

Physical Disability Council of New South Wales



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Accessible Sydney?

Submission by
The Physical Disability Council of NSW

To

City of Sydney Council
Draft Disability Action Plan

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Contents

1. Introduction page 3
2. People with Physical Disability In NSW page 5
3. City of Sydney draft Disability Action Plan page 8
4. Conclusion page 17

1. Introduction

The Physical Disability Council of NSW (PDCN) welcomes the opportunity to comment on the draft Disability Action Plan of the City of Sydney Council. PDCN believes that all people with physical disability should be able to participate in society as equal citizens to the same extent as the rest of the community. This requires an effectively operating social contract between individuals and society. The contract has two elements:

- People with physical disability must be entitled to the rights and accept the responsibilities that attach to the power available to the population generally to exercise choice and personal autonomy;
- The City of Sydney Council, as a vital force in one of the world's great cities, must accept and promote its essential role in creating an accessible social, cultural, political and economic infrastructure, including the built environment through which we move and in which we live and work alongside others.

In summary the view of PDCN is simply this:

We believe that accessibility is a fundamental component of creating the circumstances in which people with physical disability can achieve and sustain the quality of life experienced by the community as a whole.

Accessibility is a multi-faceted contributor to social inclusion. It encompasses but is not limited to access to the built environment. Nevertheless, access to the built environment is fundamental to ensuring that the rights of people with disability to be treated no less favourably can be achieved.

In relation to building design, it is crucial that buildings are safe and efficient for users. It is critical that they perform the roles intended for them in ways that fulfill their objectives. Buildings must be user-friendly, safe, well designed, environmentally sustainable and comfortable.

If, however, a building is not accessible at all or offers limited access or access only by less dignified means for people with disability than for the community of users as a whole, we assert that such buildings lack quality. Such buildings are fundamentally flawed in conception, design, construction and functional capability.

At PDCN we believe the challenge must be taken up by all stakeholders to better integrate “accessibility” into society’s understanding of what we mean when people talk about “quality” in relation to the built environment in general and buildings in particular.

At PDCN we believe that accessibility must be applied to all buildings: old and new, public and private. We believe, therefore that a crucial outcome of the development and implantation of the City of Sydney Council Disability Action Plan must be to map out a strategy for moving forward to a more accessible public and private city of Sydney.

We understand that Rome was not built in a day. We do not expect, therefore, that the built environment of Sydney will be transformed and made accessible overnight. We earnestly believe, however, that the City’s Disability Action Plan must signal the way ahead for all stakeholders with and interest in and involvement with the city’s future.

We welcome the commitment of the Lord Mayor:

“to continually and progressively identifying and addressing physical, communication and attitudinal barriers that may exist in the delivery of services and facilities to the community.”

PDCN agrees that accessibility is about more than simply the design and construction of the built environment (as important as those aspects are). Action must taken by the City to ensure that its own systems, it’s communications, its services, is employment practices are inclusive off all members of society, in this instance people with disability.

The City of Sydney must lead by example. It must work to become a centre of excellence and model for other stakeholders.

2. People with Physical Disability In NSW

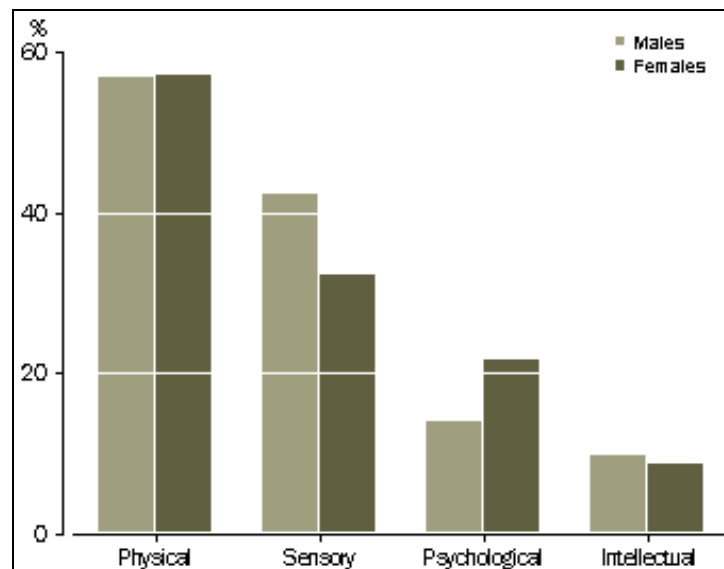
According to the Australian Bureau of Statistics (ABS), people with disability in New South Wales make up 19.3% of the total population, the same as in the whole of Australia. The majority are people with physical disability.

PDCN, therefore, represents and advocates on behalf of the largest group of people with disability by “impairment type” in NSW and Australia.

The ABS noted that:

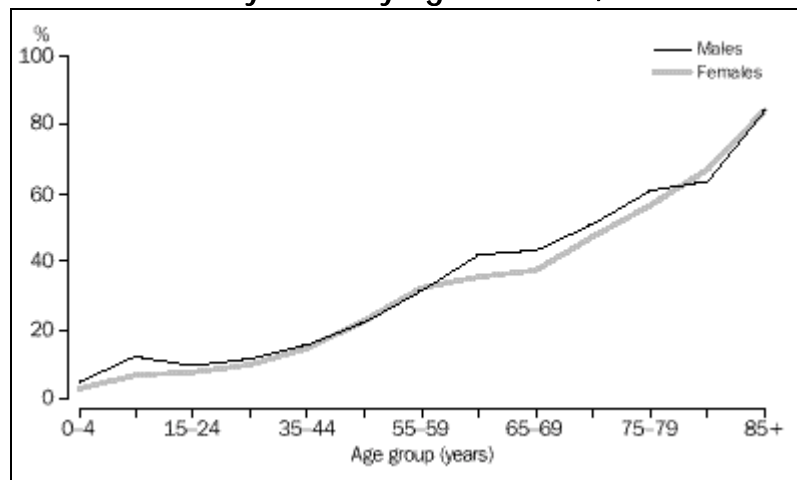
“Over half of all people with a disability had a physical impairment, (PDCN emphasis) either alone (30%) or in combination with another impairment (27%). More than one-third (37%) had a sensory impairment, around half of these (18%) having a sensory impairment only. Other types of impairment were less common, 18% with psychological and 9% with intellectual impairment.”

PERSONS WITH A DISABILITY: IMPAIRMENT TYPES



Age and disability are clearly related.

Disability rates by age and sex, 1998



The significance of these statistics when considered in relation to questions of quality and accessibility of buildings cannot be over-stated.

- People with disability of all types account for one-fifth of the entire population.
- People with physical disability represent over half of all people with disability.
- Disability and ageing are directly co-related. Demographic predictions of population trends indicate that our ageing population (driven by the baby-boomer generations) will live longer with higher expectations of experiencing a 'quality life'. The ageing population profile of people living in NSW must necessarily result in an increased proportion of the population living with physical disability. A more accessible City of Sydney must be able to accommodate and welcome this demographic sea change.
- People with physical disability live and work in every community and location of NSW. The City of Sydney is no exception. Any and every public building (office, shop, place of entertainment, government facility, museum, art gallery, public toilet, etc. etc, etc) must become accessible to the whole community, including people with physical disability, in their roles as workers, customers, clients, visitors, patients, etc, etc, etc.
- Currently, almost 95% of people with disability live in the community. About 5% live in long-stay institutions. It is critical, therefore, that

concepts such as visitability, adaptability and accessibility incorporated within the planning, design and construction of new private dwellings in the City of Sydney.

- Estimates vary, but an additional 1 to 2% at the time of construction will ensure adaptability. The additional cost to modify at a later stage can be as high as 30%.
- Homes made accessible at the construction stage contribute to intergenerational sustainability.
- We must not restrict our view, however, only to private dwellings in which people with physical disability might want to live now or in the future. People with physical disability do not live in isolation. We are the sons and daughters of our parents. Some of us are brothers, sisters, aunts, uncles, cousins, nephews or nieces to other family members. Many people with physical disability are parents and grandparents. In short, we live as members of families. We have friends, work colleagues and neighbours.

We must move more quickly, therefore, to remove barriers of inaccessibility which prevent people with physical disability contributing to and benefiting from the full range of family contacts – birthday parties, Sunday lunches, baby-sitting, etc, etc. – because visitability, accessibility and adaptability have been ignored as components design and construction of new private dwellings.

3. City of Sydney Disability Action Plan

Action Plan Section 1. Aim

PDCN supports the aim of the City of Sydney Disability Action Plan:

“to promote access and equity so that all members of the community, including those with a disability, can use the services and facilities provided by the City of Sydney in its roles as a purchaser, service provider, policy adviser, planner, regulator and responsible employer.”

We believe it to be essential that the City ensures that formal mechanisms be established and maintained to monitor, evaluate and take action linked to progress towards and/or eradicating barriers that prevent achieving this aim. We are absolutely certain that the involvement of people with disability, drawn from representative organisations, will be crucial in assisting the City of Sydney Council to monitor, evaluate and take action linked to its Disability Action Plan. We are no less certain that such involvement must be incorporated within the mainstream, ongoing decision-making structures of the city of Sydney Council.

Action Plan Section 2. Objectives

PDCN supports the objectives of the City of Sydney Disability Action Plan

Action Plan Section 3. Disability Discrimination Act & 5.1 Physical Access & 5.8 Development Assessment

The Disability Discrimination Act specifies areas in which it prohibits a person being discriminated against on the ground of their disability (or the disability of an associate). These areas include

- accommodation,
- employment,
- goods, services and facilities,
- public transport and
- premises.

Our comments here relate specifically to the built environment. “Premises” includes access to or use of “any premises that the public, or a section of the public, is entitled or allowed to enter or use”.

People who design, build, own, lease, operate or manage such premises have responsibilities under section 23 of the DDA (and also under State anti-discrimination laws). Responsibilities include not discriminating against people on the ground of disability in relation to the access to and use of those premises.

The DDA definition of 'premises' includes, but is not limited to:

- existing buildings, including heritage buildings;
- proposed or new buildings;
- car parks;
- open air sports venues; and
- pathways, public gardens and parks.

Any part of the 'built environment' that the public is entitled, or allowed, to enter or use falls within the definition.

In addition, because the DDA refers to the 'use' of premises, section 23 also covers issues such as:

- fit out design (for example, the height of service counters);
- access to some public information in premises (for example, emergency warning information); and
- the way premises are maintained and managed (for example, ensuring accessible toilets are not used as storage spaces or overhanging branches do not result in a barrier on a path of travel).

The DDA recognises that in certain circumstances, providing equitable access for people with disabilities could cause 'unjustifiable hardship' for an owner or operator of premises. The DDA does not require access to be provided to the premises if it would impose such an 'unjustifiable hardship' on the person who would have to provide the access. It is generally agreed however that it is unlikely to ever cause a developer an unjustifiable hardship to design and construct accessible buildings when access is considered at the concept stage.

The fundamental point in law is that buildings, their use and the built environment generally are governed by legislation, which prohibits discrimination on the grounds of disability. The City of Sydney Council, in its roles as an owner of buildings and a regulator of development applications, must act within an anti-discriminatory context.

PDCN calls on the City of Sydney Council to commit to develop and implement principles and policies that require accessibility of public buildings to be no less fundamental and no less important to considerations

of quality than safety, comfort, environmental sustainability, efficiency and effectiveness.

Specifically:

1. All new buildings, building works and surrounding areas in the City of Sydney must be fully accessible at least to the standard specified in the Human Rights and Equal Opportunity Commission's (HREOC) *Advisory Notes on Access to Premises, 1998.*
2. Existing buildings should progressively be made to conform to the same *Advisory Notes*.
3. The case of Cooper Vs Coffs Harbour (1998) established that the DDA has primacy over conflicting State legislation. It has also established that the EP & A Act is not 'exhaustive' in the extent to which it outlines other relevant issues (such as the DDA) that need to be considered by consent authorities.

We regard refusal to improve the quality of buildings by making them more accessible on the grounds of heritage, aesthetics, vernacular or other, discretionary, value-based judgements to be in breach of primary legislation. The City of Sydney Council should lead in this respect by ensuring that all of its own public buildings and those supported through grant making or contract awarding funding arrangements are not inaccessible.

We note, for instance, that the Disability Action Plan observes:

“Sydney Town Hall is a significant heritage listed building, constructed in the nineteenth century before the need to provide access was properly understood, and as such may not be fully accessible.”

It is deeply disappointing that the Disability Action Plan surrenders to the inertia and lack of imaginative will contained within “heritage”.

We would make two points to illustrate the redundancy of the Disability Action Plan's acquiescence to commitment to an entirely misleading idea of “heritage”:

- o Edinburgh Castle in Scotland sits on top of an extinct volcano. Since construction first commenced in the 12th Century, the building were designed and built to be inaccessible.

Inaccessibility is part of the purpose of a castle. Nevertheless, today, as a consequence of political will and an access plan, every public area of the castle is fully accessible and the castle enjoys the status of the pre-eminent visitor attraction in Scotland. The adaptations required to make the castle fully accessible were carried out in ways that were and are wholly consistent with the site's 800-year heritage.

- It is simply bizarre that "heritage" can be invoked to inhibit the development of accessibility but not be used to prevent the installation of electric lighting, air-conditioning, sprinkler systems and smoke detectors, computer network cabling and telephone wiring.

We have already noted that almost 95% of people with disability live in the community. A very much smaller proportion than 95% of private dwellings, however, has been built to adequate standards of visitability, adaptability or accessibility. Despite past commitments to embrace positive change, there are still too many problems with current housing provision, which result in, often intractable, difficulties for people with physical disability.

- Most existing housing stock is not accessible, limiting the current and future options for people with physical disability.
- The design and construction of new housing have not yet embraced barrier-free principles. Unless and until society commits itself to a new approach - barrier-free design - the problems we highlight will remain unresolved for most people with physical disability.

By **VISITABLE**, we mean that any newly constructed private dwelling would permit a wheelchair user to visit (friends, family members, neighbours) but not necessarily live in that house or unit on a permanent basis. At the minimum level of visitability new private dwellings would have step free approaches to the main entrance. There would be no step at the main entrance to the dwelling. A toilet that could accommodate a wheelchair user with the door closed would be located on the same level as the main entrance. A standard broadly similar to this level of visitability was introduced in the UK for all new-build private dwellings approved for construction from 1st January 2001.

By **ADAPTABLE**, we mean that in addition to meeting the visitable standard for new private dwellings, a house or unit would be designed from the outset with the potential to be adapted at low cost to become the permanent home

of a person with physical disability or to allow for the possibility that current occupiers would not be forced to relocate if they were to acquire a disability.

The approach and threshold would have not steps. The toilet would allow for adaptation to become a wheelchair accessible 'wet-floor' shower and toilet area with the potential for the installation of grab rails and handles (only if required). At least one bedroom would be on the same level as the main entry door. The kitchen would be on the same level as the level entrance, shower room and bedroom. Typically, in an adaptable dwelling, kitchen units would be modular, capable of easy and low cost adaptation or replacement to meet particular needs of specific occupants. Light switches and electrical sockets would be positioned within a height range that could be reached by any occupant.

By **ACCESSIBLE**, we mean that a new private dwelling (house or unit) would be ready for immediate occupation by a person with a physical disability, including wheelchair users.

By designing all new private dwellings to one or another of these levels of accessibility many of the problems currently encountered by people with physical disability looking to rent or purchase property or visit friends, family members or neighbours would be removed.

Private dwellings designed from the outset to meet these indicators of access (particularly visitability) are not necessarily more expensive than inaccessible private dwellings. Costs tend to escalate dramatically, however, if access improvements are introduced after initial construction. It is to avoid these unnecessary additional costs that investment in access is required at the design and construction stages.

Evidence from other jurisdictions (Sweden and the UK) indicates that private dwellings built to higher levels of visitability, adaptability or accessibility appreciate in value at a higher rate than inaccessible properties (all other factors being equal). Investing in greater accessibility not only meets social needs and produces homes of higher quality; it also increases the value of the property over its lifetime.

PDCN recognises that there are some locations that will never accommodate visitable, adaptable or accessible private dwellings, except at such prohibitive extra cost as to make the idea economically unviable. We recommend that the City of Sydney Council, in its role as a regulator of development applications relating to private dwellings, should adopt the UK

model in which the assumption underlying all design and construction must be that any new private dwelling must be at least visitable. The Council should use discretionary power to allow exceptions to the new standard but that power must be exercised sparingly and only in circumstances of genuinely prohibitive costs.

Action Plan Section 4. Development of the plan

We agree with the authors of the plan that:

“the backing and support of the City Executive and senior management, ... is vital to its success.

We believe that such support is a necessary but insufficient benchmark. It is just as vital to the prospects of success for the plan that people with disability and their representative organisations are involved in ongoing monitoring, evaluation and decision-making about progress towards the plan’s objectives.

We believe strongly that an Access Committee is an essential component of the plan’s development and prospects of success. We strongly urge the City of Sydney council to reconsider its decision to abolish its Access Committee. The access forums in Section 7 are welcome but as additions to the work of and effective Access Committee, not instead of such a committee.

Action Plan Section 5. Key Priority Areas

5.1 Physical Access – see comments above

5.2 Promoting Positive Community Attitudes

The City of Sydney Council must become a centre of excellence and a leading force in promoting positive community attitudes towards people with disability. The Council must regard inclusive language, positive imagery, and involvement in public affairs of and by people with disability as core activities.

People with disability must be encouraged and consulted by the Council about its strategies for promoting positive community attitudes. The Council must seek the advice and welcome the guidance of people with disability, themselves, articulated through their representative organisations.

5.3 Training of staff

Disability Equality and Awareness Training are essential components of success in implementing the Council's Disability Action Plan and delivering inclusive services. Skilled and competent in-house and external trainers are, of course, essential to the delivery of best value training regimes. At PDCN, we believe, in addition, that people with disability must become involved with the planning and delivering of disability equality and awareness training regimes.

5.4 Information about services

All of the Council's information must be accessible to all. It must be available simultaneously and on request in a range of accessible formats. Information must be provided in easy to understand English and in the first languages of people from non-English speaking backgrounds.

The council should consult with agencies such as the Multi-cultural Disability Advocacy Association of NSW about ways of acquiring greater cultural competency with regard to people with disability from culturally and linguistic diverse backgrounds.

5.5 Employment with Council

The City of Sydney Council should become an employment market leader and centre of excellence with regard to employing people with disability. The Council should develop recruitment, training and skills-development practices that lead the field and illustrate the art of the possible.

People with disability currently employed by the Council should be encouraged and supported by the Council to provide essential, in-house analysis of the current employment practices of the Council. Existing employees are an essential and valuable resource in conducting an audit of current employment practices.

Accessible buildings and information systems are fundamental prerequisites of good and equitable employment practices.

Action Plan Section 6. Communication Strategy

PDCN welcomes the Council's commitment to publicise and promote widely its Disability Action Plan when it is finalised. We urge the Council to make public (on its web site) responses (such as this one) to its draft Disability Action Plan in the interests of promoting widespread debate on an ongoing basis.

Action Plan Section 7. Access Forum & 8. Implementation & 10. Plan Review, Monitoring And Evaluation

PDCN welcomes the decision of the City of Sydney Council to establish and organise regular public meetings to be known as an Access Forum. We are certain that such meetings will provide valuable feedback to Council.

We believe, with no less certainty, that the Council was profoundly mistaken to abolish its Access Committee. The decision undermines the efficacy of the Disability Access Plan. The absence of an Access Committee leaves an enormous gap in the decision-making, monitoring, evaluation and implementation processes of the City of Sydney Council.

It is strange that the City of Sydney Council should divest itself of essential, pro-active, external advice and consultancy provided at virtually no cost by experts in the field (by which we mean people with disability). The Council is gravely mistaken in its decision to do without the kind of body that almost other agencies in a similar position regard as essential to good governance.

PDCN strongly urges the City of Sydney Council to re-establish an Access Committee made up of people with disability from representative organisations (in the majority) and other stakeholders.

Action Plan Priority Areas Strategies

Without the benefit of greater access to the documentation and discussion leading up to the compilation of the priority area strategies it is difficult for PDCN to comment extensively on the merits or otherwise of each target. (We would cite our limited capacity to respond adequately as an indication of a key failure of an overall strategy developed without the benefit of review and discussion made possible through an Access Committee.

Nevertheless, we make these two observations.

As a result of the discussions between PDCN and the City of Sydney Council in the past, the Council has a very clear idea of the areas of priority need in relation to kerb cuts and problematic street furniture in the CBD. The Council should act to remedy these problems urgently.

We question the need to conduct a new audit of intersections by 2005. Most intersections were audited in detail in 2000 for ORTA in collaboration

with the City of Sydney. We feel that money would be better spent on implementing some of those recommendations than more auditing.

4. Conclusion

PDCN is grateful to the City of Sydney Council for the opportunity to submit our views its draft Disability Action Plan. We believe that the Council, in its many roles, must serve the needs of the community as a whole, respecting the diverse and complex realities of the lived experience of all residents of and visitors to Sydney. People with physical disability deserve no more or less in the way of fair treatment from a Council that must work harder to become the world-leader it aspires to be and has the potential to become.