



Australian Government

Department of Industry and Science

Review of the Disability (Access to Premises – Buildings) Standards 2010

Submission Form

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This form has 57 questions. You do not need to answer all the questions in Sections 2, 3, 4 or 5.

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Privacy Statement

The Department of Industry and Science (the Department) is bound by the Australian Privacy Principles (APPs) outlined in [Schedule 1](#) of the *Privacy Act 1988* (Cth) (Privacy Act) which regulates how entities may collect, use, disclose and store personal information. Information is being collected to enable and assist the Department review the effectiveness of the Disability (Access to Premises – Buildings) Standards 2010 (the Standards).

All submissions including comments, opinions and responses to questions will be made publicly available on the Department's Consultation Hub, unless you have clearly indicated your preference for confidentiality. Submissions marked as confidential will not be published. A request made under the *Freedom of Information Act 1982* for access to a submission marked confidential will be determined in accordance with the FOI Act.

The Department will collect from all submissions, personal information including your name and/or the organisation you represent (if applicable), your email address, State/Territory of residence, the reasons for your interest in making a submission and responses for the purposes of reviewing the effectiveness of the Standards.

The personal information provided by you, such as your name and/or the organisation you represent (if applicable), State/Territory of residence and responses to the questions in Section 3, 4, 5 and 6, will be included on the Department's Consultation Hub to identify your submission, unless it is marked confidential. Contact information such as email address will not be published however, upon your agreement it can be used to provide you with updates and developments on the Standards.

A list containing the names of all individuals and organisations that have made submissions may be provided to the Minister's Office. Submissions may be disclosed to Departmental staff, the Minister and staff members of the Minister's Office and the Attorney-General's Department for the purposes of informing the review process. Confidential submissions may only be disclosed to the Attorney-General's Department and will not be disclosed to any other third parties without your consent.

Personal information obtained will be stored and held in accordance with the Department's obligations under the *Archives Act 1983* (Cth). Personal information obtained will only be used and disclosed for the purposes outlined above and will not be otherwise used or disclosed without your consent, except where authorised or required by law. For further information, please refer to the Department's [Privacy Policy](#).

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Do you agree with the privacy statement above?

- Yes, I agree
- Yes, I agree and want to make a confidential submission
- No, I do not agree

Please note: Without agreeing to the privacy collection statement you cannot proceed to make a submission.

Section 1: Personal Details

1. Name (*Required*): John Mayo
2. Email (*Required*): jmayo@spinal.com.au
3. Would you like to receive email alerts about the Premises Standards Review? Yes No
4. What state or territory do you live in? (*Required*)

(Please check only one box)

- Australian Capital Territory
 - New South Wales
 - Northern Territory
 - Queensland
 - South Australia
 - Tasmania
 - Victoria
 - Western Australia
5. What best describes the location where you live? (*Please check only one box*)
 - City
 - Regional
 - Remote
 6. Are you make this submission as:
 - An individual / individuals OR On behalf of an organisation
 7. If you are making this submission on behalf of an organisation, what is the name of the organisation? Spinal Injuries Australia

8. What best describes your interest in making a submission? *(Please check only one box)*
- I am a person with disability or carer of a person with disability
 - I am an advocate for people with disability
 - I work for an industry representative body such as an industry association
 - I am a building certifier (private certifier, government employed certifier)
 - I am a building manager (property owner or lessee, project manager, operational staff)
 - I am a building developer (property developer, property owner, building designer, builder, project manager, property lessee)
 - I am an accessibility consultant
 - I am a government official
 - Other. Please Describe:
9. If you are a government official, what level of government do you work for:
- Local Government
 - State or Territory Government
 - Australian Government

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Section 2: General View of the Premises Standards

10. How effective have the Premises Standards been in ensuring dignified and reasonable access to buildings is provided for people with disability? *(Please rate 1 to 5 or not applicable, 1 being not effective, 5 being very effective).*

- 1
 2
 3
 4
 5
 Not Applicable

11. How effective have the Premises Standards been in giving certainty to the building industry that they are complying with the Disability Discrimination Act 1992? *(Please rate 1 to 5 or not applicable, 1 being not effective, 5 being very effective).*

- 1
 2
 3
 4
 5
 Not Applicable

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Section 3: Provisions of the Premises Standards

3.1 Accommodation Buildings

The Premises Standards apply to the following accommodation buildings:

- *specified Class 1b buildings*;
- Class 2 buildings approved on or after 1 May 2011 for construction and used for short-term rent (common areas only); and
- Class 3 buildings.

Specified Class 1b Buildings

Only *specified Class 1b buildings* are covered by the Premises Standards and are defined as:

1. a new building with 1 or more bedrooms used for rental accommodation; or
2. an existing building with 4 or more bedrooms used for rental accommodation; or
3. a building that comprises 4 or more single dwellings that are:
 - i) on the same allotment; and
 - ii) used for short-term holiday accommodation.

Access All Areas recommended the five-year review consider whether:

1. the bedroom/dwelling threshold is appropriate; and
2. there is any evidence that the requirements in the Premises Standards have influenced:
 - i) the construction of new class 1b buildings; or
 - ii) the conversion of existing buildings to Class 1b.

Class 3 Buildings

In Class 3 buildings, which include hotels, motels and hostels, access is required to at least one of each type of room or space for common use by residents. Class 3 buildings are also required to make a specified number of accommodation rooms (*sole-occupancy units - SOUs*) accessible. The precise number depends on the total number of rooms available in the Class 3 building. For example, a hotel with 100 rooms is required to make 5 accessible rooms available whereas a hotel with 300 rooms is required to have 13 accessible rooms.

Access All Areas acknowledged the concerns raised by representatives of the tourism and accommodation industry that the increased room ratio was not required. However, it did note the lack of evidence provided to support this position and, as a consequence, no recommendation was made in relation to the room ratio¹.

¹ Access All Areas, Report of the Inquiry into Draft Disability (Access to Premises – Buildings) Standards, House of Representatives' Standing Committee on Legal and Constitutional Affairs, 2009, pp. 96-99

Questions – 3.1 Accommodation Buildings

12. Is the bedroom/dwelling threshold for specified Class 1b buildings appropriate?
- Yes. Please explain your answer:
- No. Please explain your answer: There should be no discrepancies in the definition of a building's class regardless of its status as existing or new. If full compliance cannot be met for existing buildings there is a defence existing under unjustifiable hardship.
- Not applicable / No comment
13. Has the bedroom/dwelling threshold had any effect on the construction of new specified Class 1b buildings and/or the conversion of existing buildings to specified Class 1b buildings since May 2011?
- Yes. Please explain your answer:
- No. Please explain your answer: The Premises Standards are having no ill effect on the new construction of some types of Class 1b accommodation, e.g. caravan parks and small scale boarding houses, as these facilities are diminishing in number as part of a broader economic trend. Conversely, farm stays, e.g. cattle stations and the like are increasing in popularity and should be captured by changes to the definition, as most farm stays are existing buildings.
- Not applicable / No comment
14. Is the accessible room ratio for Class 3 buildings (for example, hotels and motels) appropriate?
- Yes. Please explain your answer:
- No. Please explain your answer: The proportion of accessible units should remain the same regardless of the overall number of units. The National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS) will increase the number of people with disability who are enabled to travel in the near future. For example, tourism is anticipated to be a beneficiary of the NDIS which will fund 460,000 people with a disability. The proportion of accessible units should therefore not be less than 7.5%.
- Not applicable / No comment
15. Are there other issues with accommodation buildings you think should be addressed?
- Yes. Please explain your answer: Regulation of residential housing needs to be included in the Premises Standard, given that voluntary targets for livable housing arising from the 2010 Kiribilli Dialogue on Universal Housing Design have failed Australia in a profound manner - particularly against the backdrop of an aging Australia wishing to age in place.
- No. Please explain your answer:

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3.2 Accessible Sanitary Facilities

The Premises Standards state that suitable sanitary facilities for personal hygiene must be provided in a convenient location within, or associated with, a building, to the degree necessary, appropriate to²:

1. the function or use of the building; and
2. the number and gender of the occupants; and
3. the disability or other particular needs of the occupants.

Access All Areas recommended the requirements for sanitary facilities in Class 5, 6, 7, 8 and 9 buildings be reviewed in the five-year review to determine whether issues have arisen with:

1. multiple tenancies on one floor leading to a restriction in access to an accessible sanitary facility to fewer tenants than occupy the floor; or
2. the distance between accessible sanitary facilities.

Currently, accessible unisex toilets are required to contain a closet pan, washbasin, shelf or bench top, and adequate means of disposal of sanitary towels. In addition, the circulation spaces, fixtures and fittings of all accessible sanitary facilities must comply with *AS 1428.1-2009 Design for access and mobility: General requirements for access – New building work*. Neither the Premises Standards nor *AS 1428.1-2009* include a requirement for other accessible features such as a hoist system or adjustable change tables, which may be used by people with complex disabilities.

Whilst the call for additional accessible features in sanitary facilities was noted in *Access All Areas*, it did not become a recommendation of the report.

² *Disability (Access to Premises – Buildings) Standard 2010*, Part F2.1 Sanitary and other facilities, p.48

Questions – 3.2 Accessible Sanitary Facilities

16. Have any issues arisen with multiple tenancies on one floor restricting access to accessible sanitary facilities?

Yes. Please explain your answer: Restaurants and eateries tend to 'manage' sanitary facilities in their vicinity as their customers are often the principal users. Frequently they will lock the accessible unisex sanitary facility. Often there is no sign directing people to request the key from staff. Asset owners claim a range of excuses for why the accessible unisex sanitary facility is locked when standard sanitary facilities are not. Given the range of population clusters of people who require an accessible unisex sanitary facility, the inequity and injustice is a disgrace that shames Australia in terms of its behaviour towards its citizens and overseas visitors.

No. Please explain your answer:

Not applicable / No comment

17. Have any issues arisen with the distance between accessible sanitary facilities?

Yes. Please explain your answer: In larger premises such as major shopping centres the distance between accessible unisex sanitary facilities can be too great. Consideration should be given to stipulation of distances in the Premises Standards.

No. Please explain your answer:

Not applicable / No comment

18. Have there been any issues satisfying the requirements for accessible sanitary facilities?

Yes. Please explain your answer: Problems can occur in refurbishments because they simply don't have the necessary space to accommodate either the footprint or the necessary proportion of accessible toilets.

No. Please explain your answer:

Not applicable / No comment

19. Are there other issues with accessible sanitary facilities you think should be addressed?

Yes. Please explain your answer: a) Outward opening doors can cause hazards for people passing in corridors. They also render non functional outcomes for wheelchair users to independently access the facility because they cannot pull the door closed while pushing one wheel backwards. The result when they try is they pull the door onto their device because they cannot get out of their own way! Real life examples of this 'unthinking' design are evident at certain major sporting stadiums. This is in conflict with the principles of the DDA which requires independent access to goods, services and venues. See attached document titled, 'Why doors should open inward'.

b) The installation of Changing Places change room and toilet facilities should be considered in all high use public premises. The requirements for these would be in addition to the requirement for accessible unisex sanitary facilities.

c) As part of the Access to Premises Review process, it is worth noting that the value of an accessible unisex sanitary facility design, originally the 'PWD' toilet, has now reached exceptional levels of essential service to the community as seen by the demographics of users. This information may assist Local governments and building owners to increase the ratio of these facilities to help bridge the gap in the number of facilities for people who cannot use any other type of sanitary facility, most notably people with a disability, temporary injury, medical condition and the aged.

Demographics:

The following populations require accessible unisex toilets, noting that accessible unisex toilets offer no exclusive use to any cohort:

*People with a disability who use some form of mobility device or have a balance issue.

*People with a medical condition which causes diminished functionality, e.g. wheelchair or scooter for mobility - or arthritis, so may require a grabrail.

*The aged 60+ who use some form of mobility device or have cognitive, balance issues and may require a grabrail.

*People with temporary injury who use some form of mobility device, crutches or have balance issues and may require a grabrail.

*Parents with prams and young children, e.g. a boon to a single parent with children of opposite gender.

*Carers who are supporting a person of opposite gender (and therefore cannot use standard Male/Female toilets).

*People with luggage/parcels. Travellers/visitors with luggage cannot use standard toilets and keep their luggage secure. They, like shoppers with multiple bags/parcels, require an accessible unisex facility to keep their purchases secure whilst using a sanitary facility.

No. Please explain your answer:

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3.3 80th and 90th Percentile Wheelchair Dimensions

The Premises Standards adopt a mix of 80th and 90th percentile wheelchair dimensions for passageways and other building features. The 80th and 90th percentile dimensions refer to the dimensions of building features required to allow the adequate manoeuvring of 80 per cent or 90 per cent of wheelchairs.

90th percentile dimensions are required at turns greater than 60 degrees, accessible sanitary facilities, and at doors and doorway circulation spaces; otherwise 80th percentile dimension apply. The 80th and 90th percentile dimensions are specified in *AS 1428.1-2009*.

Concerns were raised during the *Access All Areas* inquiry on the relevance of the current 80th and 90th percentile dimensions which were based on research undertaken in 1983^{3,4,5}.

Access All Areas recommended that the Australian Government provide funding for new research within 12 months of *Access All Areas* release, to determine the sizes of wheelchairs and the dimensions of building features necessary to accommodate them. In its response to this recommendation, the Australian Government saw merit in such a study but considered that this should be undertaken once the Standards had been operation for two years so that developments to that time could be taken into account⁶.

In keeping with its response, the Australian Government funded research into wheelchair spatial dimensions which was completed in February 2015. The research found that the majority of spatial requirements in the Premises Standards and referenced Australian Standards remain appropriate.

A copy of the research report is available through [ABCB's website](#).

Questions – 3.3 80th and 90th Percentile Wheelchair Dimensions

20. Do you have any comments you would like to make regarding dimensions of building features in the Premises Standards?

Yes. Please explain your answer: Surely Access to Premises legislation should facilitate Australia's capacity to maximise its social and economic performance through all people being able to participate and be a customer across the nation. The mobility needs of all people able to access public places needs to be met. The two planks that underpin current provisions are inappropriate by the very fact that Bail's study is outdated and Caple et al excluded mobility scooters. We cannot lock out Australia's aging population, the primary users of scooters, from participation simply because they cannot access accessible unisex sanitary facilities.

A study is required that reflects the current range of all mobility aids used in public places. The increase in use and availability of motorised wheelchairs and mobility scooters has changed the profile of people who have the capacity to access their community. With the increase in physical size of some of the population plus the bariatric population, there has

³ Bails, J.H. (1983). Project report on the field testing of the Australian standard 1428-1977 part 1—Recommended amendments and index to part 2 detailed reports. Adelaide South Australia, Public Buildings Department.

⁴ Bails, J.H. (1983). Project report on the field testing of the Australian standard 1428-1977 part 2—Details of field testing of AS1428. Adelaide South Australia, Public Buildings Department.

⁵ Access All Areas, Report of the Inquiry into Draft Disability (Access to Premises – Buildings) Standards, House of Representatives' Standing Committee on Legal and Constitutional Affairs, 2009, pp. 80-87

⁶ Government Response to Access All Areas, 2009, p.6

been a comensurate increase in the size of mobility aids which in turn impact on turning circle, landing lengths and access (reach required) to operate controls and pass through doors.

No. Please explain your answer:

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3.4 Passenger Lifts

Some types of passenger lifts, most particularly unenclosed lifts, must be locked off and/or controlled by constant pressure devices⁷. These restrictions mean they cannot be used independently by a person with disability without a key, or in some cases cannot be used by all people with disability given the need to apply constant pressure to the operational controls. For stairway platform lifts, the Premises Standards state that they can only be used in situations in which they are the only practical accessibility option.

Access All Areas recommended that the Australian Government seek technical advice on whether there is an alternative to locking off some types of lifts. This will be examined as part of the review.

Questions – 3.4 Passenger Lifts

21. Have you had issues using lifts which are locked off and/or controlled by a constant pressure device?

Yes. Please explain your answer: A lift, like a door, is simply part of a continuous accessible path of travel. When they are locked they deny the user access to the intended service, which is discrimination in its simplest form.

On the matter of constant pressure controls, it must be acknowledged that many users are excluded from operating the lift due to their physical incapacity to manage constant pressure controls.....at which point, they are discriminated against because they are unable to complete their journey and are consequently denied the opportunity to participate in the community or denied the opportunity to be a customer.

The issues of lifts being locked or required to be operated by constant pressure controls excludes people from life.

No. Please explain your answer:

22. Is there an alternative option to locking off some types of lifts?

Yes. Please explain your answer:

No. Please explain your answer: Independent access is only possible if lifts are not locked.

Not applicable / No comment

23. Have there been any issues satisfying the restriction on the installation of stairway platform lifts?

Yes. Please explain your answer:

No. Please explain your answer: Their inclusion in the Premises Standard is totally inappropriate given they cannot meet the dimensional requirements of even the 80th percentile wheelchair. Their inclusion in the Standard legitimises their use when they cannot meet the objects of the DDA. Moreover, technical solutions now exist for allowing existing stairs to be converted into a platform lift.

⁷ Access All Areas, Report of the Inquiry into Draft Disability (Access to Premises – Buildings) Standards, House of Representatives' Standing Committee on Legal and Constitutional Affairs, 2009, pp. 92-5

Not applicable / No comment

24. Are there other issues with passenger lifts you think should be addressed?

Yes. Please explain your answer: Lifts in outdoor locations lack reliability, primarily due to the lack of being weather sealed. If lifts are to be installed outdoors there needs to be a technical requirement to ensure the long term sustainable use of the lift as part of a continuous accessible path of travel.

90 degree wheelchair turns into and out of platform and other lifts can be compromised by insufficient circulation space around the lift doors. Solution options are to increase minimum platform size or door width. The geometry of a lift platform and door cannot be regarded as any different to the geometry of a corridor and door, as the ability of the user remains constant in both locations.

Internal lift controls should be located on the long walls of a lift and away from 90 degree corners which seated mobility device users cannot reach because their device cannot get close enough or due to lack of arm length or lack of stomach muscles which limit their capacity to bend forward. A best practice universal design outcome is for horizontal controls to be centered on the longest wall(s) above the handrail.

No. Please explain your answer:

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3.5 Swimming Pools

The Premises Standards describe the requirements for accessibility to and from swimming pools. According to the Premises Standards, access to and from swimming pools is required if⁸:

1. the total perimeter of a swimming pool is greater than 40 metres; and
2. the swimming pool is associated with a Class 1b, 2, 3, 5, 6, 7, 8 or 9 building that is required to be accessible; and
3. if the swimming pool is not for the exclusive use of occupants of a Class 1b building or a *sole-occupancy unit (SOU)* in a Class 2 or Class 3 building.

Access All Areas recommended the five-year review consider whether the 40-metre perimeter threshold was exempting too many swimming pools from accessibility requirements⁹.

Questions - 3.5 Swimming Pools

25. Is the 40 metre perimeter threshold appropriate?

Yes. Please explain your answer:

No. Please explain your answer: Given spa baths can be accessed by pool lifts or hoists, public pools and hydrotherapy pools of any size should be accessible.

Not applicable / No comment

26. Have there been any issues satisfying the requirements for swimming pools?

Yes. Please explain your answer:

No. Please explain your answer: Given the range of products available to access pools, there is no excuse for not providing access.

Not applicable / No comment

27. Are there other issues with the swimming pool provisions you think should be addressed?

Yes. Please explain your answer: No deemed-to-satisfy solution for change rooms exists in AS1428.1. This puts certifiers in an intolerable position. Change rooms (Class 10a) are required to be accessible. AS1428.1 should have technical specifications for all components of a change room, i.e. adult change tables, benches, ceiling hoists or other fixtures.

No. Please explain your answer:

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⁸ *Disability (Access to Premises – Buildings) Standard 2010*, Table D3.1, pp. 28-31

⁹ *Access All Areas*, Report of the Inquiry into Draft Disability (Access to Premises – Buildings) Standards, House of Representatives' Standing Committee on Legal and Constitutional Affairs, 2009, pp.99-102

3.6 Accessible Carparking

According to the Premises Standards¹⁰, accessible carparking must be provided in:

1. a Class 7a building (i.e. a carpark) required to be accessible; and
2. a carparking area on the same allotment as a building required to be accessible.

However, they need not be provided in a Class 7a building or a carparking area where a parking service is provided, or if direct access to any carparking space is not available to the public. The number of car parking spaces required depends on the class of building.

The Premises Standards do not apply to on-street parking.

Access All Areas recommended the five-year review consider the adequacy of accessible carparking¹¹.

Questions - 3.6 Accessible Carparking

28. Has the availability of accessible carparking for people with disability changed with the introduction of the Premises Standards in May 2011?
- Yes. Please explain your answer: By and large the Premises Standard has increased the minimum number of accessible parking bays required per car park.
- No. Please explain your answer:
- Not applicable / No comment
29. Have there been any issues satisfying the requirements for accessible carparking?
- Yes. Please explain your answer: The incidence of car parking spaces not meeting AS2890.6-2009 points to a failure in design and certification. The car park is fundamental to the opportunity of people to participate in the community. Inappropriate slopes and crossfalls create non functional parking bays and introduce unnecessary hazards for people transferring to and from wheelchairs - and for ambulantary people with poor balance. (This is true also for the shared space adjacent to the bay, which is often too short or too long.) Even on hills, disability parking bays can invariably be levelled out. To achieve more uniform outcomes across Australia's car parks, greater attention in following the elements of AS2890.6 needs to be applied by designers and certifiers.
- No. Please explain your answer:
- Not applicable / No comment
30. Are there other issues with accessible carparking provisions you think should be addressed?
- Yes. Please explain your answer: Disability parking spaces should be located as conveniently close to the entrance that they serve as possible. A provision to this effect is required in the Premises Standard. Note: the current National Disability Parking Scheme incorporates people (other than wheelchair users) who experience fatigue if obliged to travel other than short distances.

¹⁰ *Disability (Access to Premises – Buildings) Standard 2010*, Section D3.5 Accessible carparking, pp.34-35

¹¹ *Disability (Access to Premises – Buildings) Standards 2010*, Part 6 Review, pp. 112-116

No. Please explain your answer:

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3.7 Public Transport Buildings

The *Disability Standards for Accessible Public Transport 2002* (Transport Standards) placed accessibility requirements on public transport buildings. To preserve this, aspects of the Transport Standard, within scope of the NCC, were transferred to Part H2 of the Premises Standards¹². These *deemed-to-satisfy provisions* are additional to, and take precedence over, those required for Class 9b and Class 10 public transport buildings outlined elsewhere in the Premises Standards.

At present, the Transport Standards and the Premises Standards are not identical in their requirements mainly because the Transport Standards reference older Australian Standards, for example, *AS 1428.1-2001* rather than *AS 1428.1-2009*. These inconsistencies were not deliberate, but were the result of the timing of the two Standards. The Transport Standards were enacted in 2002 with the first review commencing in 2007 prior to the release of *AS 1428.1-2009*. The [second review](#) is currently underway.

In contrast, the Premises Standards passed into law in 2010. Another example of inconsistency is the minimum size of a unisex accessible toilet. In *AS 1428.1-2001*, the accessible toilet is required to measure at least 2.0m x 1.6m whereas the minimum measurements required by *AS 1428.1 2009* are 2.3m x 1.9m.

Access All Areas recommended that the five-year review consider the impact of the Premises Standards on public transport buildings to ensure that inconsistencies have not occurred through the application of both the Premises Standards and the Transport Standards to such buildings.

Questions – 3.7 Public Transport Buildings

31. Have there been any unintended consequences or inconsistencies in applying both the Premises Standards and the Transport Standards to public transport buildings?
- Yes. Please explain your answer: The Australian public suffers as a result of the two Standards using different technical references. This can only be reversed when the technical references are aligned each with the other. When that occurs the Australian public will have predictable, reliable access to professional, uniform outcomes in its buildings and infrastructure. Why should an airport toilet or any other door differ from a shopping centre door in dimensions or required circulation space? Premises, whether for public transport or other use, need to deliver predictable, reliable outcomes.
 - No. Please explain your answer:
 - Not applicable / No comment
32. Are there other issues with public transport buildings you think should be addressed?
- Yes. Please explain your answer: The Premiss Standards and the Transport Standards should read identically wherever they share functions and facilities.
 - No. Please explain your answer:

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¹² *Disability (Access to Premises – Buildings) Standard 2010*, Part H2 Public transport buildings, p. 51

3.8 Wayfinding

Wayfinding refers to building features which allow people, including people with disability, to locate where they are within the environment, and independently negotiate around that environment.

The Premises Standards include some wayfinding requirements such as:

- signage to accessible toilets and accessible entrances;
- signage of spaces with hearing augmentation; and
- tactile ground surface indicators to warn of hazards.

Access All Areas recommended the five-year review consider whether any other *deemed-to-satisfy provisions* for wayfinding could be incorporated in the Premises Standards.

Questions – 3.8 Wayfinding

33. Do the wayfinding provisions in the Premises Standards provide adequate accessibility to buildings and building services for people with disability?

Yes. Please explain your answer:

No. Please explain your answer: There are no wayfinding provisions for people who have vision impairments in the Premises Standard. Nor are there any for people who have intellectual or cognitive disabilities. The blatant misuse of Tactile Ground Surface Indicators (TGSIs) around hazards is in constant evidence across the built environment. TGSIs are not wayfinding aids. Stakeholder consultation is required to develop an amendment that provides appropriate wayfinding provisions for people with vision impairments, intellectual and cognitive disability.

Not applicable / No comment

34. Have there been any issues satisfying the wayfinding requirements in the Premises Standards?

Yes. Please explain your answer: Due to wayfinding provisions being misapplied, the Premises Standards may need to consider industry education.

No. Please explain your answer:

Not applicable / No comment

35. Are there other issues with wayfinding you think should be addressed?

Yes. Please explain your answer: Amendments to the Premises Standard must be approved by Parliament. By contrast an Australian Standard is reviewed quarterly. Because wayfinding technology is evolving and improving it seems sensible to allow changes to enhanced wayfinding to become available through an Australian Standard on wayfinding, thereby permitting designers and certifiers a sound, contemporary technical reference.

No. Please explain your answer:

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3.9 Emergency Egress

Emergency egress refers to the way a person can exit a building during an emergency. Emergency egress is not specifically dealt with in the Premises Standards. The Premises Standards (Section A2.4) reference the fire safety provisions in the NCC¹³.

Access All Areas recommended the ABCB undertake further research to identify *deemed-to-satisfy provisions* for emergency egress as there were concerns that the current provisions did not appropriately address the needs of people with disability.

Some changes were made to the NCC in 2013 to improve the accessibility of thresholds, handrails, door hardware and Braille and tactile signage for fire-isolated exits. In addition, a non-mandatory Handbook, '[Lifts Used in Evacuation](#)', and associated new Performance Requirement in the NCC, were introduced.

In 2014, a Consultation Regulatory Impact Statement (RIS) was prepared to evaluate further accessibility measures. Two options were proposed:

- Option 1: Inclusion of five *deemed-to-satisfy* proposals in the NCC.
 - Proposal 1 – visual alarms
 - Proposal 2 – visual and tactile alarms in SOUs
 - Proposal 3 – co-location of fire-isolated exits with lifts
 - Proposal 4 – accessible paths of travel to an exits
 - Proposal 5 – accessibility of fire-isolated exits
- Option 2 – a non-mandatory handbook.

As a consequence of available evidence at the current time, the final RIS released this year supported the development of a non-regulatory handbook where the proposals outlined in Option 1 will be documented for reference and available for use on a case-by-case basis by governments and the building industry. Further information on emergency egress is available on the [ABCB's website](#).

Questions – 3.9 Emergency Egress

36. Do you have any comments to make regarding emergency egress?

Yes. Please explain your answer: Despite the plethora of available emergency egress advice on technical outcomes being available, the Premises Standards offer no deemed-to-satisfy benchmarks for people with disabilities. This is illogical. The Premises Standard should move to a position of providing deemed-to-satisfy benchmarks for the safety of the Australian public. If this does not occur, we cannot anticipate safety in public buildings simply due to a lack of guidance to designers and certifiers.

No. Please explain your answer:

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¹³ Disability (Access to Premises – Buildings) Standard 2010, Part A2.4 Fire safety, p. 21

3.10 Small Building Exemption

The small building exemption refers to the exemption of Class 5, 6, 7b or 8 buildings with no more than three storeys and each floor (except the entrance floor) no more than 200 m², from requirements for a lift or ramp. As a consequence, the upper floors do not need to provide wheelchair accessible sanitary facilities; however, all other accessibility requirements apply.

The inclusion of a small building exemption in the Premises Standards was justified on the basis of cost. It was considered the cost of providing access to upper floors of small buildings would trigger the unjustifiable hardship provision of the Premises Standards¹⁴.

Access All Areas recommended the exemption be reconsidered during the five-year review to determine if an exemption based on cost was still appropriate¹⁵.

Questions – 3.10 Small Building Exemption

37. Is the small building exemption still appropriate?

Yes. Please explain your answer:

No. Please explain your answer: The Premises Standard Regulatory Impact Statement (RIS) of 2004 is now clearly out of date. Nowhere is this more evidenced than in the area of lifts, where competition has significantly reduced cost. Unless an unjustifiable hardship can be demonstrated, all multi-level buildings should have lifts or another access solution. In total, buildings of three or less stories make up the bulk of our commercial and business premises in regional and suburban Australia. These premises are pivotal to service delivery and employment opportunities for Australians. Particularly with the advent of the NDIS, access to these premises will become crucial in the future, even more so than at present.

Not applicable / No comment

38. Are there other issues with the small building exemption you think should be addressed?

Yes. Please explain your answer: As per response to Q 37. The Premises Standard RIS of 2004 is now clearly out of date. Nowhere is this more evidenced than in the area of lifts, where competition has significantly reduced cost. Unless an unjustifiable hardship can be demonstrated, all multi-level buildings should have lifts or another access solution. In total, buildings of three or less stories make up the bulk of our commercial and business premises in regional and suburban Australia. These premises are pivotal to service delivery and employment opportunities for Australians. Particularly with the advent of the NDIS, access to these premises will become crucial in the future, even more so than at present.

No. Please explain your answer:

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¹⁴ *Disability (Access to Premises – Buildings) Standards 2010*, Part 4, Section 4.1 Unjustifiable hardship, pp. 11-12

¹⁵ Access All Areas, Report of the Inquiry into Draft Disability (Access to Premises – Buildings) Standards, House of Representatives' Standing Committee on Legal and Constitutional Affairs, 2009, p. 57

3.11 Lessee Concession

The lessee concession exempts lessees from the requirement to upgrade the path of travel from the entrance of a building to the areas of new work where they are the lessee of only a part of a building.

Access All Areas recommended the five-year review consider whether the lessee concession was being used by building owners to avoid compliance with the Premises Standards¹⁶.

Questions – 3.11 Lessee Concession

39. Is the lessee concession being used appropriately?

Yes. Please explain your answer:

No. Please explain your answer: It is unreasonable to exempt lessees from the Premises Standards unless unjustifiable hardship prevails.

Not applicable / No comment

40. Are there other issues with the lessee concession you think should be addressed?

Yes. Please explain your answer:

No. Please explain your answer:

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¹⁶ *Disability (Access to Premises – Buildings) Standards 2010, Part 6 Review, pp.69-71*

3.12 Unjustifiable Hardship

It is not unlawful to fail to comply with the Premises Standards if, and to the extent that, compliance would impose unjustifiable hardship on a person or organisation. However, compliance is required to the maximum extent possible not involving unjustifiable hardship¹⁷.

Only a court can conclusively determine whether or not a defence of unjustifiable hardship is available. But the Premises Standards state that any decision of a state or territory body, such as an Access Panel, established to make recommendations to building approval authorities about building access matters, is a relevant consideration in assessing a claim of unjustifiable hardship¹⁸. Access Panels advise, or make recommendations on, whether to accept claims from *building developers* that the full application of the Premises Standards would be too onerous and likely result in unjustifiable hardship. The Premises Standards in Part 4.1 outline the unjustifiable hardship exception including the circumstances that should be taken into account when Access Panels consider whether a case of unjustifiable hardship exists¹⁹.

¹⁷ *Disability (Access to Premises – Buildings) Standard 2010*, Part 4.1 Unjustifiable hardship, p.11

¹⁸ *Disability (Access to Premises – Buildings) Standards 2010*, Section 4.1 (3)(p) Unjustifiable hardship, p. 12

¹⁹ *Disability (Access to Premises – Buildings) Standards 2010*, Part 4, Section 4.1 Unjustifiable hardship, pp. 11-12

Questions – 3.12 Unjustifiable Hardship

41. Is the unjustifiable hardship exception operating appropriately?

Yes. Please explain your answer:

No. Please explain your answer: There is currently no way during the design and construction phase to determine if an unjustifiable hardship exists or not. The Australian Human Rights Commission has always stated that it does not have the resources to determine an opinion on individual cases of unjustifiable hardship. However, if the Commission or their agents were equipped and funded to do so, they could, and are the most appropriate body for this task.

Not applicable / No comment

42. Are the arrangements for identifying and responding to questions of unjustifiable hardship adequate?

Yes. Please explain your answer:

No. Please explain your answer: See response for Q 41. There is currently no way during the design and construction phase to determine if an unjustifiable hardship exists or not. The Australian Human Rights Commission has always stated that it does not have the resources to determine an opinion on individual cases of unjustifiable hardship. However, if the Commission or their agents were equipped and funded to do so, they could, and are the most appropriate body for this task.

Not applicable / No comment

43. Is the guidance available for people considering cases of unjustifiable hardship consistent and transparent?

Yes. Please explain your answer:

No. Please explain your answer: There is a distinct lack of education and guidance material published in Industry journals for architects, engineers, surveyors, certifiers and the like, to keep them informed and updated on the topic of unjustifiable hardship. And, how many of these professionals have a copy of the Human Rights Commission's Guidelines on the Access to Premises Standards in their top drawer?

Not applicable / No comment

44. Do you have other comments you would like to make on unjustifiable hardship?

Yes. Please explain your answer: There is concern that unjustifiable hardship is reached for too easily, too often, given the range of design and technical solutions available. Increasingly, the community will look at unjustifiable hardship claims and respond sceptically by noting 'we went to the moon in 1969'. Alternative solutions, under the 'deemed-to-satisfy' provisions, need to be encouraged.

No. Please explain your answer:

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Section 4: Interaction of the Premises Standards with State and Territory Regulations

The Premises Standards are designed to:

- clarify the accessibility requirements under the DDA; and
- harmonise the requirements of the NCC and the DDA in relation to access to buildings through incorporation of the *Access Code* in the NCC²⁰.

In doing so, the *Access Code* sets out the Performance Requirements that a *building certifier/manager/developer* must comply with to satisfy the requirements of the DDA as it relates to buildings.

The incorporation of the *Access Code* in the NCC, formerly referred to as the *Building Code of Australia* (BCA), means compliance with the Premises Standards is achieved principally through the normal building certification process.

The NCC is implemented through the state and territory building laws and regulations. But, as outlined in Section 6 of this paper, there are provisions in Parts 1 to 4 of the Premises Standards that are not in the NCC.

These provisions are administrative matters that are outside the scope of the NCC. Instead, they are handled by the states and territories which have taken different approaches, where necessary, to incorporating them into their building laws and regulations. This provides *building certifiers* with the authority to apply these building access provisions through their local building or construction approval processes.

The review will seek to identify the impact of any inconsistencies between the Parts 1 to 4 of the Premises Standards and the existing state and territory building laws and regulations.

²⁰ In 2014, the BCA was incorporated into the *National Construction Code* (NCC). The BCA comprises Volumes 1 and 2 of the NCC. The *Plumbing Code of Australia* (PCA) comprises Volume 3.

Questions – 4 Interaction of the Premises Standards with State and Territory Regulations

45. Has aligning the provisions in Parts 1 to 4 of the Premises Standards with state and territory building regulations led to any inconsistencies?

Yes. Please explain your answer: The various States define 'major refurbishment' differently. For existing buildings, this means that the Premises Standards are triggered under different circumstances.

No. Please explain your answer:

Not applicable / No comment

46. Are there any outstanding matters you think need to be addressed?

Yes. Please explain your answer: The fact that DDA is applicable to all buildings at any time should be clarified in the Premises Standards. This would remove the misconception that only certifiable work is subject to the DDA.

No. Please explain your answer:

Not applicable / No comment

47. Do you have other comments you would like to make regarding the interaction of the Premises Standards with state and territory regulations?

Yes. Please explain your answer: It needs to be clearly stated that the various States' National Construction Code Appendices do not have the authority to overrule the Premises Standards.

No. Please explain your answer:

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Section 5: Inconsistencies in the Interpretation and Application of the Premises Standards

A key factor in the successful implementation of the Premises Standards is in interpreting and applying the standards as was intended. However, this relies on the ability of *building certifiers, managers and developers* to exercise their professional judgement when making decisions on the application of the *deemed-to-satisfy provisions* or whether *alternative solutions* meet the Performance Requirements of the NCC and the Premises Standards.

Decisions made by building professionals in their interpretation and application of the Standards can lead to varying outcomes, both within and across the jurisdictions. There are concerns that some professionals are disinclined to accept *alternative solutions* because of their limited understanding of disability access issues, or a perception that not following the *deemed-to-satisfy provisions* results in increased liability. This reluctance to consider *alternative solutions* has the potential of eliminating the intended flexibility provided by the performance-based nature of the Premises Standards.

As described in Section 7.1.2, if complying with a requirement of the Premises Standards would impose an unreasonable burden then a person may make a claim of unjustifiable hardship. Unjustifiable hardship should only be used where the *deemed-to-satisfy provisions* are considered too difficult and no *alternative solution* is available. It was intended that cases of unjustifiable hardship would be referred to state or territory Access Panels, or similar, for a recommendation or decision.

The review seeks to identify situations where inadequate and/or inconsistent interpretation and application of the Standards may be causing difficulty or concerns within the building industry.

Questions – 5 Inconsistencies in the Interpretation and Application of the Standards

48. Are the Premises Standards easy to understand and use?
- Yes. Please explain your answer: The Premises Standards appear to be easy to understand and use by any reader informed by Australian Human Rights Commission (AHRC) Guidelines to the Premises Standards.
- No. Please explain your answer:
- Not applicable / No comment
49. Is there sufficient training and professional guidance on the application of the Premises Standards for the building industry?
- Yes. Please explain your answer:
- No. Please explain your answer: The lack of training and professional guidance for the various practitioners accessing the Standards reveals itself in the number of poor access outcomes and complaints across the entire range of premises.
- Not applicable / No comment
50. Do you use training and guidance material?
- Yes. Please describe the material you use: Amongst other material are publications by the AHRC, Standards Australia and the Australian Building Codes Board (ABCB).
- No. Please explain your answer:
51. Is there evidence of any inconsistent and incorrect application of the deemed-to-satisfy provisions in the Premises Standards?
- Yes. Please explain your answer: Disability car parking spaces very commonly exceed the gradient and crossfall maxima of AS2890.6-2009 due to failure to address topographic constraints.
- No. Please explain your answer:
- Not applicable / No comment
52. Are the deemed-to-satisfy provisions sufficiently clear for practical application by the building industry?
- Yes. Please explain your answer: The deemed-to-satisfy requirements are clear enough, however the nonalignment of the Transport Standards and Premises Standards creates poor outcomes.
- No. Please explain your answer:
- Not applicable / No comment
53. Are there any impediments to using Alternative Solutions?
- Yes. Please explain your answer:

Many people within the building industry do not understand the alternative solutions proposed and therefore only feel comfortable using the deemed-to-satisfy provisions.

All too frequently, industry professionals take the minimum requirement of the deemed-to-satisfy provision and make it the 'Standard'. The classic example is the (steepest) gradient of 1:14 continually applied to ramps, whereas gentler gradients would enhance customer traffic and frequency of visits.

No. Please explain your answer:

Not applicable / No comment

54. Do the unjustifiable hardship provisions have an impact on building work?
- Yes. Please explain your answer: When poorly applied, unjustifiable hardship provisions unnecessarily prevent access to premises, and the employment and service opportunities in them.
- No. Please explain your answer:
- Not applicable / No comment
55. Does the building industry make adequate use of independent expertise to assist in assessing compliance with the Premises Standards?
- Yes. Please explain your answer:
- No. Please explain your answer: On the evidence, too many buildings offer unnecessarily poor outcomes to the Australian public.
- Not applicable / No comment
56. Do you have other comments on inconsistencies in the interpretation and application of the Premises Standards you would like to make?
- Yes. Please explain your answer:
- No. Please explain your answer:

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Section 6: Other Issues

57. Is there anything else you would like to tell us about the Premises Standards?

Yes. Please explain your answer: a) Administratively it is possible to expand the scope of the Premises Standard beyond the National Construction Code. For example, beach access, playgrounds, picnic facilities, park furniture, street furniture, pedestrian crossings etc are all covered by DDA but are outside the scope of the Premises Standard unless associated with public transport. All these fall under the scope of regulatory authorities.

b) Frequently, good buildings are adversely impacted by poor fitout. Fitout should be included in the Premises Standards to ensure safe and reliable outcomes for the Australian public.

c) In regard to Class 9b assembly buildings, it seems timely to review the ratio of seating and spaces for people with a disability and those who accompany them, especially against a backdrop of:

* An aging population, which in turn produces an increase in the statistic of people with a medical condition or disability

* Greater availability of aids and assistive technology enabling people to access venues and events

* The advent of the NDIS.

d) The Access to Premises Standard needs to anticipate the progressively increasing statistic of populations with diminished functionality. The primary groups being:

* People with a medical condition e.g. arthritis: females 19.9% males 17.1%

* People over 60

* People with a disability

* People with temporary injury

At 2014, Australia began experiencing its highest number of people aged between 71-80.

Source: Bernard Salt, Ernst & Young

By 2031, the over 60s are forecast to become 26% of the population.

Source: South East Queensland Region of Councils (SEQROC)

In 2016, the National Disability Insurance Scheme will commence across Australia. By 2019, the scheme is intended to fund over 460,000 Australians with a disability. As a result, they will be participating as never before in their communities and as customers of goods and services.

The Premises Standards will need to accommodate the above cohorts in its provisions.

This is well beyond the scope of its original Regulatory Impact Statement.

No. Please explain your answer:

Thank you for completing this submission form.

Should you wish to provide attachments to your response, please include with your completed submission form. To assist us, we would appreciate you identifying attachments by the section number and question number used in this form. We can accept attachments as Microsoft Office files, PDF files and MP3 files.

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Sectoral Growth Policy Division
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