



Physical Disability Council
New South Wales

PDCN News

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NSW ELECTION - TINKERING WITH A FEW CRUMBS

PRESIDENT'S MESSAGE

Why is it so hard to get politicians and journalists to even consider the needs of people with physical disabilities?

Is it because they think we are well off and don't have any real unmet needs?

Is it because they find us confronting, and prefer to ignore us?

Is it because they know we have needs, but don't know how to meet them?

Is it because they know we have needs, but they have no desire to meet them?

Along with others I have been putting my mind to the above questions and so far we have not reached any firm conclusion.

We have tried using the media – only radio, by and large, responds to our issues. The print media seems determined to ignore us. TV seems only interested if something sensational is happening. All the TV channels attended the PADP rally but only two ran a story. No stories appeared in the main Sydney press, although we got good coverage in suburban and regional papers.

Neither of the two major political parties have responded to our needs, as you will see from our analysis of their positions for the election.

I have a view that part of our problem is that we are seen as "able-bodied people with something wrong with them" instead of people who are different and with different needs. This distinction is subtle but important. When people are seen as different, there is more likelihood, I believe, for the dominant group to be accommodating (even if that is patronising) than if people are seen as having something wrong with them, which immediately introduces an element of value.

I think we might have to change the way people think about us before we can even begin to get them to address our needs. And we are an awfully long way from having people actually understand!!

I'd be really interested in your ideas.

Vote carefully on 27 March.

Regards

*John Moxon
President*

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A THOUGHT

If there are 182 "seats" per man, woman and child, and if an able-bodied wants to use one in a restaurant, movie, school, office, park, bus, train he or she doesn't have to pay for use of the seat - it is part of the service. If each "seat" costs an average of \$62, this is a \$7,936 freebee to able-bods. Shouldn't a person in a wheelchair who takes their own everywhere get some compensation - something like \$7,936?

EASTER SHOW

CATCH A BUS !!

This will be the second year that the Show will be hosted at Homebush.

With Accessible Show Bus services operating approximately only every 2 hours along 9 regional bus routes, we know the timetabling is designed to show that there is no demand for accessible buses - **so let's show 'em, there is!!!**

People with physical disabilities should catch buses. **Give it a go**, even if it means having a **backup** around the corner.

If you are kept waiting because:

- ◆ the bus operator didn't keep to timetable
- ◆ you had incorrect or misleading information
- ◆ the bus is inaccessible
- ◆ the bus had no room either because the wheelchair spaces were all taken up or the bus was full
- ◆ the driver didn't know how to kneel the bus or use the hoist or ramp

call PDCN's **Easter Show Bus Feedback Phone-In**. If everything went smoothly, also give us a call and let us know.

PDCN EASTER SHOW BUS FEEDBACK PHONE-IN

APRIL 9th

9.00 am - 5.00 pm

1 800 688 831

pdcnsw@pdcnsw.org.au

TELL US ABOUT YOUR BUS PROBLEMS AND EASTER SHOW DIFFICULTIES. AND IT ITS GREAT, LET US KNOW THAT TOO!

EASTER SHOW BUS TIMETABLES

The Olympic Roads and Transport Authority (ORTA) is using this Easter Show as a test for the upcoming Olympics. We should use it as a test for “**life after the Olympics**”.

ORTA promises to have disability access timetables for buses on its Web site at www.orta.nsw.gov.au but it will be best to make sure of times, routes and access by ringing the Regional Bus Operators below or calling the Infoline at 131 500.

ROUTE NO.	ROUTE	CONTACT NO.
1 A B	Warriewood via Dee Why via Mona Vale	(02) 9457 8888 (02) 9450 2277
2	Glebe	131 500
3	Macquarie	(02) 9890 0000
4	Maroubra	131 500
5	Castle Hill	(02) 9890 0000
6	Menai	(02) 9541 1888
7	Miranda	(02) 9513 8787
8	Dural	(02) 9651 1944

If you must, parking with an RTA Access Permit costs \$12.50 for the day but it must be pre-booked through Ticket Master on 9230 9111 before going.

EASTER SHOW SCOOTER HIRE

Motorised scooters, manual and powered wheelchairs and strollers will be available for hire from Matlock Mobility at the Royal Easter Show.

Bookings (02) 9526 2187 need to be made for scooters, manual and powered chairs prior to going to the Show. Details of a meeting place will need to be arranged with Matlock.

THE PADP RALLY

Thanks to members who came to protest the **mismanagemnt and underfunding** of the NSW Health Department’s Program of Appliances for Disabled People (PADP) outside Premier Carr’s office in Sydney.

Also thanks to members involved with organising simultaneous rallies in country and regional areas. Hundreds turned out despite the uncertain weather to voice their anger and disgust about the lack of access to essential aids and equipment in NSW.

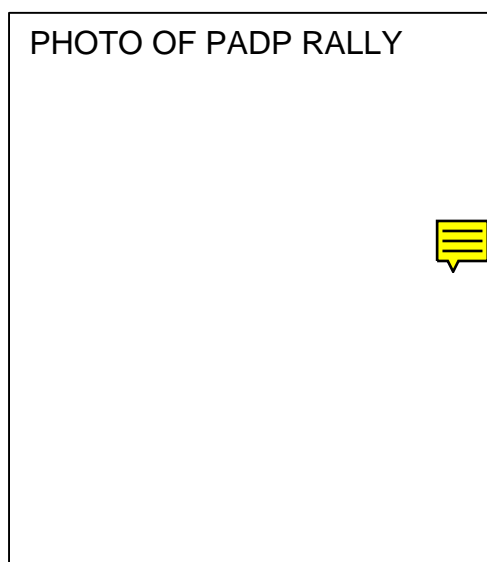
PHOTO OF PADP RALLY



Shadow Health Minister, Jillian Skinner spoke at the rally on behalf of the Coalition and promised to resolve PADP by overhauling the program and substantially increasing funding if she becomes Health Minister. Also attending was Shadow Minister for Disability Services Patricia Forsythe. (see Election analysis).

PDCN called for

- ▶ an immediate doubling of the PADP budget from \$13 million to \$26 million; and



- ▶ restructuring the scheme in consultation with the disability sector, with centralised management and accountability, clear eligibility, prioritisation of funds and a proper complaints and appeals mechanism as core elements of a restructure.

Dr Peter MacDonald, Independent Member for Manly and rally MC, drew attention to the Government's failure to provide a spokesperson for the rally - despite numerous invitations to the Premier.



CAMPAIGN RESULTS

Since the beginning of the campaign in November, we have seen:

- ▶ release of the Carla Cranny Report on PADP
- ▶ subsequent establishment of the PADP Advisory Committee with representatives from the Physical Disability Council, AQA, Northcott Society, Paraquad, the Spastic Centre and on PDCN's recommendation, MS Society, Muscular Dystrophy Association and the Post-Polio Network
- ▶ public attention at the local level through coverage by the local press, television, and radio.

These beginnings now need to be consolidated through lobbying local members and Ministerial advisors to ensure that funding is increased and the system totally reformed.

PHOTO OF PADP RALLY

PHOTO OF PADP RALLY

PHOTO OF PADP RALLY



NSW: THE NEXT FOUR YEARS

Adapted from *Institute for Family Advocacy Analysis Paper, March 11 1999.*
Available in full on the PDCN Web site -
<http://www.pdcnsw.org.au/doc.htm>

Australian Labor Party

The ALP is standing on its record over the last four years and Minister Lo Po's announcement of 18 January 1999. That announcement was **funded and specific** in relation to **450 new accommodation** placements, freeing up 171 blocked respite care beds, providing an extra 1,200 **respite packages** for families, and closing down large **institutions for children** over the next four years (affecting approximately 240 children and young people).

The announcement also made **unfunded statements with unclear outcomes** relating to boosting **in-home support** services, assistance to **buy and lease** equipment such as lifting and mobility aids, improving **staff training** for those working with people with disabilities, improving support for **carers**, establishing new **housing schemes**, and new administrative arrangements to **devolve institutions** within 12 years.

In terms of its record, the Government has

- ▶ made **changes** to make inclusion in the regular class of the local school a real choice for many parents and students with disabilities, **but not faced many outstanding issues** including the rebuilding of school infrastructure, guaranteed levels of resource support according to needs, a commitment to ongoing training and development for school staff, and the development of inclusive curricula

- ▶ **slowly** begun to release accessible buses and to make railway stations more accessible, **but it has not** used its **influence** to force private buses into complying with the DDA and has been very slow to upgrade city railway stations
- ▶ released a number of **reports and reviews and set up committees** on various issues including PADP, Home Care and Attendant Care, and Taxis but it has **not committed resources** to implement the improvements
- ▶ adopted a **5-Year Disability Policy Framework** for a whole of Government approach which requires (among other matters) that State Government Departments plan to upgrade their facilities for accessibility.
- ▶ announced the release of **400 additional accessible taxis** - but the taxi industry has succeeded to get only 21 on the road where there should be 140 according to the timetable
- ▶ been the only State in Australia to provide some funding to **peak advocacy services** but been only one of two states to seek to "**prescribe**" a number of NSW laws (See page 7) to allow exemption from the DDA.

Liberal-National Coalition

On 8th March the Coalition announced its disability policy. It offered only **300** new supported **accommodation** places, 1,200 **respite packages**, \$32m additional funding for **Home and Community Care** over 4 years, guaranteed funding for **Post School Options** and provided an additional \$0.5m to the **Community Services Commission**.

The announcement was disappointing in its many references to "reviews" rather than concrete action - another review of the over-reviewed under-funded PADP, and reviews of school therapy programs, availability of therapists and existing system of Post-School Options.

The conditional “**where appropriate**” was overused (overall philosophy, meeting needs, mainstream education integration and buses) with the implication that the needs of the service system will override the needs of the individual despite the often ignorant, prejudiced and biased views held by many untrained service delivery personnel.

With respect to physical disability the Coalition promised:

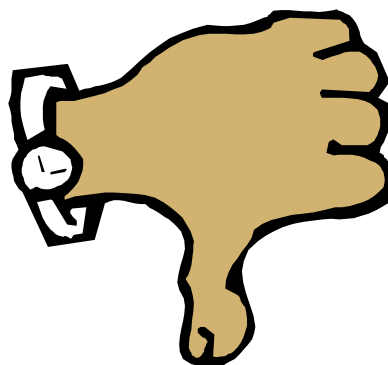
- ▶ *“Increase the budget of PADP and review eligibility criteria”* - bare acknowledgment of the problems that have been raised and falls short of PDCN’s clear call for doubling the budget, relaxing the extremely tight eligibility criteria, and rationalising the system as a whole.
- ▶ *“committed to the development of appropriate training for all Home Care providers and will ask the Training Task Force to review existing training”* - does not address the long waiting lists for attendant care, unmet need, industrial relations or the other issues relating to support
- ▶ *“when buses are upgraded, **where possible** low floor buses will be provided”* - offering no incentives or sanctions for private buses, having no impact on access to public transport, and ignoring the rail system
- ▶ *“review the Taxi Transport Subsidy Scheme”* - lacks any commitment to change despite the erosion of the value of the system and ignores taxi design issues and taxi service
- ▶ *“review the adequacy of parking spaces”* - lacks commitment to either more parking spaces or improved monitoring of parking spaces.

Summary of Major Parties

The policies of both parties are inadequate with respect to people with disabilities. The ALP is standing on its disappointing record and the Coalition is disappointingly matching and mirroring the Government. There are a few pluses (and minuses) but too many conditions

which open the way to increasing the rights of carers and the service system and decreasing the rights of people with disabilities.

Neither party addresses the enormous unmet need and the waiting lists in supported accommodation (8,000 people)



PADP (\$13 million), Attendant Care (\$5 million for the 147 people on the waiting list), respite care and HACC (4,500 people), school integration, public and private transport and physical access. **Both parties tinker at the margins** and offer only a few crumbs.

Democrats and Greens

The Greens and Democrats both have policies which would substantially improve the well-being of people with disabilities if they were implemented. The Greens’ policy document is almost a mirror-image of PDCN’s *Position Paper ’99*. Unfortunately, neither will be in Government but they have minimal influence in “*keeping the bastards honest*” through their actions in the Upper House.

Disability Party

There were ideas floating around last year for establishing a Disability Party but the idea was abandoned. There are rumours that there is another Disability Party seeking votes in the Upper House, but nobody in the sector seems to know much about it, and several people think it is a “**front party**” designed to confuse the electorate and take away votes from the Greens, Democrats, Independents and other “nuisances” in the Upper House.

DDA "PRESCRIPTIONS"

The Federal Attorney General intends to 'prescribe' four NSW Acts relating to the *Disability Discrimination Act 1992* (DDA). This means that if a person discriminates against a person with a disability but can show that they were complying with a **prescribed law**, the complaint of discrimination will be unsuccessful.

The laws are to be prescribed by the Commonwealth Attorney-General on the recommendation of the NSW Government.

The process has been without any consultation by either the Commonwealth or the NSW Governments.

In NSW the legislation to be prescribed includes:

- ▶ Regulation 18 *Food (General Regulations) 1995* - which prohibits animals or birds from being taken into "any premises that are used for the purpose of handling food" or "any part of a vehicle that is used for the purpose of storing or conveying food".
- ▶ **"Premises"** are defined as "any land...Any part of a building and any tent, stall or other structure". **"Handling"** is defined as meaning "preparing, preserving, packing, storing, decorating, serving, conveying or delivering food".

This could mean that people who use companion animals, assistance dogs, service dogs or guide dogs will be excluded from going to a restaurant, coffee shop, or cinema where there is a food counter or a plane.

- ▶ Regulation 10(1)(c) *Motor Traffic Regulation*: Regulation 10 (1) (c) states that a licence will not be granted or renewed to any person who is "not competent and medically fit to drive a motor vehicle with safety to the public".
- ▶ Regulation 11 permits the licensing authority to require "medical, driving or other examinations or tests" to provide information.

Prejudiced bureaucrats already have discretionary powers in granting and renewing licences, and drivers and doctors are already required to inform authorities if a person poses a risk to the community when they drive. To prescribe these regulations takes away the right of a person to complain and appeal a bad decision.

- ▶ *Mental Health Act 1990*;
- ▶ *Mental Health Regulations 1990*

While these do not directly affect people with physical disabilities, a very bad precedent is being set in the lack of consultation with the mental health sector. We must insist on consultation.

Robin Banks, co-ordinator of the Disability Discrimination Legal Centre (DDLC) has prepared a kit to assist people with this issue. At this point in time the aim is to stop the process until the community has been consulted.

Copies of the kit can be obtained by contacting DDLC via

Freecall - 1800 800 708

Fax - (02) 9662 1364

Web: www.pdcnsw.org.au/doc.htm

PDCN AT SENATE INQUIRY ON THE GST

John Moxon, Mark Relf and Jack Frisch appeared before the Senate Social Affairs Sub-Committee to explain the effect of the GST on people with disabilities in general and people with physical disabilities in particular.

Using figures from the Australian Quadriplegic Association's 1991 "cost of disability survey", they showed that because people with physical disabilities spend on average one-third to one-half of their income on "non-discretionary" goods and services, people with disabilities will be worse off following the introduction of the GST - even though many "health" goods will be GST-free.

They argued that:

- people with disabilities will face higher price increases than the rest of the population because we will not get the benefits of decreases in transport and finance costs, but will have to bear additional burden due to the new service taxes and our higher expenditure on "non-discretionary" services
- the price increases (and therefore the fall in price adjusted income) should be measured against a smaller base of "discretionary expenditure" as opposed to total expenditure
- the tax cuts and social security increases will not be large enough to compensate for the increase in prices for people with disabilities.

Senator Knowles' "cross-examination" was vigorous but we held our own as can be seen on the 23/2/99 Hansard on agps.gov.au/parl/committee/comsen.htm.

PDCN's GST submission to the Committee and the addendum is on www.pdcnw.org.au/doc.htm

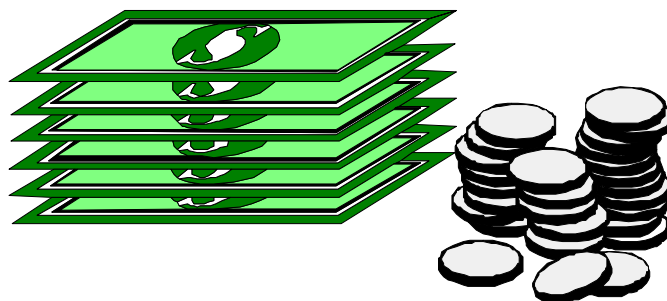
HUMAN RIGHTS BILLS - LOSER PAYS ALL !!

The provision for the Federal Court to be able to award costs against the losing party in disability discrimination cases - "costs following the event" - could spell the end of the *Disability Discrimination Act 1992* (DDA).

The Human Rights Amendment Bill No. 1 has just passed through the House of Representative after it lapsed in the last Parliament and it is going to the Senate in the next two weeks.

People with disabilities will be forced to pay for the legal costs of large corporations and Government bodies if they lose a case in the Federal Court. At present the Human Rights and Equal Opportunity has the ability to make a binding (but not enforceable) decision with costs born separately by the parties. Costs can be awarded against the loser only on an appeal of a decision in the Federal Court.

If this Bill is passed, we expect that people with disabilities will stop making complaints under the DDA because they will risk serious financial hardship or bankruptcy.



PDCN is at odds with HREOC on this issue. HREOC is arguing that more lawyers will be attracted to take on disability discrimination cases if Federal Court becomes a cost jurisdiction where the loser pays all.

PDCN, working with the Disability Discrimination Legal Centre, has written to the Prime Minister, Attorney-General, ALP leaders, all Senators and met with Democrat advisors arguing and pleading that disability discrimination cases are less predictable, and therefore involve greater risk than gender and race discrimination in that:

- ▶ the DDA is the only Act where a court can rule that an a prohibited act can be justifiable and therefore legal
- ▶ disability is a more complex concept than either gender or race
- ▶ complainants have less to go on because there is less case law in disability discrimination than in other areas of law

and that therefore the “costs following the event” clause should be amended so that each party pays only its own costs.

The letters can be downloaded from the <http://www.pdcnsw.org.au/doc.htm>

PDCN vs SYDNEY CITY

THE BRIDGE, THE STREET, THE PARKING STATION AND THE DEPARTMENT

In February PDCN lodged an application for the HREOC to intervene against the City of Sydney Council's in an attempt to prevent the removal of a pedestrian bridge linking the Ageing and Disability Department to the Kent Street Parking Station.

Council argues that by removing all pedestrian access bridges people will use the streets more and be less inclined to bring their cars into the city.

PDCN lodged the application for an interim determination on the basis that this policy discriminates against all people with physical disabilities who cannot negotiate the unfavourable conditions of the surrounding streetscapes.

HREOC rejected the application arguing that Council had ‘undertaken to institute as a matter of priority alternative arrangements for access to and from the parking station’.

The crux of PDCN's application is that there is no alternative access from Kent Street to Clarence Street. The surrounding streets are so steep that it is impossible for a person using a manual wheelchair or crutches to manage the streetscape.

PDCN sought and received Legal Aid to appeal HREOC's decision in the Federal Court.

Judge Madgwick upheld the decision not to grant the injunction because:

- ▶ work had already begun on the removal of the bridge;
- ▶ there was evidence that the Kent Street Parking Station would be re-developed and no longer be used in this capacity;
- ▶ alternative access arrangements could be made if the case of disability discrimination was upheld.

Despite finding that HREOC may have erred, and that there may in fact have been discrimination, Judge Madgwick ruled that costs would be awarded against PDCN because he believed the case was “exceptional”, and that incapacity to pay was irrelevant. Legal Aid will absorb up to \$12,500.

COOPER vs COFFS HARBOUR

ROUND 2, COOPER WINS AGAIN !

Following Ian Cooper's complaint of discrimination against Holiday Coast Cinema Centres' failure to provide wheelchair access after extensive renovations of the cinema, Commissioner Keim ruled in August 1997 that discrimination had taken place.

Mr. Cooper also complained that Coffs Harbour City Council had acted unlawfully in approving the Development Application (DA) for the cinema. Commissioner Keim found that although Coffs Harbour City Council had erred in allowing discrimination to take place, it did not discriminate in approving the DA because it had acted in good faith in judging that providing wheelchair access would impose unjustifiable hardship on the Cinema.

Ian Cooper appealed the latter HREOC decision in the Federal Court, and Judge Madgwick ruled that Coffs Harbour City Council had discriminated by allowing the DA.

Judge Madgwick ruled that:

- ▶ Coffs Harbour City Council had aided and abetted in the discrimination by not testing Holiday Coast Cinema Centres' information and
- ▶ unless Coffs Harbour Council could show 'honest and reasonable' belief that what was being proposed was not discrimination, it too is liable under the *Disability Discrimination Act (1992)*.

Costs were awarded in favour of Ian Cooper.

DISABILITY WEB SITES

<http://www.empowermentzone.com/>

A **huge** collection of articles and other information put together by Jamal Mazrui. The articles relate to social action and a lot information relevant to people with disabilities. Heading include: *Politics, Employment, Technology and Software, Civil Rights, Education, Financial, Gender/Relationships/Sexuality, Health, Housing, Independent Living, Language, Legal, Multicultural and Rural Inclusion, Parenting, Rehabilitation, Social Security and Travel.*

<http://www.escape.ca/~ccds/webring.html>

The Home Page of a **Disability Studies Web Ring** maintained by the Canadian Centre on Disability Studies - a consumer-directed, university-affiliated centre involved in research and education on disability issues. There are at this stage 25 sites on the Ring.

A Web Ring is a group of Web sites relating to a topic e.g. Disability Studies, Spinal Cord Injury. The Web sites are submitted to an "owner" who checks whether the Web site is "belongs". If it belongs, then it is added to the Ring by receiving an icon which is an unofficial "accreditation". Websurfers can then surf around the ring.

<http://www.webring.org/cgi-bin/webring?ring=spinalcord;index>

The home page of the Spinal Cord Injury Ring which has 82 sites in the ring

<http://www.wheelweb.com/frames.htm>

A spinal cord injury site with (among other things) an Electronic magazine for people with spinal cord injury.

<http://www.disabilityhistory.org/dshp.html>
Disability Social History Project

PERSONS WITH A HANDICAP BY SEVERITY OF HANDICAP

from ABS 4430.0 Table 15 - 1993 Disability Survey

Extent	Age	0-4	5-14	15-24	25-34	35-44	45-54	55-64	65-74	>75	TOTAL
Profound			39.0	23.8	17.3	19.9	21.9	35.4	72.7	189.9	419.9
Severe			23.3	13.7	33.9	48.7	52.4	39.1	43.0	47.1	301.2
Moderate			20.6	12.9	29.4	47.6	60.7	86.1	118.0	80.2	455.5
Mild			38.0	54.8	65.4	96.2	126.4	173.7	222.5	164.8	941.8
Not det'mnd		56.4	45.8	38.0	37.4	46.9	57.8	56.6	28.5	14.6	382.0
TOTAL		56.4	166.7	143.2	183.4	259.3	319.2	390.9	484.7	496.6	2500.4
POPULATION		1291.1	2537.6	2751.7	2827.2	2664.3	2038.6	1469.9	1232.5	814.2	17627.1
PERCENTAGE OF POPULATION											
Profound			1.54	0.86	0.61	0.75	1.07	2.41	5.90	23.32	2.38
Severe			0.92	0.50	1.20	1.83	2.57	2.66	3.49	5.78	1.71
Moderate			0.81	0.47	1.04	1.79	2.98	5.86	9.57	9.85	2.58
Mild			1.50	1.99	2.31	3.61	6.20	11.82	18.05	20.24	5.34
Not det'mnd		4.37	1.80	1.38	1.32	1.76	2.84	3.85	2.31	1.79	2.17
TOTAL		4.37	6.57	5.20	6.49	9.73	15.66	26.59	39.33	60.99	14.18

- The proportion of people with a handicap increases at an accelerating rate with age after age 25. The proportion increases by 1.29% in the 25-34 age group, by 3.24% in age group 35-44; by 5.93% in age group 45-54 and continues to accelerate so that the increase is 21.66% of the population from age group 65-74 to the over 75 age group.
- The proportion of population with handicaps who have profound disabilities decreases from age group 5-14 to 15-24 to 25-34 (Rows 8, 14) before beginning to increase with age. It would be interesting to compare this with earlier data, and to less technologically "developed" societies since the data raises the possibility that medical technology has in recent times been successful in reducing infant mortality but unsuccessful in reducing infant disability.
- There is a significant shift in the structure of the severity of the handicap between age 65-74 and age over 75. While the number of people with profound and severe handicaps increases by 121,300, the number with mild and moderate handicaps decreases by 95,500.
- Among people of all ages, 1 in 24 people has a severe or profound disability.¹
- Among people aged between 5 and 54, 1 in 43 persons has a disability which is classified as severe or profound (2.33%)
- Among people aged over 55, 1 in 8 persons has a severe or profound disability (12.5%) while 1 in 4 has a mild or moderate disability (24.74%).

¹ People whose classification is "not determined" are distributed evenly among the other four categories.

Physical Disability Council of NSW provides a statewide representative voice by being the communication link between people with a physical disability and service providers, decision makers in government, the community and the business world.

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Contributions Welcome. NEXT EDITION DEADLINE: April 20th