

Premises Review Team  
Sectoral Growth Policy Division  
Department of Industry and Science  
GPO Box 9839  
CANBERRA ACT 2601  
Email: [PremisesStandardsReview@industry.gov.au](mailto:PremisesStandardsReview@industry.gov.au)  
Attention: Gary Davis

Dear Mr Davis

Thank you for the opportunity to comment on the Review of the Disability (Access to Premises – Buildings) Standards 2010.

This review is important to ensure there are standards under the Disability Discrimination Act 1992 as well as certainty for the building industry. These standards need to ensure that services and access to buildings and facilities be dignified, equitable, cost-effective and reasonably achievable for people with a disability and the building industry.

The Property Council of Australia **supports maintaining the status quo**. The Disability (Access to Premises – Buildings) Standards 2010 is effective in achieving its objectives under the Disability Discrimination Act 1992.

Any amendments to the Act should be considered on tangible evidence, detailing that there is a problem and how that problem would be fixed, weighted against prospective costs and benefits.

In relation to the review's terms of reference, the Property Council of Australia makes the following comments for the review to consider:

**Consider the effectiveness of the Premises Standards in achieving their objectives**

- The Property Council of Australia believe the Premises Standards has been effective in achieving its objectives;
- In relation to accommodation buildings, according to the PricewaterhouseCoopers Australia report of September 2013, the ratio of disabled access rooms in Class 3 accommodation far exceeds the room stock needs of disabled visitors. The report shows that in 2012 there was a 1.2 per cent oversupply of accessible rooms (costing accommodation providers \$531.2 million) that will increase to 4 per cent by 2022 (costing accommodation providers \$1.36 billion);
- In relation to 80<sup>th</sup> and 90<sup>th</sup> Wheelchair dimensions, we agree that current arrangements are appropriate and no increase in dimensions is needed, unless empirical evidence is available to the contrary;

- Current Small Building Exemption is appropriate and needed to prevent Unjustifiable Hardship where applicable; and
- Current Lessee Concession is appropriate.

**Identify any necessary amendments to the Standards**

The Property Council of Australia accepts the current Premises Standards.

**Consider the interaction between the Premises Standards and existing state and territory regulatory schemes for building control**

The industry has found NSW has the added layer of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. This is an additional layer of regulation for the building industry in NSW. Feedback is that this additional layer in NSW has increased confusion and complication.

**Consider inconsistencies in the interpretation and application of the Standards**

Industry has raised concerns regarding the interpretation and understanding of Premises Standards. This includes Unjustifiable Hardship and Alternative Standards. For example, feedback from South Australia and Tasmania is that their panel/tribunal is reluctant to consider Unjustifiable Hardship compared to NSW that has had cases upheld. A national database for cases and precedents should be considered to assist the States.

Please find attached further information in relation to the submission form.

The Property Council of Australia would be interested to be involved in this review post the submission process, including an opportunity to be represented on the working committee.

Please contact Matthew Cross, National Policy Manager on 02 9033 1956 or [mcross@propertycouncil.com.au](mailto:mcross@propertycouncil.com.au) if you require any further information.

Thank you again for the opportunity to comment on this review.

Yours sincerely

Ken Morrison  
**Chief Executive**

Question	Response
<b>General View of the Premises Standards</b>	
10. How effective have the Premises Standards been in ensuring dignified and reasonable access to buildings is provided for people with disability?	Since the Premises Standards came into force on 1 May 2011, we believe the Premises Standards has been effective in achieving its objectives.
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?	The Premises Standards are appropriate. However its interpretation has led to inconsistencies in the building industry around Unjustifiable Hardship and Alternative Standards – see point 41.
<b>Accommodation Buildings</b>	
12. Is the bedroom/dwelling threshold for specified Class 1b buildings appropriate?	We agree that current arrangements are appropriate.
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?	No Comment.
14. Is the accessible room ratio for Class 3 buildings (for example, hotels and motels) appropriate?	The ratio of disabled access rooms in Class 3 accommodation far exceeds the room stock needs of disabled visitors which gives rise to unnecessary costs. According to the PricewaterhouseCoopers Australia report of September 2013, the ratio of disabled access rooms in Class 3 accommodation far exceeds the room stock needs of disabled visitors. The report shows that in 2012 there was a 1.2 per cent oversupply of accessible rooms (costing accommodation providers \$531.2 million) that will increase to 4 per cent by 2022 (costing accommodation providers \$1.36 billion).
15. Are there other issues with accommodation buildings you think should be addressed?	No Comment.
<b>Accessible Sanitary Facilities</b>	
16. Have any issues arisen with multiple tenancies on one floor restricting access to accessible sanitary facilities?	Issues surrounding multiple tenancies are being managed by owners, managers and tenants to ensure access to sanitary facilities.
17. Have any issues arisen with the distance between accessible sanitary facilities?	No Comment.
18. Have there been any issues satisfying the requirements for accessible sanitary facilities?	Yes. It has resulted in a loss in Net Lettable Area (NLA) and impact leasing deals. Feedback has included that due to a NLA, there is the potential to not split the floor, resulting in owners losing a potential tenant or asset value.

19. Are there other issues with accessible sanitary facilities you think should be addressed?	Due to concerns raised from potential NLA, more guidance is required on the use of Alternative Solutions for accessible sanitary facilities.
<b>80th and 90th Percentile Wheelchair Dimensions</b>	
20. Do you have any comments you would like to make regarding dimensions of building features in the Premises Standards?	We agree that current arrangements are appropriate. There is no need to increase dimensions.
<b>Passenger Lifts</b>	
21. Have you had issues using lifts which are locked off and/or controlled by a constant pressure device?	No Comment. But important to note that locked off and/or controlled by a constant pressure device is for the safety of disabled and non-disabled people.
22. Is there an alternative option to locking off some types of lifts?	No Comment.
23. Have there been any issues satisfying the restriction on the installation of stairway platform lifts?	No Comment.
24. Are there other issues with passenger lifts you think should be addressed?	We agree that current arrangements are appropriate and no change is needed.
<b>Swimming Pools</b>	
25. Is the 40 metre perimeter threshold appropriate?	No Comment.
26. Have there been any issues satisfying the requirements for swimming pools?	No Comment.
27. Are there other issues with the swimming pool provisions you think should be addressed?	No Comment.
<b>Accessible Carparking</b>	
28. Has the availability of accessible carparking for people with disability changed with the introduction of the Premises Standards in May 2011?	No Comment.
29. Have there been any issues satisfying the requirements for accessible carparking?	We believe that the current provision for accessible parking spaces is acceptable. No changes are needed.
30. Are there other issues with accessible carparking provisions you think should be addressed?	No Comment.
<b>Public Transport Buildings</b>	
31. Have there been any unintended consequences or inconsistencies in applying both the Premises Standards and the Transport Standards to public transport buildings?	No Comment.
32. Are there other issues with public transport buildings you think should be addressed?	No Comment.
<b>Wayfinding</b>	
33. Do the wayfinding provisions in the Premises Standards provide adequate accessibility to buildings & building services for people with disability?	We agree that current arrangements are appropriate and no change is needed.

34. Have there been any issues satisfying the wayfinding requirements in the Premises Standards?	No Comment.
35. Are there other issues with wayfinding you think should be addressed?	No Comment.
<b>Emergency Egress</b>	
36. Do you have any comments to make regarding emergency egress?	There still appears to be significant disagreement about what Emergency Egress should be in place. We support the introduction of a non-mandatory handbook.
<b>Small Building Exemption</b>	
37. Is the small building exemption still appropriate?	Current Small Building Exemption is appropriate and needed to prevent Unjustifiable Hardship.
38. Are there other issues with the small building exemption you think should be addressed?	No Comment.
<b>Lessee Concession</b>	
39. Is the lessee concession being used appropriately?	Yes. Without this concession tenants undertaking works within their premises could trigger major landlord upgrades.
40. Are there other issues with the lessee concession you think should be addressed?	No Comment.
<b>Unjustifiable Hardship</b>	
41. Is the unjustifiable hardship exception operating appropriately?	<p>Feedback is that the Unjustifiable Hardship is difficult to apply and there is a lack of understanding the guidelines.</p> <p>It has been suggested that for a party to claim Unjustifiable Hardship is a lengthy and costly process. For example, it is more expensive to claim Unjustifiable Hardship (and lose) then comply; or to undertake a renovation.</p> <p>Specific feedback from South Australia and Tasmania is that the panel/tribunal is reluctant to consider Unjustifiable Hardship. NSW has considered cases that were upheld.</p> <p>Smaller businesses need to be taken into account.</p>
42. Are the arrangements for identifying and responding to questions of unjustifiable hardship adequate?	No. More guidance is required.
43. Is the guidance available for people considering cases of unjustifiable hardship consistent and transparent?	No. This is because there are different views and experiences of panel/tribunal members.
44. Do you have other comments you would like to make on unjustifiable hardship?	A national database of cases and precedents should be established, organised by Australian Building Codes Board.

<b>Interaction of the Premises Standards with State and Territory Regulations</b>	
45. Has aligning the provisions in Parts 1 to 4 of the Premises Standards with state and territory building regulations led to any inconsistencies?	The industry has found NSW has the added layer of State Environmental Planning Policies (SEPP). These additional layers have increased confusion and complication.
46. Are there any outstanding matters you think need to be addressed?	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?	No Comment.
<b>Inconsistencies in the Interpretation and Application of the Standards</b>	
48. Are the Premises Standards easy to understand and use?	Additional guidance is required to support the interpretation of Premises Standards.
49. Is there sufficient training and professional guidance on the application of the Premises Standards for the building industry?	Most members are not aware that there training or professional guidance. More promotion is required.
50. Do you use training and guidance material?	No Comment.
51. Is there evidence of any inconsistent and incorrect application of the deemed-to-satisfy provisions in the Premises Standards?	<p>Yes. We are advised that access consultants and private certifier interprets the code requirements differently.</p> <p>This creates uncertainty with a project's scope for planning of timeframes and capital expenditure. It also impacts future projects if a tenant's certifier does not agree with the access consultants' recommendation.</p>
52. Are the deemed-to-satisfy provisions sufficiently clear for practical application by the building industry?	Yes.
53. Are there any impediments to using Alternative Solutions?	Panels and access consultants actively discourage the use of Alternative Standards. It is difficult to get anything but deemed-to-satisfy provisions approved. This leads to increased costs and reduced accessibility due to a lack of flexibility.
54. Do the unjustifiable hardship provisions have an impact on building work?	Yes. See comments in 41.
55. Does the building industry make adequate use of independent expertise to assist in assessing compliance with the Premises Standards?	Yes. Access Consultants are regularly called upon by building owners to assess their properties.
56. Do you have other comments on inconsistencies in the interpretation and application of the Premises Standards you would like to make?	No Comment.