



Physical Disability Council of NSW
Ordinary People Ordinary Lives

**Submission for Australian Government
Department of Industry and Science**

**Review of Disability (Access to Premises –
Building) Standards 2010**

June 15, 2015

Physical Disability Council of NSW
3/184 Glebe Point Road
Glebe 2037

Contact – Serena Ovens or Jordana Goodman
02 9552 1606
www.pdcnsw.org.au
admin@pdcnsw.org.au

Contents

Who is the Physical Disability Council of NSW?.....	3
Overview	3
DISCUSSION	4
Review Process	4
Small building exemption for Class 5, 6, 7b, and 8 buildings	5
Lessee concession.....	5
80 th and 90 th Percentile Wheelchair Dimensions.....	6
Locking off lifts	7
Lift Concession.....	7
Toilet concession	7
Public swimming pools	8
Accessible car parking	8
Scope of the Premises Standard.....	9
Class 3 Buildings.....	11
Accessible Sanitary Facilities (for Ambulant Disabilities)	12
Access and Egress.....	12
PDCN Additional Comments:	13
Summary of Recommendations:	14

Who is the Physical Disability Council of NSW?

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (ie: self-advocate).
- To educate and inform stakeholders (ie: about the needs of people with a physical disability) so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

Overview

The Physical Disability Council of NSW appreciates the opportunity to consider, and make comment to the Australian Government's consultation paper on *the Review of the Disability (Access to Premises – Building) Standards, 2010*.

As part of the adoption of the Disability (Access to Premises- Buildings) Standards (Premises Standards) in 2011, Recommendation 19 lists issues that could not be resolved and consequently it is the issues identified in the enquiry conducted by the House of Representatives Standing Committee on Legal and Constitutional Affairs that have been reviewed as part of this submission.¹ PDCN has not provided comment on wayfinding as services targeting people with vision impairment are better equipped to do so.

Recommendation 19 of the Standing Committee on Legal and Constitutional Affairs recommended that:

- 1) The Premises Standards provide commencement and completion dates for the review process;
- 2) The completion date for the review be within five years of the commencement of the Premises Standards;
- 3) The Premises Standards set out the issues to be considered by the review and that these issues include:
 - Small building exemption;
 - Lessee concession;
 - 80th and 90th percentile wheelchair dimensions;
 - Locking off lifts;
 - Accessible toilets;
 - Swimming pools;

¹ Australian Government- House of Representatives Standing Committee on Legal and Constitutional Affairs (2009) Access all Areas

- Accessible car parking;
 - Class 1b buildings;
 - Wayfinding; and
 - Emergency egress.
- 4) The Premises Standards set out the criteria by which effectiveness of the Standards is to be assessed;
 - 5) The Australian Government identify what data will be collected and how it will be collected in each jurisdiction during the first four years;
 - 6) Baseline data be collected; and
 - 7) Funding be provided for the review.

DISCUSSION

Review Process

Following a long and protracted process, the Premises Standard and Access Code was introduced in May 2011, and these reforms were adopted by the Australian Building Code Board.

Submitters to the Premises Standard enquiry in 2009/10 were divided between those who believed that by rushing into codifying the Premises Standards built on exemptions, exceptions and concessions, that people with disability would regret an outcome where people with disability needed to make too many compromises as part of having the standards adopted, against those who did not believe that the disability community could risk not adopting.

The Physical Disability Council of NSW (PDCN) would like to reinforce the following taken from enquiry into the Premises Standards:

The standards are long overdue. The [Disability Discrimination Act] and the Victorian Equal Opportunity Act have been in place for 17 and 13 years, respectively. The industry has had 17 years to regulate itself and to progressively and cost-effectively implement changes that would meet their obligations under the Acts. Had they done so, many of the cost arguments mounted today would be irrelevant. Industry has in fact been cost-saving for 17 years at the expense of a large percentage of the population. It is now time to restore that balance. ²

Whilst acknowledging the importance of measuring the effectiveness of the Premises Standard it was difficult to distinguish between buildings approved before and those approved after May 2011 due to the time required in seeking approval.

PDCN has conducted a survey³, seeking feedback into adoption of the Premises Standard and was concerned that due to not being clear when building approval was sought that this may have impacted on the quality of research findings.

² Australian Government- House of Representatives Standing Committee on Legal and Constitutional Affairs (2009) Access all Areas- Paragraph 1.19

³ PDCN Review of the (Access to Premises – Building) Standards Survey, 2015

PDCN acknowledges the significance of Section 6.1 of the Premises Standard which states the importance of needing to conduct further reviews on a five yearly basis and ensuring that the review covers a wide range of topics.

Small building exemption for Class 5, 6, 7b, and 8 buildings

Following the enquiry into the Premises Standards the government accepted recommendation 5 for an exemption for Class 5, 6, 7b, and 8 buildings that are between 1- 3 storeys with a maximum threshold of 200 square metres. This exemption requires the installation of all other access improvements but for an exemption of lift or ramp access between floors. The review discusses why this specific criterion was used and whether any other such as the provision of service/s maybe more appropriate. Advice was sought and it was agreed that this criterion was appropriate and that unjustifiable hardship would be used if mandatory access improvements included a lift or ramp.

Recommendation 1: That a Regularity Impact Study be conducted to determine the costs and benefits for buildings with the following floor sizes and determine the appropriateness of a threshold of 200 square metres:

- **150 square metres**
- **200 square metres**
- **250 square metres**

Recommendation 2: That the small building exemption for Class buildings 5, 6, 7b and 8 be completely removed from the Premises Standards but leaving unjustifiable hardship as a last resort.

Lessee concession

The inquiry into the Premises Standards recognised the financial costs incurred in buildings where there is more than one property lessee, and the implications that this has on the others if one lessee has submitted a development application for building improvements. In these circumstances the development application would trigger a requirement for accessibility improvements to the 'affected part'⁴ for the inclusion of an continuous path of travel, regardless of whether the development application includes this or not. This may be perceived as being onerous by other lessees. As a consequence this concession was made available so that lessees would only be responsible for accessibility improvements in the area that they lease.

Due to this concession the trigger for access improvements will not take place and as a result improvements in access are less likely to be done, or at the very best to only the immediate 'affected part'. As a consequence it would be preferable that in any development application, even where a lessee concession has been approved, there is still a trigger for improved access.

⁴ Australian Government- Commonwealth Law (2010) Disability(Access to Premises-Buildings) Standards *section 2.2 (5)*

Recommendation 3: That if a lessee concession is approved, the development application still triggers a requirement for access works.

Recommendation 4: That the ‘lessee concession’ be completely removed from the Premises Standard leaving unjustifiable hardship as a last resort.

80th and 90th Percentile Wheelchair Dimensions

Research was conducted to investigate the dimensions of mobility aids used today to better align the Disability Discrimination Act to the Premises Standard. This was done to determine whether the 80th or 90th percentile wheelchair dimensions were more satisfactory.

Findings from this research indicated that for people using either a manual or powered wheelchair that the requirements met the most commonly applied Australian Standard: AS 1428.1(2009). These investigations however, indicated the need for further testing, particularly for the 90th percentile of powered wheelchairs when assessing the following movements:

- 180 degree turning circles and landing length;
- Dimensions of different configurations and sizes of lifts;
- Design of hand basins and shower recesses; and the
- Seating spaces in auditoriums of assembly spaces.⁵

Due to limited knowledge regarding wheelchair dimensions, technological advances, an ageing population and a much greater focus on community living, PDCN recommends further research into the issues identified above. It is imperative that we aim for dimensions that can be used by 90% of wheelchair users. Dimensions using the 80% percentile would only cater for 80% of people requiring wheelchairs to access the community – and all people with a disability having access to the community is clearly identified as a priority of the National Disability Insurance Scheme, and a basic principal of Article 9, Accessibility of the United Nations Convention on the Rights of Persons with Disabilities⁶, of which Australia ratified in 2008.

Recommendation 5: That additional funding is provided for further research into the issues identified above that caters for people who use 3 and 4 wheeled scooters, and people who use manual or powered wheelchairs.

Recommendation 6: That the Standards be amended to ensure all future access requirements cater to the 90 percentile wheelchair dimensions.

⁵ David Caple and Associates (2014) Research on Spatial Dimensions for Occupied Manual and Powered Wheelchairs Project

⁶ United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (2006)

Locking off lifts

In the past to save money and to provide access where a standard lift could not be readily installed, a number of unsatisfactory specialised passenger lifts were used. These specialised lifts are considered as unsatisfactory because of the limited distance travelled, safety concerns, operational concerns, are never dignified and often cannot be operated without assistance. Subsequently these lifts should not be permitted in developments that comply with the Building Codes.

Recommendation 7: That the following specialised lifts are removed from the Access Code:

- **AS1735-12 1999 Facilities for persons with disabilities**
- **AS1735-7 1998 Stairway lifts**
- **AS1735-14 1998 Low-rise platforms for passengers**
- **AS1735-15 2002 Low-rise passenger lifts – non-automatically controlled**

Lift Concession

The Premises Standards require the floor space of a new lift to have a lift floor measuring not less than 1400mm x 1600mm, but recognises an older lift that travels more than 12 metres and that has a minimum dimension of 1100mm by 1400mm located in a new part, or an affected part, of a building,

Due to the smaller floor space of lifts with this concession PDCN is concerned about how this will impact on the remaining percentage of people of disability if only the 80 percentile wheelchair dimension is considered.

Toilet concession

The Premises Standards require compliance with AS 1428.1—2009, *Design for access and mobility, Part 1: General requirements for access—New building work*, for new sanitary facilities, but where existing sanitary facilities are located in a new part, or an affected part, of a building this need not comply.

Due to the smaller dimensions of sanitary facilities with this concession PDCN is concerned about how this will impact on the remaining percentage of people with a disability if only the 80 percentile wheelchair dimension is considered.

Recommendation 8: That where any new building work is under taken, sanitary and lift facilities within must cater to the 90 percentile wheelchair dimension requirement

Public swimming pools

Feedback from the survey conducted by PDCN as part of the review of the Premises Standard reinforced the concerns people with disability have when using public swimming pools. The Premises Standard requires public swimming pools to provide an accessible entry/exit only for swimming pools with a perimeter of at least 70 meters. Part D5 - Accessible water entry/exit for swimming pools, identifies numerous methods of providing access into a swimming pool including;

1. Fixed or moveable ramp
2. Zero depth entry
3. Platform swimming pool lift
4. Sling-style swimming pool lift
5. Aquatic wheelchair

Given that a number of different ways are available to accessing swimming pools, PDCN finds it difficult to understand why a only a swimming pool with a perimeter of more than 70 metres is required to provide access.

Additional difficulties experienced by people with disability when trying to access public swimming pools were identified in the PDCN survey and include;

- Lack of accessible parking
- Non provision of accessible shower and sanitary facilities and the
- Lack of trained pool attendants

Recommendation 9: Conduct a Regulatory Impact Study using the five different methods of accessing swimming pools for a pool with a perimeter of 40, 60, and 70 metres.

Accessible car parking

The enquiry into the Access Premises raised many issues regarding accessible car parking including:

- Current and future demand for accessible car parking
- Dimensions and layout of accessible car parking
- Availability of accessible car parking off-street, on-street, and in commercial parking stations
- Responsibilities and policing of accessible car parking
- Commonwealth and State government parking initiatives

Feedback from the survey on Access to Premises conducted by PDCN identified similar concerns for passengers and drivers with disabilities utilising accessible car parking including:

- Provision of the NSW Parking Mobility Scheme
- Reductions in the time provisions
- Location of accessible car parking

At present data suggests that accessible parking caters at around a rate of 1% of the population, whereas population data indicates that people with a disability make up approximately 18% of the Australian population as a whole. PDCN believe that it is imperative that the rate of accessible car parks increases in order to better address this need.

Recommendation 10: Whilst PDCN is aware that the Commonwealth Government has limited responsibilities regarding accessible car parking the Access Code needs to refer to the correct Australian Standards (AS/NZS 2890 Part 6- Off-street carparking for people with disabilities, and AS 2890 Part 5- On- Street Parking)

Recommendation 11: Whilst PDCN is aware that the Commonwealth Government direct responsibilities over the allocation of appropriate accessible car parking spaces the Premises Standards could identify this need as part of Disability Action Plans.

Recommendation 12: That Part D3. 5- Accessible Carparking of the Access Code recommend the provision of a two-tiered system where the existing requirements for wide accessible spaces should be retained and supplemented by additional regular width spaces for ambulant people with a disability. This two-tiered system would always provide at least more than one of each, but where space permitted it would recommend one wide accessible space per four regular width spaces for ambulant people with a disability.

Scope of the Premises Standard

PDCN believes that the scope of the Premises Standard needs to be wider and include a range of short-term and long-term accommodation facilities such as:

- Class 1a (private residential),
- Class 1b (bed and breakfast or holiday cottage),
- Class 2 (apartment) buildings, and to fit out issues.

Currently the Premises Standard excludes Class 1a facilities from needing to provide accessibility or 'visitability'. Universal access for people with disability will continue to be unachievable without access to Class 1a dwellings. Not only people with disability but all community members will benefit from homes that are universally designed, including:

- Families with young children who need to get strollers and prams into their homes and want safer homes
- People who sustain temporary or permanent injuries which limit their mobility
- Ageing baby boomers who are looking to renovate their existing homes to better accommodate their future needs
- Older people who are particularly vulnerable to slip, trip and fall injuries in their homes
- People with disability and their families who are looking for a home that will accommodate their current and future needs. PDCN believes that without

sufficient housing that this will impact on the success of the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS)

- People with disability who wish to visit the homes of friends and relatives, and
- Care workers and family and friends who provide in-home care and support.

Class 1b buildings consist of boarding or guest houses, bed-and-breakfasts and 'eco lodges'. In the past Class 1b buildings with less than four bedrooms have not needed to provide any access provision, whereas for larger Class 1b buildings with four or more bedrooms, access has needed to be provided to all common areas and at least one bedroom. A threshold of four bedrooms rather than three bedrooms was made as a compromise between cost and benefits.

The following reforms to 1b buildings were suggested as part of the drafting the Access Premises in 2010:

- To increase holiday/ leisure options it was recommended that requirements for accessibility be imposed on all new and purpose-built Class 1b buildings regardless of the number of bedrooms or dwellings they contain, and the proposed four bedroom threshold be maintained for existing buildings. The general provisions of the Disability Discrimination Act continue to be available for existing buildings with one to three bedrooms.
- Accessible unisex sanitary compartments and showers need to comply with AS 1428.1 for new developments.

Based on the data below the amount of people living in medium and high density housing is significant, and likely to increase with an ageing population. Consequently PDCN is unable to understand why medium and high density dwellings are not included in the Premises Standards. In NSW and Australia there was a reduction in residents living in Class 1a type dwellings and an increase in number living in Class 2 accommodation between 2006 - 2011.

In the past access to common and residential compartments of Class 2 dwellings has not been provided. People with disability are attracted to units and apartment due to the reduced need to attend to repairs and maintenance, lift access in newer Class 2 dwellings and the close proximity to shopping and public transport.

Dwelling structure

Dwelling type	2011			2006			Change 2006 to 2011
	Number	NSW%	Aust %	Number	NSW%	Aust%	
Separate house	932,127	81.5	73.8	886,134	81.7	74.3	+45,993
Medium density	160,171	14.0	17.0	147,832	13.6	16.8	+12,339
High density	25,121	2.2	7.6	23,095	2.1	7.1	+2,026
Caravans, cabin, houseboat	19,096	1.7	1.1	20,418	1.9	1.2	-1,322
Other	5,849	0.5	0.4	6,753	0.6	0.5	-904
Not stated	1,881	0.2	0.1	840	0.1	0.1	+1,041
Total Private Dwellings	1,144,245	100.0	100.0	1,085,072	100.0	100.0	+59,173

7

Recommendation 13: That the benefits of universal design for Class 1a dwellings be recognised and incorporated into the Access Premises.

Recommendation 14: Government adoption of Liveable Housing Design elements for all new social and affordable dwellings that receive Government funding for construction.

Recommendation 15: That funding is available to community housing providers to incorporate accessible housing within Affordable Housing Programs for new and existing dwellings.

Recommendation 16: PDCN recommend that all classes of buildings are included within the Access Standards

Class 3 Buildings

PDCN believe that there should be an increase in the amount of accessible sole occupancy units across all Class 3 hotel accommodation, to allow for people with a disability to access all ranges of accommodation facilities on offer (as opposed to only ground floor accommodation.) Access within these units should also flow to external balconies, bathrooms, showers, kitchen and laundry facilities and all common areas with the dwelling.

⁷ Australian Bureau of Statistics, Census of Population and Housing 2006 and 2011. Compiled and presented in profile.id by .id, the population experts

Accessible Sanitary Facilities (for Ambulant Disabilities)

The Premises Standards provide no trigger for the provision of ambulatory sanitary facilities at this point. PDCN believes that there is a need for the inclusion of this provision within all public buildings

Recommendation 17: That the Premises Standards include regulation for the provision of ambulatory sanitary facilities in all classes of public buildings.

Access and Egress

Since the adoption of the Premises Standards the Australian Building Codes Board has continued to research access and egress options for people with disability. Recommendation 16 of the House of Representatives inquiry into the draft Disability (Access to Premises- Buildings) Standards highlights the lack of deemed-to-satisfy provisions in Part D- Access and Egress and Part E- Services and Equipment of the BCA. Research was conducted by the Australian Building Code Board (ABCB) to identify options for access and egress that were considered as safe, equitable and dignified.

Internationally the following evacuation strategies are considered as options when evacuating people with disability:

- Protect in place
- Horizontal Evacuation – next compartment, outside, fire stair enclosure.
- Vertical evacuation using lifts
- Vertical evacuation using fire-isolated stairways and
- Vertical evacuation with the aid of wardens and fire personnel

With the increased height of buildings there has been increased need as consumers, employees and residents access tall buildings. Research conducted by the Australian Building Codes Board has resulted in the inclusion of a new performance building requirement called DP7 which addresses the use of evacuation lifts. The clause is listed below:

“Where a lift is intended to be used in addition to the *required exits* to assist occupants to evacuate a building safely, the type, number, location, and fire-isolation of the passenger lift must be appropriate to-

- (a) the travel distance to the passenger lift; and
- (b) the number, mobility and other characteristics of occupants; and
- (c) the function or use of the building; and
- (d) the number of *storeys* connected by the passenger lift; and
- (e) the *fire safety system* installed in the building; and
- (f) the waiting time, travel time and capacity of the passenger lift; and
- (g) the reliability and availability of the passenger lift; and
- (h) the emergency procedures for the building”⁸

⁸ DP7- ABCB Information Handbook : Lifts used during an evacuation (2013)

Recommendation 18: the above DP7 requirements are implemented within the Premises Standards for all new buildings and any affected parts of existing buildings.

Recommendation 19: All buildings should have a personalised emergency egress plan, particularly for visitors who may not be familiar with the building structure.

PDCN Additional Comments:

Section 5 - Interpretation of the Disability (Access to Premises – Building) Standards 2010

Feedback from PDCN members and respondents to the PDCN Access to Premises Survey indicated that the Premises Standards themselves are difficult to understand, and we believe that along with available concessions and justifiable hardship clauses, this may lead to non-compliance, the ability to reduce access through use of exemptions and, for a person with a disability or a lay person, a failure to understand what should rightfully be provided in the way of access due to misinterpretation, or confusion when reading the applicable standard.

PDCN cannot comment on the ease of interpretation/application of the Standards by the building industry.

Section 6 – Other Issues

In the case of temporary or 'one off events', infrastructure for these events is frequently not accessible, and people with disabilities therefore often miss out on engagement in community or other events due to this issue.

PDCN believe that Guidelines ensuring the incorporation of accessible features for any temporary event structure should be developed and be in line with those similar to permanent buildings.

Summary of Recommendations:

Recommendation 1: That a Regularity Impact Study be conducted to determine the costs and benefits for buildings with the following floor sizes and determine the appropriateness of a threshold of 200 square metres:

- 150 square metres
- 200 square metres
- 250 square metres

Recommendation 2: That the small building exemption for Class buildings 5, 6, 7b and 8 be completely removed from the Premises Standards but leaving unjustifiable hardship as a last resort.

Recommendation 3: That if a lessee concession is approved, the development application still triggers a requirement for access works.

Recommendation 4: That the 'lessee concession' be completely removed from the Premises Standard leaving unjustifiable hardship as a last resort.

Recommendation 5: That additional funding is provided for further research into the issues identified in 80 and 80 percentile wheelchair dimension, that caters for people who use 3 and 4 wheeled scooters, and people who use manual or powered wheelchairs.

Recommendation 6: That the Standards be amended to ensure all future access requirements cater to the 90 percentile wheelchair dimensions.

Recommendation 7: That the following specialised lifts are removed from the Access Code:

- AS1735-12 1999 Facilities for persons with disabilities
- AS1735-7 1998 Stairway lifts
- AS1735-14 1998 Low-rise platforms for passengers
- AS1735-15 2002 Low-rise passenger lifts – non-automatically controlled

Recommendation 8: That where any new building work is under taken, sanitary and lift facilities within must cater to the 90 percentile wheelchair dimension requirement

Recommendation 9: Conduct a Regulatory Impact Study using the five different methods of accessing swimming pools for pools with a perimeter of 40, 60, and 70 metres.

Recommendation 10: Whilst PDCN is aware that the Commonwealth Government has limited responsibilities regarding accessible car parking the Access Code needs to refer to the correct Australian Standards (AS/NZS 2890 Part 6- Off-street carparking for people with disabilities, and AS 2890 Part 5- On- Street Parking)

Recommendation 11: Whilst PDCN is aware that the Commonwealth Government direct responsibilities over the allocation of appropriate accessible car parking spaces the Premises Standards could identify this need as part of Disability Action Plans.

Recommendation 12: That Part D3. 5- Accessible Car parking of the Access Code recommend the provision of a two-tiered system where the existing requirements for wide accessible spaces should be retained and supplemented by additional regular width spaces for ambulant people with a disability. This two-tiered system would always provide at least more than one of each, but where space permitted it would recommend one wide accessible space per four regular width spaces for ambulant people with a disability.

Recommendation 13: That the benefits of Universal Design for Class 1a dwellings be recognised and incorporated into the Access Premises.

Recommendation 14: Government adoption of Liveable Housing Design elements for all new social and affordable dwellings that receive Government funding for construction.

Recommendation 15: That funding is available to community housing providers to incorporate accessible housing within Affordable Housing Programs for new and existing dwellings.

Recommendation 16: PDCN recommend that all classes of buildings are included within the Access Standards

Recommendation 17: That the Premises Standards include regulation for the provision of ambulatory sanitary facilities in all classes of public buildings.

Recommendation 18: The DP7 requirements of the Australian Building Code Board Workbook: Lifts during an Evacuation (2013) are implemented within the Premises Standards for all new buildings and any affected parts of existing buildings.

Recommendation 19: All public buildings should have a personalised emergency egress plan, particularly for visitors who may not be familiar with the building structure.