the venue, with many located at the back row of the venue (although the ticket prices are the same between the front and back row of that section), or the wheelchair spaces/seating are located in part of the venue with the highest priced ticket category. This requires people with a disability and their acquaintances to pay for the highest price tickets if they wish to attend the event or are prevented from attending due to the cost.

The Premises Standards needs to ensure there is no repeat of the current situation at a major theatre in Sydney that was opened in 2004/2005, where the theatre's design includes various wheelchair spaces/seating options located at the Dress Circle back row, the Stalls back row and 2 wheelchair spaces/seating in the Stalls Row H, with Row H being a preferred location due to the close proximity to the stage. However, to provide the Stalls Row H wheelchair spaces/seating, it requires the removal of seven theatre seats from Rows H & J. Due to the financial impact on the theatre and/or the event's producers, the theatre management withholds the tickets from sale for the two wheelchair spaces/seating and they are not made available to patrons with a disability and their acquaintances.

Also, there are a number of existing venues with wheelchair spaces/seating that the theatre managers only allocate one ticket for an acquaintance of a wheelchair user, which is inconvenient in relation to a number of scenarios such as when a wheelchair user needs to attend with two acquaintances or for parents that have one child with the disability.

The wheelchair spaces/seating ticket management issues are exacerbated if the event is sold out and the theatre management leave only the wheelchair space/seating available with no allocation for an acquaintance/s. There are many people with a disability that require a carer or companion to attend venues and performances, and like society in general, people with a disability also attend venues with other people including a partner, a spouse and a friend/s etc. This ticket management can be a great cause of frustration for people with a disability and their acquaintances. Also, for various reasons including health and disability related issues, it can be impractical for a person with a disability to book tickets many months in advance.

The Premises Standards needs to provide information about the appropriate design and location of the wheelchair spaces/seating (particularly when they are required for the building to be compliant with the Premises Standards) in conjunction with the guidelines to encourage "best practice" to ensure the ticket policy and booking management system make the designated wheelchair spaces/seating available to people with a disability and their acquaintances.

The information on appropriate design and location should help to avoid or minimise the incidences of wheelchair spaces/seating designs that require such manipulation of regular theatre seats to provide access for people with a disability and their acquaintances that should also provide a better outcome for all stakeholders giving a clear understanding as to what is required and who is responsible when the building is completed and occupied. The ticket policy and booking management system should always provide at least two seats for acquaintances (adjacent to a nearby) that are available up until one week before the performance date, and if they are not booked by a person with a disability, then they could be made available for sale to people without a disability.

Accessible Unisex Toilets

In regard to 'Part F2 Sanitary and Other Facilities' (Section F2 .4 Accessible Sanitary Facilities) of the Premises Standards, it provides the location, quantity, minimum dimensions and internal fit out of the accessible unisex toilets within the relevant buildings, but the Premises Standards does not provide guidelines for the building manager to encourage 'best practice' to address the management of such facilities to ensure they are always available to people with a disability and their acquaintances.

Currently, people with a disability have experienced incidents the accessible unisex toilets being utilised as storage rooms, resulting in them being inaccessible and unusable which meant they were not maintained or cleaned. Also, the MLAK (Master Locksmith Association Key) universal lock and key system is installed on many accessible unisex toilets, and the management and lack of marketing of the system is causing confusion and inconvenience for many people with a disability and their acquaintances.

The MLAK is promoted by the Master Locksmith's Association of Australasia (MLAA) and the locks are being installed in increasing numbers with the largest numbers in NSW. When the MLAK system was introduced, public toilets generally closed in the evenings, so the initial intent of the MLAK was to provide access to the limited number of accessible 'public' toilet facilities outside regular business hours.

Although the building codes and access standards have produced a positive outcome with buildings required to have accessible unisex toilets with many located in major facilities such as shopping centres, these often include the MLAK lock and generally closed 24/7, and only accessible to people that have previously obtained the MLAK key or whereby the MLAK key is made available through a third party such as shopping centre management, or a kiosk in a local Council park or recreation area etc with a notice on the toilet door as to where and from whom to obtain the MLAK key. There are many accessible toilets with the MLAK lock installed that are placed in locations where there is no access to MLAK key from a third party and a notice on the toilet door that only provides a phone number as to where the MLAK key can be purchased.

The building managers and local councils that own and/or administer the accessible toilet facilities state that although they do not lock the regular public toilets, they are installing the MLAK lock and keeping the accessible unisex toilets closed 24/7 to prevent them from being occupied by people that do not have a disability that are vandalising or using the accessible unisex facilities for other illicit or illegal purposes which prevents people with a disability from accessing the toilets anyway.

When there is a requirement for relevant buildings to provide accessible unisex toilets to be compliant there must be an onus on the building manager to ensure that such facilities are always available, cleaned and maintained for people with a disability and their acquaintances. If such toilets are fitted with the MLAK lock and kept locked 24/7 then building managers should be accountable to make the MLAK key available to use these facilities at short notice and without a monetary cost to people with a disability. Although it may be outside the Premises Standards jurisdiction but there is a need for appropriate marketing and distribution of the MLAK key to people with a disability and their acquaintances.

The Premises Standards needs to include information about the accessible unisex toilets located within the building premises (particularly whereby the accessible unisex toilets were required for the building to be compliant with the Premises Standards) that should provide building managers with a clearer understanding of their role and responsibility and encourage 'best practice' management of the accessible unisex toilet to ensure that they are always made available to people with a disability and their acquaintances.

Lifts

In regard to 'Part E3 Lift installations' of the Premises Standards that provides the size, quantity and accessible features etc of the lifts within the relevant buildings, the Premises Standards does not provide guidelines for the building manager to encourage 'best practice' to address the management of such facilities to ensure they are always available to people with a disability and their acquaintances.

Currently, people with a disability experience incidents where lifts that include accessible features become inaccessible due to objects, such as rubbish bins and pot plants, being placed in front of the lift call buttons.

The Premises Standards needs to include information about the lifts located within the building premises (particularly whereby the lifts were required for the building to be compliant with the Premises Standards) that should provide building managers with a clearer understanding of their role and responsibility and encourage 'best practice' management of such lifts to ensure that they are always made available to people with a disability and their acquaintances.

4) The establishment of a milestone framework for the modification of existing public buildings. (5-15 years)

In recognition that the application of the access to premises standards is only applicable to new buildings, extensions to existing buildings and public transport buildings (also covered by the Disability Standards for accessible Public Transport (DSAPT)). SCI Australia is proposing a milestone project to modify existing buildings much in the same way that the DSAPT places clear goals for the increase in accessibility over time of existing infrastructure.

These buildings, had they been planned to be built in 2010 will fall under the new access to premises standard, however being built before 2008 grants them exemption.

The role of the access to premises standard is to facilitate access to public buildings for all. This needs to apply across all buildings.

In line with the DSAPT a reasonable period of adjustment would be 15 years broken down into 5 and 10 year sections. Owing to the differences between transport and buildings a reasonable adjustment of any calibre should be affordable within the max period of 15 years.

First 5 years aims

Conduct an access audit and compare against new access to premises standards for recognition of what is required. Create an accessible upgrade action plan that is to be lodged with the Australian Human Rights Commission (AHRC). The reason behind this route for lodgement is to ensure impartiality and a true recognition of both the standards in practice and the tone of the standards. In lodging this accessible upgrade action plan there should be a recognition that should the building change hands in the modification period of 15 years the plan still resides with the building.

Within this 5 year period there is the opportunity for building owners to start budgeting for major modifications and an opportunity to get a quick win on the board by conducting small size modifications.

10 year review.

The AHRC needs to at this point track how the building is matching up with its accessible plan and whether it needs reviewing. There should be clear monies gathered over the proceeding period to either commence large scale modifications or to complete them.

15 Years

All modifications have been completed unless reasonable argument has been provided to the AHRC and the community concurs that a longer period is required for a specific modification.

With this plan the benefits to the community and to building operators are huge. Many more buildings that presently exclude people from entering them unless a case of discrimination is brought will be available. It should break the cycle of individual cases against building operators and owners as there will be a federally supported systemic approach to dealing with access issues.

For building owners and operators having their buildings open to wider groups of people such as People with Disability and the elderly can bring financial and social benefits. By having a scheme in place that acts to not punish them with an unfair financial cost but assists them in developing budgets for the modification of their building over an extended period of time should ensure that financial viability is maintained.

5) The expansion of access requirements to cover small buildings (1a, 1b and 2) where essential services are being delivered.

One of the issues that need to be covered by the access to premises standards is what happens where a business is operating out of a residential setting not covered by the standards. I recognise that this could be owing to the relative cost implications of a 'one man band' having to install accessible facilities. This could prove prohibitively high and lead to the failure of the business if demanded by government.

The solution to what needs to happen can be looked at in terms of a federally matched grant (to be applied to an action plan as laid out in point 3). The application of an action plan should occur as the business will be operating as a public building and thus the same rules that apply as in point 3 should be made applicable. The difference is in the nature of a small business and its ongoing profitability leading to potential problems with the funding of access upgrades.

If there could be a scheme of grant matching between the federal government and business owners where all monies hedged into access upgrades as part of their accessible action plan can be met with federal money it may help to smooth a transition to accessibility. Sorts of you pay \$1 and we the federal government pay \$1 for modifications.

There are literally thousands of these small businesses operating out of front room such as small Doctors surgeries, Dentists and small scale employers that we certainly do not wish to see punished under the access to premises standard. These businesses provide great assistance to the community and through supporting them across a transition route they should be able to maintain viability.

As you would expect this may open up their businesses to previously untapped markets. It may facilitate them in encouraging workers with disabilities to become members of their staff as there is no need to make reasonable adjustments as the workplace is already access friendly.

Summary

In summary we have laid out a few ideas for amendments, talking points or things to mull over when considering the Draft Access to Premises Standards.

Again, thank you for providing the opportunity to make a submission to the Inquiry into the draft Disability (Access to Premises - Buildings) Standards.

I trust that these issues above will be given serious consideration and that the inquiry results in a positive outcome.

Yours sincerely,

Sean Lomas – SCI Australia Policy and Advocacy Manager
Greg Killeen – SCI Australia Policy and Advocacy Officer