National Building Regulatory Reform Review

A Submission to the Productivity Commission

by the Disability Council of NSW

The first requirement of disabled people in participating as equal citizens within the community is a home which is suited to them….

(Swain et al. 1993:5).

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Executive Summary

The Disability Council of NSW is the official advisory body to the NSW Government on disability issues and policy, and functions in NSW as the State's Disability Advisory Body to the Commonwealth Government commenting on Commonwealth issues that affect people with disabilities and their families in NSW.

Council has restricted its input to the review commenting on specific terms of Reference, namely 1(b), 1(e), 2(a, b and c).

Council notes that while the Commonwealth Disability Strategy implies a commitment to equal access to buildings for people with disabilities the implementation of this 'in principle' commitment is confined in practice to access to public buildings and commitment to ensure accessible private housing is not evidenced by review of either current or proposed building regulation.

This 'equity' shortfall can be addressed, in part, by the implementation of AS 4299 (as a requirement under the BCA) and such a solution is necessary to meet Objective 2 of the IGA on Building Regulation Reform.

Council considers that regulating for adaptable housing design at a Commonwealth level would meet the objectives of the IGA by:

- providing consistency between States and Territories;
- being cost effective
- addressing the regulatory objectives of safety health and amenity.

The ABCB has demonstrated an ongoing commitment to improving access to the public environment yet this commitment is not matched by a theoretical understanding of the 'equity/ disability discrimination issue. This is demonstrated by a review of its recent inquiry on Disability Standards for Access to Premises.

A statistical basis for future planning initiatives and a clear grasp of the equity issue affecting people with disabilities are both imperative but as yet missing from the building reform agenda.

Specific issues raised in the Commission' *Issues Paper* have been discussed when raising concerns.

Recommendations

Recommendation 1
The objectives of the IGA are amended to include a commitment to ensuring that people with disabilities are addressed as a group, its base building requirements addressing regulatory objectives of safety, health and amenity taking their needs into consideration.

Recommendation 2
The ABCB adopt adaptable housing design as a minimum building requirement due to its long term cost benefits and its positive impact on health safety and amenity of all citizens.

Recommendation 3
The Commonwealth Government develops and maintains statistics on the accommodation and employment options of people with disabilities to better inform the planning of the built environment.

Recommendation 4
Government mandate building code requirements for both commercial and residential premises to meet the objectives of its Disability Strategic Plan.

Introduction

About the Disability Council of NSW

The Disability Council of NSW is the official advisory body to the NSW Government on disability issues and policy. The Council, appointed by the Governor and reporting to the Minister for Disability Services, operates under the Community Welfare Act 1987 and is made up of a majority of members who have disabilities. In addition, there are members who have experience in the provision of services for people with disabilities, their families and carers.

The role of the Disability Council is to

- research, evaluate and implement all government policies relating to disability issues and assess their impact on people with disabilities;
- advise government on priorities relating to services provided for people with disabilities;
- promote the integration of people with disabilities into the community through community awareness and education;
- encourage diversity, flexibility and innovation in services through constant consultation with people with disabilities, their families and carers, and
- function in NSW as the State's Disability Advisory Body to the Commonwealth Government, commenting on Commonwealth issues that affect people with disabilities and their families in NSW.

Members of the Disability Council are selected on the basis of their experience of disability and their understanding of issues, knowledge of service delivery and government policy.

The structure of the submission

For the sake clarity the Disability Council of NSW has been referred to as Council, the Productivity Commission as the Commission, the Inter Government Agreement on Building Regulation Reform as the IGA, the Building Code of Australia as the BCA, the Disability Discrimination Act (1992) as the DDA, the Draft Access Code for Buildings as the draft code, the Draft Regulatory Impact Statement on Disability Standards for Access to Premises as the RIS, and the Australian Building Codes Board as the ABCB.

Council's proposed input to the Inquiry

In this submission Council has limited its comment to specific Terms of Reference, these being:

- 1(b) whether the IGA is …maximising net benefits for the Australian economy;
- 1(e) the effectiveness of the Australian Government's current role in Building Regulatory Reform;
- 2(a) the Australian Government's role in future building regulatory reform;
- 2(b) whether the objectives of the IGA adequately address the needs for future reform;
- 2(c) whether the ABCB or alternative models would be more efficient and effective in delivering reforms.

Council's recent Submission to the ABCB on the development of a Disability Standard for Access to Premises is appended for your information.

Policy and practice affecting people with disabilities

Existing and recommended Commonwealth policy

According to its introductory remarks the Commonwealth Disability Strategy is:

> *…about enabling full participation of people with disabilities…(and)…(t)his means ensuring that people with disabilities have the same access to buildings, services, information, employment, education, sport and recreational activities as everyone else in the community.*
>
> (http://www.facs.gov.au/disability/cds/cds/intro.htm)

In keeping with this strategy ensuring that the BCA covers ***equal*** access to buildings for people with disabilities ***should be*** a role of the ABCB and, from Council's view, listed among the objectives of the IGA.

The ability to live independently is premised on the ability to function in your own home and visit friends as much as it is on being able to access public facilities and services. Yet, government initiatives address mainly the issue of access to public facilities as if being independent in your own home was not an issue to those seeking equitable access to the community.

Perhaps as an acknowledgement of this shortcoming, the report emanating from SEPP 5 Review (recently completed by the NSW Government's Department of Infrastructure, Policy and Planning - DIPNR) recommended a discussion paper be developed on people with disabilities and accessible housing to explore options for creating an increased level of housing stock that would be 'accessible and adaptable for people with physical disability of all ages'. The report indicated that 'options could include introducing new controls that would require all new housing to be accessible to the UK standards, i.e. for private path, entry, ground level circulation space and a visitable toilet that allows use by a person with a disability'. It is noteworthy that this UK Standard has been seen as inadequate by the British,

even though it is a significant improvement on current regulation in Australia. It is also of significance that when approached on the matter a senior staff-member of DIPNR has noted that the recommendation will not be accepted as the department views adaptable housing as an issue that must result from Commonwealth initiatives to ensure a nationwide regulatory approach.

At present, as you will be aware, the ABCB is calling for public comment on amendments to the BCA intended to align it with the DDA by establishing an Access to Premises Standard. Council has several concerns relating to the effectiveness of this process and its submission to the ABCB is attached for your information. Because the DDA does not cover discrimination occurring within the home environment the decision has been taken to exempt class 1a buildings from the coverage of the Access to Premises Standard. Council acknowledges the reason for this decision seems plausible but is concerned by it nonetheless. It reasons that by developing Australian Standard 4299 – Adaptable Housing (1995) the Commonwealth has demonstrated an in principle commitment to adaptable housing design though failure to regulate it under the BCA demonstrates that this 'in principle' agreement is not likely to be supported 'in effect'.

The case for adaptable housing regulation.

Objective 2 of the IGA requires that building requirements are based on minimum, least cost solutions which address the regulatory objectives of safety, health and amenity. Council argues that the safety, health and amenity of the whole community, though of special significance to people with disabilities, are significantly improved by implementing the requirements of AS 4299.

Council considers that regulating for adaptable housing design at a Commonwealth level would meet the objectives of the IGA by:

- providing consistency between States and Territories;
- being cost effective
- addressing the regulatory objectives of safety health and amenity.

Adaptable Housing has a number of different versions and has different titles in different countries (eg Universal Design is commonly used in the USA, Lifetime Housing in the UK, Senior Citizens –Good Living Code in the Netherlands). Each version varies slightly in definition. Even so, each works on the same premise – that people's needs and abilities change throughout life and that it is both more desirable and cheaper to provide housing which is initially more accessible for everyone and which can be adapted at a future date to suit individual needs.

In Australia AS 1428 provides an access standard applying to public buildings and has been called up under the BCA as a means of compliance. Because it is the only document available specifying design for people with disabilities, it has been relied on at times for designing accessible homes as well. There has been, however, a growing concern that this

Standard is insufficient and inappropriate as a housing standard. Bickle[1] notes that AS 1428.1 relates only to people between 18 and 60 years of age. The exponential increase in older Australians and the needs of children with differing levels of mobility were not been specifically addressed and this may affect its overall relevance to residential dwellings.

Australian Standard 4299 – Adaptable Housing (1995) defines the essential features for adaptable housing and relates to residential rather than public buildings.

The principles of adaptable housing (as outlined in AS 4299) are:

- adaptable housing incorporates design features often lacking in current housing that are designed to benefit all owners/occupiers;
- it is possible at relatively little extra initial cost, and later modification to adaptable housing should be able to be effected at minimum inconvenience and minimum cost;
- it provides houses with features, dimensions and materials designed for safety and ease of use;
- it assists in maintaining community and family networks by allowing people with disabilities and older people to stay in their own homes, close to established support networks and familiar surroundings;
- it is suitable for people with any level of ability - the adaptable house, due to its adaptable features, should suit any future occupant with any type of disability.

The adaptable house should be easily marketable due to the bonus offered by its design features.

- Open plan rooms are relatively popular. They provide circulation space and save floor space by eliminating unwanted corridors.
- With no steps at the main entrance it is easier for families with young children in prams and removalists, and older people who will also find it easier and safer to get around.
- Larger garage and carport areas needed for wheelchair transfer space are also a bonus for the family who want more storage space, a workshop or other utility area.
- Wider doorways make it easier to manoeuvre furniture and objects around the home.
- Hobless shower recesses are cheaper to install.
- Power points at accessible heights of 300mm are easier to reach for everyone not just people with using wheelchairs.
- Adjustable kitchen cupboards make commonsense and are now standard in most kitchen designs.

[1] Bickle, Richard (Acting Associate Director, Standards Australia) Raising the Standards: Standards Australia's role in providing accessible and adaptable housing paper presented to the ACT Adaptable and Accessible Housing Conference, 26 May 1999

From the above it can be seen that the adaptable house provides more fully for residents' amenity. Yet it does more. The requirement for safety of residents, visitors and potential removalists, is addressed by reducing the potential for slips, trips and falls.

Further, it can be argued that the general health of residents is benefited by such housing design. As it reduces safety hazards and provides greater ease of access/mobility it is likely to reduce the potential relocation to a nursing home or similar facility by ageing residents. Older people, facing relocation due to rising support needs often prefer to stay in their own homes as, apart from meeting the basic need for shelter, the home provides a foundation for family and social stability. Maintaining these family networks, Council argues, supports the health and wellbeing of people with or without disabilities. Maintaining people in their homes also reduces the cost imposed on government. It is to the cost effectiveness of adaptable housing that the submission now turns.

The cost effectiveness of adaptable housing benefits the builder, the building owner and the government at large.

Its main benefit to the builder is its higher marketability. Hill[2] notes: "the major cost impact of adaptable housing standards … is to low-rise residential flat development because of the need to incorporate a lift. This added cost needs to be balanced against the economic benefit it adds to the sale value of the unit".

His research compares the added cost of modifying adaptable housing (to meet access needs) to the cost of upgrade where no prior thought has been given to adaptive features. His findings are reflected in the following graph.

Dwelling type	Initial Cost -AS4299 Class C	Cost of adaptive upgrade with prior provision	Cost of modifications if no prior adaptive features considered
Single Dwelling	0.5 -1.0%	0.7-1.2%	8.7-12%
Town House	0.5 -1.0%	5.7-6.7%	19 -23.8%
Low –mid rise	0.3 -5.8%*	0.3 -7%*	10.3-21.9%
High Rise	0.3 – 0.7%	0.3 – 0.7%	9.2 – 12.9%

* Higher percentage noted is due to the added cost of a lift

The reduced cost of modifying adaptable housing is a benefit to government as it currently meets higher costs when modifying government housing stock to meet access needs and subsidises provided to meet cost of the modification of private dwellings through the Home

[2] Hill, Martin (Director, Hill PDA Urban Economists and Chairman of Metro Housing Ltd) *Breaking into adaptable housing: A cost benefit analysis of adaptable homes*, paper presented to the ACT Adaptable and Accessible Housing Conference, 26 May 1999

Modification and Maintenance Scheme will be reduced. Hill (1999) notes six other areas in which cost saving to government can be identified, namely: a reduced need to move into residential care; reduced cost of rehousing; reduced government administration costs; savings in home care costs for elderly and people with a disability; savings in health care costs and likely savings in reduced falls at home (adaptable homes providing safer environments).

Clearly, these savings need to be weighed against the added cost of implementing adaptable housing standards. Hill's study has also taken this into account, noting that even if all new stock is designed to be adaptable, it will take over 50 years for this to filter through as the majority of dwelling stock. Given these assumptions he estimates that over the next 30 years the potential savings to Government are as follows.

	Potential Annual Savings	Present value over 30 years	Savings per household
Savings in delaying the need to move into hostel care	$112.8 million	$437 Million	$65
Savings in delaying people with disabilities under 65 into group home or institutional care	$59 million	$299 million	$34
Savings in reduced Home and Community Care	$75.2 million	$291 million	$43
Reduced expenditure on major adaptations for public housing		$483 million	$72
Savings in reduced accidents	$8 million	$31 million	$4.61
Total	$255 million	$1,471 million	$218.61

The above figures suggest clear fiscal benefits in adopting a policy requiring all new housing stock to be adaptable. It is argued that the standards outlined in AS 4299 need to be required by the BCA to meet Objective 2 of the IGA as to do otherwise is to fail to properly address the safety, health and amenity needs of ***all*** Australian citizens.

Recommendation 1
The objectives of the IGA is amended to include a commitment to ensuring that people with disabilities are addressed as a group, its base building requirements addressing regulatory objectives of safety, health and amenity taking their needs into consideration.

Recommendation 2
The ABCB adopt adaptable housing design as a minimum building requirement due to its long term cost benefits and its positive impact on health safety and amenity of all citizens.

The adequacy of the Building Reform Agenda

Commitment of the ABCB

The ABCB has demonstrated an ongoing commitment to improving access to the public environment in its several public inquiries to improve access options. Yet the clear message from its recent inquiry on Disability Standards for Access to Premises demonstrates that this commitment is not matched by a theoretical understanding of the 'equity/ disability discrimination issue. As can be seen from the appended submission the ABCB is seeking to remedy the discrimination by increasing the percentage of premises that are accessible. This concession suggests increased supply should reduce demand. Yet the demand is not for a larger portion of the pie but ***equal*** access to it. This point seems to have been lost, as is demonstrated by a review of its draft code and/or the related RIS.

Perhaps due to limitations of its political position the ABCB has decided not to mandate state and territory government compliance with the proposed protocol by which it intends to monitor compliance with regulations under the proposed DDA standard. In so doing it has missed the point that the purpose of the standard is not merely to propose an option but a legal requirement not to discriminate, discrimination arising from failure to comply. Perhaps this is partly due to the use of the word standard, which can describe a document providing no more than a guideline. In this context however, as a standard under the DDA, compliance will effectively preclude the current usage of the DDA, the possibility of a claim of discrimination. The standard, once adopted, is the sole criterion by which discrimination is rendered unlawful.

While the ABCB has been discussing the development of this standard for close to a decade, with full ***knowledge*** of its ramifications, it yet seems unable to demonstrate an ***understanding*** of its consequences. Thus the proposed standard offers a concession of a percentage of premises being made accessible, suggests a protocol for the development of Access Panels, that have no power to enforce decisions, that government or builders needn't listen to (they are there to provide advice only) and that should a government authority choose, needn't be convened.

For these reason Council believes the ABCB role in developing and monitoring building reform needs to be supplemented. The Building reform agenda, to meet the needs of the

expanding population of people with disabilities, needs to focus on developing an accessible society, rather than a ***more*** accessible society.

The need for statistics to inform Building Reform

Council's commitment to adaptable housing has been noted above. It sees failure to provide it as a failing to plan effectively for the future, a future which can be statistically guaranteed to have more people requiring enhanced access provisions as the population ages.

The reform agenda requires a detailed statistically valid base. According to the Australian Bureau of Statistics 2003 Survey of Disability, Ageing and carers, released 6 May 2004, almost 4 million people reported a disability last year and the rate increased with age, reaching 81% for those 85 years and over. With an ageing population such statistics highlight the urgent need to plan for the future accommodation/living options of people with disabilities.

If the Commonwealth is to act to ensure its Disability Strategic Plan is more than rhetoric it needs to adopt a means to establish a statistical basis for future planning. At present insufficient statistics are available to accurately identify where people with disabilities reside, where they work, or what there access needs are. Such statistics are essential if future planning of urban and rural infrastructure is to be effective. Council recommends such statistics be gathered to inform future planning.

Recommendation 3
The Commonwealth Government develops and maintains statistics on the accommodation and employment options of people with disabilities to better inform the planning of the built environment.

A recommended change of direction

The ACBC currently is working towards increasing the percentage of venues required to be accessible to meet 'minimum requirements' or compliance with legislation. The position yet needs to be imbedded in government policy that equity will not be achieved by making a proportion of new premises accessible. The Transport Standard under the DDA has provided a timeline for all public transport to be made accessible and a Standard for Access to Premises needs to develop a similar process. Such a process will require a change in focus for the ABCB and for the wider government infrastructure.

Government must move from a position of negotiating acceptable alternatives with the building industry to mandating requirements that will guarantee future access. Without doing so it cannot meet the objectives of its Disability Strategic Plan or its obligation to its citizens with disabilities.

Recommendation 4
Government mandate building code requirements for both commercial and residential premises to meet the objectives of its Disability Strategic Plan.

The Commission's Issues Paper

Prior to concluding Council wishes to present its views on specific questions and comments noted in the Commission's issues paper. The questions of the issues paper are seen as excellent prompts to discussion. The paper was clear and well researched.

It is noted in 1.2 Scope of this Study that Australian Government funding for the ABCB ceases in mid 2005. This is of some concern to Council as it has implications for the ongoing monitoring and review of the Disability Standard for Access to Premises which as it stands is to be reviewed in 5 years. While it has some difficulty with the process by which the needs of people with disabilities have been addressed by the ABCB it is concerned that as a Standard under the DDA the Access to Premises Standard needs to remain within the portfolio of the Attorney General rather than becoming the responsibility of a privately funded organisation. The decision to follow such a process raises questions as to the legitimacy of Government's commitment to people with disabilities, principally, "Why give an organisation the brief to develop, review and monitor a standard under the DDA knowing that funding for the organisation was to cease within 5 years?"

The mission of the ABCB (noted in 2.1 Effectiveness, neglects to mention the need for 'equity and dignity' when attempting to meet community expectations for health safety and amenity. As noted in the accompanying submission (Attachment 1) Council views the provision of a percentage of premises as accessible shows no grasp of the need for equity. If equity and dignity were encapsulated within the ABCB's Mission Statement this shortcoming might be more likely to be addressed.

Further, the decision to address the needs of people with disabilities, in a separate section of the BCA (Part D3) has its critics. It can be interpreted as viewing them separately to the 'wider community' whose expectations for heath, safety and amenity, the ABCB is intending to address. Some will go so far as to suggest that the abolition of Section D3 would serve the best interest of people with disabilities as there needs would be covered by the same aspects of legislation intended to cover the wider community.

Regarding the question *"How can more progress be made in adopting uniform administrative legislation?"* Council would argue that uniform Planning legislation would be more effective (*i.e.* uniformity of procedure and process at the planning stage is of more value, outcomes sought being uniform, rather than only the administrative process by which they are realised.

Re the question of *"communities and individuals*…(using)… *the national standard as their baseline*" (p5 dot point 1) Council can see no reason why the national standard should not be used as a baseline when community or council expectations are seen to exceed that required by the BCA. An example of this is evident in the City of Sydney Council's Disability Access Development Control Plan 2004 which includes the need for some adaptable housing among new dwellings.

Council has some concern with the current structure of the ABCB (noted in 3.1 the ABCB) in that decisions are determined by majority vote. This is particularly concerning when issues under discussion affect human rights (*e.g.* when determining the structure on the DDA Standard on Access to Premises). As the procedure is not representative, and some groups lack power to carry their position it is difficult to countenance when the human rights of the group without power are under discussion.

It is also concerned with the suggestion (in 3.2 Code-making processes) that amendments and revisions to the BCA are based on extensive consultation, with input from the community and others. This does not equate with Council's experience of the process. Council cannot comment on how extensively industry, professional and technical organisations are consulted. However, as part of the community, its experience of input to the development of the Draft DDA Standard for Access to Premises, suggests consultation is minimal. Council attended two public meetings on the Standard. At the first speakers explained that the gathering was not to be viewed as a consultation but merely an 'information sharing'. Thus questions were taken clarifying the draft but no discussion entertained on the need for it or whether its structure or direction was appropriate. Such matters were to be the subject of written submissions. (Ours is Attachment 1). Questions raised in the template format for responses to the Standard were seen by Council as directive and narrow in focus. In the second public meeting the Chair advised the gathering "we are not here to discuss the merits of the proposal but will take comment on the details of proposed options".

Council is extremely concerned that at no point in time was the merits of the action being proposed discussed with the affected community (*i.e.* people with disabilities).

It is unclear whether affected communities have representation on the Building Codes committee of the ABCB, approving new standards, or on the sub-committees of Standards Australia developing such standards. Council sees the input of these communities as essential to an informed process. An example might be in the formation of codes on access and/or mobility. Council is uncertain as to whether decisions are founded on informed academic practice. It is also unclear that it is informed by people with the lived experience of the difficulties of needing enhanced access.

Council is therefore concerned that the ABCB is an inappropriate body to deal with the development of a DDA standard. It has no mandate to research, few resources, it seems top-heavy, and is not equitably representative.

Thus in relation to the questions dot pointed in pages 11-12 of the Issues Paper Council notes:

- the process by which standards are made does not ensure standards in the Code are well based (especially in the area of access);
- greater alignment with overseas experience might improve matters;
- the level and type of consultations are inappropriate (as argued above);

- the worth of majority voting rule is dependent upon the object at hand and the relative power of interest groups, is an inappropriate means of determining rights issues though may be improved by informed individuals who were representative of affected communities.

Re the evaluation of the costs and benefits of reform proposals Council notes:

- it is only appropriate when attempting to measure that which is measurable in dollar terms (i.e. it is inappropriate when trying to determine if making premises accessible will benefit members of the community);
- the Regulatory Impact Statement is often inappropriate (see Attachment 1);
- there is no need to justify changes made at local government level through a cost benefit analysis when they identify community benefits ignored under the BCA (e.g. adaptable housing).

Council is also concerned re assessment of the BCA re the danger of unskilled assessment, its current/proposed coverage, the lack of Fire Safety Regulations relevant to people with disabilities and several other matters that could be regulated within the BCA, particularly that of building operation. (see Attachment 1).

Dispute resolution processes are also of some concern. From Council's view there appears a lack of clarity as to where the onus of responsibility lays. Monitoring is defaulted to individuals with cause to complain. In many cases warnings will be issued or minor penalties imposed but the problem is rarely remedied. Solutions and the onus of proof remain with the individual complainant who may not have the wherewithal to to determine compliance, merely the knowledge that a problem exists with a current practice/situation.

Conclusion

Governments Building Reform strategy is intended to meet the needs of all citizens. The ABCB commitment to improving the BCA is evidence of this. However insufficient planning has underpinned the reform agenda to meet the future needs of people with disabilities. Both a statistical basis for planning future directions and a philosophical grasp of the issue that equity is the main goal are yet needed to ensure building reform meets the needs of all citizens.

Attachment 1

Developing a Disability Standard for Access to Premises

A Submission by the Disability Council of NSW

Contents

Introduction

About the Disability Council of NSW

The Disability Council of NSW is the official advisory body to the NSW Government on disability issues and policy. The Council, appointed by the Governor and reporting to the Minister for Disability Services, operates under the Community Welfare Act 1987 and is made up of a majority of members who have disabilities. In addition, there are members who have experience in the provision of services for people with disabilities, their families and carers.

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Members of the Disability Council are selected on the basis of their experience of disability and their understanding of issues, knowledge of service delivery and government policy.

The structure of the Submission

For the sake clarity the Disability Council of NSW has been referred to as Council, The Australian Building Codes Board as the ABCB, the Human Rights and Equal Opportunity Commission as the Commission, the Building Code of Australia as the BCA, the Disability Discrimination Act (1992) as the DDA, the Disability Standards for Access to Premises (Buildings) 200X as the standard, the Draft Access Code for Buildings as the draft code (or the code), the Draft Regulatory Impact Statement on Disability Standards for Access to Premises as the RIS, and A Process to Administer Building Access – 'the Protocol' as the Protocol.

In this submission, in addition to a critical overview, Council has limited its comment to the draft code, the Protocol and the RIS. It has provided no specific comment on changes required to the BCA, the Guidelines to the Disability Standards for Access to Premises (Buildings) 200X or the various relevant standards (e.g. AS 1428.1). It acknowledges changes are required to these documents but has confined recommended changes to the three subject documents and left it to the ABCB to amend other documents to conform to the proposed changes if accepted.

Critical Overview

According to its introductory remarks the Commonwealth Disability Strategy is:

> *…about enabling **full participation** of people with disabilities…(and)…(t)his means ensuring that people with disabilities have the **same access to buildings**, services, information, employment, education, sport and recreational activities **as everyone else in the community**.*
>
> (http://www.facs.gov.au/disability/cds/cds/intro.htm)

In keeping with this strategy ensuring that the BCA covers ***equal*** access to buildings for people with disabilities ***should*** be a role of the ABCB and, from Council's view, listed among the objectives of the Inter Government Agreement on Building Regulation Reform. Yet the development of a standard necessarily codifies the level of social participation based on what is deemed acceptable 'restrictions'. While the society does not aim to ensure ***equal*** access some of its citizens bear the unacceptable burden of limited access, as determined for them.

Thus, while it is common practice that those without disabilities travel in groups, to entertainment venues, conferences, accommodation facilities; as an essential element of being part of the community; people with disabilities are precluded from such liaison. The basis of the Commonwealth disability strategy is ***equal*** access. As a group arranging a conference with overnight accommodation, 20 people in wheelchairs would be unlikely to find a venue able to accommodate them (at present there is one in Adelaide and one in Fremantle), they could not attend the Tamworth music festival, without seeking disparate accommodation facilities across the city (something non disabled peers would never countenance), and they would be estranged from their colleagues if attending a movie as part of a larger group. This does not constitute equal access though it is countenanced under the proposed standard.

The ability to live independently is premised on the ability to function in your own home and visit friends as much as it is on being able to access public facilities and services in the same way, and with the same options, as others. However, Government initiatives address mainly the issue of access to public facilities as if being independent in your own home was not an issue to those seeking equitable access to the community. The limitations of the coverage of the DDA and proposed standard mirror this position.

Council views the draft code as a significant improvement on the BCA. However it is concerned that as the basis of a Standard under the DDA the code is far from adequate. It is acknowledged that the draft code cannot move beyond the limits of the DDA and thus cannot cover residential premises as a location of illegal discrimination under the DDA. However, legal or not, discrimination still occurs if the BCA continues to approve the building of inaccessible dwellings. Council views the adoption of 'adaptable housing' as an acceptable compromise (as discussed more fully below).

The issues of equity foregone and residential premises aside Council has several other reasons for concern if the draft code is established as the baseline for an Access to Premises Standard under the DDA.

Council has been advised by staff of HREOC that compliance with a DDA standard would obviate the possibility of a claim for discrimination in the area covered by that standard. Council can envisage several grounds for complaint re access to premises, currently permitted under the DDA which are not covered in the standard, as currently proposed. Council has also been advised by HREOC staff that there may be some grounds for a direct complaint to HREOC re access to premises ***if*** the basis of the complaint was not discussed (and thereafter rejected) by the body developing the standard. These two views are somewhat contradictory and the second may require examples to clarify the advice from HREOC. The second also places an unreasonable demand on the potential complainant who is not necessarily privy to discussions held by the body developing the standard.

One example would relate to a person with such a significant disability that the turning circle for his/her wheelchair was outside the 90th percentile adopted as the basis of the BCA calculations. In such a case it could be argued that the person's complaint might be unsuccessful being subject to the defence of unjustifiable hardship.

Yet another case might relate to inappropriately placed fixtures and fittings making premises unworkable. Examples could include cupboards (or inbuilt appliances) that are out of reach, a bed (or moveable appliance – eg microwave) placed so as to make the room unworkable. Perhaps in such instances a case may still exist as a complaint about an inaccessible service. Yet this is unclear.

As the proposed standard relates only to new buildings, a new (or affected) part of a building or an existing public transport building, the majority of premises are not covered under the standard. These existing buildings are more likely to be inaccessible and the basis of a complaint. Council cannot fathom why the standard should not cover all buildings and is concerned that the legal position regarding existing buildings is confused by 'partial coverage'.

Other aspects of the coverage of the proposed standard are also of concern. The first of these relates to the 'heritage buildings'.
Part 4(4)(d) of the standard notes as an exception to coverage:

> *…the significance of any heritage value attaching to the building, or a part of the building that is reasonably likely to be affected by compliance with the requirement…*

Council is concerned that this allows significant scope for interpretation as it could be argued that most old buildings can be seen as having heritage value, its significance being dependent on the individual assessor. Further it gives ground to argue that the overall aesthetic of a sight is marred by an access provision to a building, even if it is the grounds (and not the building) that are judged as having heritage value. Council is aware that the DDA has precedence over heritage listings and believes that a standard under the DDA would do likewise. It is therefore difficult to understand the emphasis on heritage listings. Council would hope that complementary results can be achieved and heritage status can be retained while access is gained. For example we would draw your attention to the fact that the Edinburgh Castle was made accessible and it has retained its world heritage status and there is no Australian equivalent building of such age and historical significance

A further concern relates to the 'operational aspects' of a building. In effect a building could meet the requirements of the proposed code by having an accessible entry which, for reasons of the proprietor, is made unusable. For instance, a proprietor could choose to close the accessible entrance to a premise at a certain hour, while his business was still operational, perhaps for reasons of safety, perhaps for convenience. Alternatively, a hearing loop may be provided within a building as an aid to access but unless it is maintained and the public is aware of its existence the buildings is rendered effectively inaccessible. To obtain consent following a Development Application to Local Council (or other consent authority) an applicant may be requested to provide details as to proposed use of the building, address control of the volume and movement of people within the building, explain activities to be conducted within the building, egress paths and much more not covered in the present standard/code.

It is Council's view that the standard needs to cover both rules as to how the premises will be built and how it will be maintained (to remain accessible). This second matter is not touched upon by the current standard/code. Perhaps two documents, one covering building and one operations, would go further to meeting the requirement for an access standard.

Nor is it felt that the current code pays sufficient time to covering access to and egress from a building (eg the grounds and paths) and these yet need to be fully addressed.

A final concern relates to the continued existence of unjustifiable hardship as a basis for exemption from compliance. While Council can understand the argument that a small proprietor may not be able to afford to modify an existing building following a complaint re access and may substantiate a case for 'unjustifiable hardship' Council cannot understand the defence being considered relevant to a proposed development. The person unable to afford to build a new structure would not do so, nor would they suggest adding to a structure without the knowledge of requirements and the finances to meet costs. Thus while Council can comprehend the basis of unjustifiable hardship as a defence against a request to make an existing building accessible it sees no reason for its existence as grounds for exemption from compliance with code requirements for new buildings or code requirements for changes initiated without complaint. It is also relevant that the lack of access is a significant unjustifiable hardship for people with disabilities.

If the standard is to maintain the defence of unjustifiable hardship Council recommends that a means of determining what constitutes 'unjustifiable hardship' be established (i.e. a developer should be expected to be able to justify the claim transparently, demonstrating how site costs and expenditure preclude profit). The cost to the community of allowing the inaccessible building (including the cost to people with disabilities) also needs to be factored into this process in an equally measurable way.

For these reasons, while appreciating the great benefit of an improved BCA, which could occur independently of a DDA standard, Council is not convinced that in its present form the standard is adequate. Council's criticisms of the Code, Protocol and RIS follow.

The Draft Code

The draft code is seen to be inadequate in several areas, as detailed below.

Functional Statement Exemptions

Limitation under DF1 (b) notes that certain types of buildings are exempted from coverage, these being (a) a class 1a or Class 4 building or class 10a when associated with class 1a or class 4. DF1 refers to safe, equitable and dignified access the exemptions are seen as unwarranted for different reasons.

As noted in the overview, it is recognized that class 1a buildings are not subject to discrimination complaints under the DDA and that, as such, the BCA can be aligned with the DDA without requiring access to these. Yet Council argues that a class 1a building, usually constituting a person's home, needs to be accessible, or at least easily adapted to allow for enhanced access.

Council believes that the first requirement of people with disabilities in participating as equal citizens within the community is a home which is suited to them, together with control over the necessary help they require to live independently.

In recognition of this Australian Standard 4299 – Adaptable Housing (1995) defines the essential features for adaptable housing and relates to residential rather than public buildings.

The principles of adaptable housing (as outlined in AS 4299) are:

- adaptable housing incorporates design features often lacking in current housing that are designed to benefit all owners/occupiers;
- it is possible at relatively little extra initial cost and later modification to adaptable housing should be able to be effected at minimum inconvenience and minimum cost;
- it provides houses with features, dimensions and materials designed for safety and ease of use;
- it assists in maintaining community and family networks by allowing people with disabilities and older people to stay in their own homes, close to established support networks and familiar surroundings;
- it is suitable for people with any level of ability - the adaptable house, due to its adaptable features, should suit any future occupant with any type of disability.

Council argues that under the BCA class 1a, 1b, 2 and 3 buildings should meet the requirements of AS 4299 in recognition of the responsibility of government to provide for ease of access.

Class 4 dwellings should meet this same requirement. One argument for such a requirement that is supported by Council is the requirement to allow people with disabilities to visit such dwellings. Another relates to the potential employment of people with disabilities in class 5, 6, 7 8 or 9 buildings. The exemption on dwellings in such buildings may adversely affect the employment prospects of people with disabilities where the dwelling within the buildings is the residence of an employee or access to it is required to meet the job requirement. This last matter also applies to class 7b and 10a buildings in that access to either may be a requirement of employment.

Buildings in class 5, 6, 8 and 9 should meet the requirement to be accessible as buildings that are open to the public. Council believes that class 7a buildings should meet this requirement on all floors. Lifts in existing car parks are often accessed by stairs and such design should be legislated against in the BCA.

It should be noted that building classifications are not permanent. Many people today work from home, whether from their study/office, their lounge, kitchen or bedroom as a seamstress or as a domestic, crèche worker, care-giver or nurses' aide. How each role is seen under the DDA is a matter for legal interpretation. Whether the house is more appropriately judged to be a home or office/workplace is a matter for conjecture. Yet the point to be remembered is that usage of the dwelling may change. It is therefore seen as appropriate to ensure the building is adaptable (for future change of use) if not accessible.

The coverage of such buildings/circumstances under the BCA is recommended by Council as local councils may express different views and consistency is preferable.

Performance Requirement Limitations

The exclusion noted under DP6 with respect to the sole occupancy unit in a class 3 building is also seen by Council as unacceptable for similar reasons as noted above (i.e. it is assumed that the resident caretaker/owner of a hotel/motel, the caretaker of a school or staff member of a health care building will not require enhanced access). In the view of Council such assumptions are unwarranted.

Council argues that the draft code in describing performance requirements for hotels/motels should give an indication of the parameters of the accepted hotel room (even if a sole occupancy dwelling). It might recommend dimensions that allowed for minimum circulation space, clear access passageways from a bed or en-suite and that toilets and showers should be compliant with AS 1428.1. Guidelines could likewise be developed on fit-out to avoid the common difficulty in a room built to an access standard but made unusable by poorly placed equipment.

It is unclear from the wording of class 3 whether Class 3(a) general accommodation options and/or class 3(d), accommodation for the aged, children or people with a disability refers solely to the residence of staff/caretakers or all residents. Neither is acceptable. If the clause is intended to refer only to staff/caretakers then it is unacceptable for similar reasons as noted above (i.e. the restriction imposed on employment options for people with a disability). Council assumes this to be the case as it is inconceivable that the limitation allows for all residences for the aged or people with a disability to be exempted from compliance.

The limitation of DP8 is also problematic in that some people with disabilities drive vans and their wheelchairs are used in place of a driver's seat. If they drive the van to a parking space (rather than a valet) they need access to and egress from the car. If the valet takes their car, as with others, at a point outside the parking area (e.g. the lobby of a hotel) the valet will be unable to ***safely*** drive the car to a parking spot (there being no driver's seat). If such a practical problem can be addressed the limitation is seen as reasonable.

The limitation to DP9 clearly reflects the majority of emergency warning systems. However, Council argues that this is no reason for exempting future warning systems from catering to Deaf and hearing impaired individuals. It may be relatively costly to amend an existing system to cater to such needs by adding warning lights or a moving written text on walls (as in some train stations) but Council believes that newly installed systems should include such additions. There may be some grounds related to additional cost to exclude some premises from compliance with this visual addition but most new high rise buildings have sufficient funding sources to absorb such costs. Council would therefore argue that even if such systems were not a requirement for all classes of buildings they should be so for larger structures.

General Access Requirements

As a general observation it seems from reviewing the draft code's performance requirements that access is limited in definition to "access to a person using a wheelchair". The needs of an ambulatory person with a disability (or a vision or hearing impaired person) seem to fall outside the scope of the requirements. While the wheelchair symbol represents access requirements, the needs of people with other disabilities need to be taken into consideration.

Thus determining the percentage of room numbers that are to be accessible (or dwellings on a multi-dwelling site) it is assumed the ABCB are referring to wheelchair access only. Council would argue there is good ground for modifying other rooms to be accessible to ambulatory people with disabilities or ensuring rooms that are not designated as 'accessible' are designed to accommodate a broader range of needs through universal design parameters.

It is noted that D 3.1(b) refers to dwellings located under one allotment used for short term holiday accommodation. Council considers that the number of dwellings required to be accessible are too few and that the number of accessible dwellings required per allotment should attempt to ensure equity of access rather than a percentile of buildings. Even if a percentile figure is chosen it needs to account for an increasing population. The Australian Bureau of Statistics (ABS), Disability, Ageing and Carers: Summary of Findings, 1998 which notes that some 150,000 people are wheelchair users, 350,000 use other mobility aids and another 1,200,000 require assistance with self care, communication or mobility around their home. In addition to this there is the expected exponential rise in the number of people with age related disabilities. Thus some 3.1 million other Australians have an impairment that doesn't currently affect activities of everyday life but may do so in the future.

When one considers the high number of people with disabilities represented in these statistics, the certainty that this figure will rise with the ageing population and the fact that many holiday makers are older people who, having retired from the paid workforce, choose to travel and regularly need accommodation to suit their restricted mobility there is clear justification for setting a higher benchmark.

Council also contends that where only one holiday cabin is to be built it needs to be accessible and where two are built, one needs to be accessible. It is noted that as presently designed the draft code "*a double bed counts as one bed*". This is contended as, in practice, it normally sleeps two. If the current position is accepted and a double bed is to count as one bed an accommodation service could theoretically accommodate 6 individuals before it was subject to the DDA. Yet, Council believes that the BCA needs to be amended not only to be aligned with the DDA but to be developed to accord with the spirit of the legislation. Council therefore argues that the smaller service needs to meet these more stringent requirements to provide access to all potential travellers.

This 'capacity to sleep people' rather than the number of beds supplied is also relevant to those services referred to in Table D 3.1 Class 1(b) (b): boarding houses, bed and breakfasts and the like containing 3 or more bedrooms used for rental accommodation. This clause notes one accessible bedroom "*and associated sanitary facilities*" are to be required of 3 bedroom dwellings. Council would argue that the phrase needs to be replaced by "*and en-suite*" (to the standard of AS 1428.1) as there may be sound reason for a person with a disability to require private bathing facilities. (An example might be the person requiring a commode chair and unable to appropriately cover themselves when moving to and from a bathroom).

Further, the access requirements for such facilities should require ***all*** floors in commercial use and ***all*** services to the public to be accessible. The restricted access provisions of "(ii) not less than one of each…" and "(iii) rooms or spaces for use in common by all…" are unnecessary obstacles to ***equal*** access. This holds true for all classes of buildings.

Access requirements for Class 2 buildings currently include "access ***to*** the door" and in Council's view, this needs to be amended to "access ***through*** the door". Council is aware that the ability to enter the unit should not be noted as a requirement under "common areas" but it argues in principle that there is a need for units to be visitable (as argued above). Council is uncertain as to the meaning of the requirement to allow access to each sole occupancy unit ***located on not less than one level*** as it cannot imagine a dwelling on less than one level. If the intention is that ***at least*** one level of multi-level units is to be made accessible Council would argue that each level needs to be accessible and that all facilities (not merely one of each type of room) needs to be accessible (as noted above).

Reference to common areas in class 3 buildings is confusing. Table D 3.1 the draft code notes under access requirements that access is required:
"where a ramp complying with AS 1428.1 or a passenger lift is installed –
(i) ...and…
(ii) …within spaces for use in common by the residents".

This suggests that in Class 3 buildings ***all*** common areas are required to be accessible. Council would support such a position though, by virtue of the fact that the preceding paragraph notes "*1 of each type of room or space"* it is assumed this standard clause (which is not supported) has been adopted in the draft and the inconsistency is purely an oversight.

The number of accessible units per block is thought by Council to be insufficient. It is noted that for the majority of blocks the figure represents an average no greater than 1 in 20 units. While this figure seems reasonable based on the number of people with disabilities in the population Council would note that it does not address the issue of equity. Council believes that equity is best served by providing reasonable market options to people with disabilities, approximating those available to the general population. It is also noted that there are no circulation space requirements under class 3 buildings listed under Access requirements. Council feels that there should be.

Council believes that all floors of a class 7a building should be required to be accessible. It is concerned that egress from a car-park where no access is provided is only possible for people using wheelchairs via the ramps intended for vehicle access. The safety risk of such egress is seen as unacceptable. It is noteworthy that the common experience of people with disabilities attending functions where not all floors of the car park is accessible (eg Sydney Opera House) is that they are precluded from parking on alternative floors when accessible ones are full.

Class 9b assembly buildings other than school and early childhood centres, includes community centres and auditoriums where a major problem is the lack of appropriate seating. Not only do such facilities require more accessible seating but the options by which seating is provided needs to be more creatively designed. What seating that is provided is usually in a particular row (or on the end of a row. This may preclude the person with a disability attending with friends from sitting anywhere near them. Similarly, enhanced seating may be required for ambulatory people with a disability. Flexible or removable seating wherein some rows or seating is removable is another option that might be investigated.

Council views access requirements to 9c buildings to be inadequate and would recommend similar access requirements to those detailed above for class 3 buildings. Council finds it difficult to understand why aged care facilities in particular should have access restrictions given the likely access needs of its occupants and would recommend that a significant number of spaces at such facilities should be designated car spaces.

As noted above Council is concerned by exemptions that would limit the employment prospects of people with disabilities. Some exemptions covered under D 3.4 can be reasonably expected to be inaccessible by virtue of their location or function (*eg* a cooling tower or maintenance pit). However it is feasible that a fire control centre may be an employment option for a person with a disability. Council therefore recommends that the list of exemptions under D 3.4 be removed and employment issues for people with disabilities continue to be addressed when complaints are made within EEO provisions**.**

Re D 3.5 Council's concern re the exemption of 'valet parking' under Class 7a buildings has been noted above. It is further concerned that Table 3.5 outlining the number of car parking spaces required for people with a disability sets unacceptable minimum standards. Given the ageing population and the increasing use of the Mobility Parking Scheme in NSW it is believed that numbers as currently indicated are too low. It is also noted that the limitation as set represent a national standard and the general population percentage of people with disabilities varies across states and between rural and urban populations. Council would therefore suggest a formula basis for the determination of the number of spaces to be allocated to access parking. A possible option is to tie the proportion of parking authorities to the number of cars per state by suggesting accessible parking spaces represent a percentage of this proportion.

D 3.9 notes wheelchair seating spaces in Class 9b Buildings. Council has no concern with the numbers, provided they are located across the venue, of fixed seating places required but suggests a further clause on flexible seating requirements. For example, as in some venues now, seats can be removed to accommodate wheelchair users and their companions.

Re D 3.10 Council believes a large number of hotel/ resort style swimming pools have diameters less than 70 metres in length as do several pools in multi complex units. Clause D 3.10(c) limits the size of pools to which Clause D 3.10 applies to those with perimeters over 70 metres in length. Council suggests reducing this perimeter to accommodate those pools used in public facilities and in large block apartments that are smaller than currently specified.

Re options for hoists into and from pools – Council prefers the option of a hoist that can attach a sling or fixed seat hoist (as a standard) as some individuals can use one and not the other. The requirement to have such a dual purpose hoist will meet the needs of the greatest number of people with disabilities.

The standard needs to provide a certainty to developers re requirements but it also needs to provide a certainty to people with disabilities that such requirements are nationally consistent. Such consistency requires a national approach to the approval of variations and it is this, the protocol, to which the submission now turns.

The Protocol

In principle Council agrees with the existence of a national protocol. However it has several concerns. These being that:

- the lack of definition in the protocol as to the meaning of "A person competent in access matters" (as a descriptor of an Access Panel member: as per clause 9.4(2));
- "State and Territories are free to decide whether to adopt the Protocol or whether to adopt their own mechanisms for determining access-related issues…(and)…in circumstances where the Protocol applies, a building practitioner or owner is able either to decide access related issues him/herself or to use the processes set out in the Protocol (page 33 – Background to the Impact Analysis);
- "it is not mandatory …to comply" (Article 12 (2)
- the number of complaints dealt with on a weekly basis by an Access Panel may be beyond the possible sitting time of a panel.

Qualifying competence in access matters

Council is concerned with the lack of advice on what qualifications should satisfy Administrations' determinations on the constitution of competence in access matters. It would argue that specific training should be required of all individuals purporting to demonstrate competence in access matters. Council is of the opinion that no member of an Access Panel should be recognised as competent in access matters without training by an appropriate and independent body.

Freedom to adopt alternative mechanisms for determining access

Council believes that the lack of a nationally consistent protocol has the potential to undermine the process and the standard itself. Council sees it as *necessary* to insist on a national process.

Mandatory Compliance

Council urges mandatory compliance with decisions of an Access Panel as to the acceptability of alternative procedures to meet access requirements. Allowing building practitioners/owners (or State Territory Administrations) to risk the possibility of a complaint under the DDA, having ignored, or failed to consult, an Access Panel is seen as counter to the intent of aligning the BCA and the DDA. If the potential exists to legislate against the failure to provide access then the back door should not be opened to allow the option to ignore the requirement to provide access in any circumstance.

Resourcing the Access Panel

Whether it is resourced at a state or local level the Access Panel will need to be properly resourced. From its reading of the Protocol Council is uncertain that sufficient attention has been paid to how the Access Panels will function (on a state or local level) and due regard seems not to have been paid to how such bodies will be resourced to allow them to function effectively.

The RIS

Review of the RIS raised several concerns.

The first relates to the 'higher' cost claimed to accrue to builders in the provision of accessible premises (*e.g.* the need to purchase wider doors to allow for wheelchair access). Council is concerned that the RIS adopts a static view of costs and design. It is arguable that the initial requirement for wider doorways/doors, like other access provisions will bring a short term rise in the cost of such items. However Council argues that this will be offset over time as the wider doorways become the new standard. It well may be, if the standard is adopted, that in 10 years the provision of a 'narrow' door (the current standard) will raise costs if it will require deviation from the 'standard' door of 2014. Weight is added to this argument if an adaptable housing standard (as per AS 4299) is supported as a requirement of the BCA.

The second area of concern is the focus of the RIS. In accenting the provision of proposed 'changes to the BCA' and the costs incurred thereby it has missed the point that people with disabilities have been paying the cost of inaccessible premises for decades. The social costs associated with restricted access to employment, education or entertainment venues is matched by the financial costs of making alternative arrangements, the cost of bringing a case under the DDA (to amend inaccessible premises), making physical alterations to current accommodation, and the cost to people with disabilities and their employers of altering the workplace to provide access. None of these existing costs are given any weight in the RIS.

A related matter is that savings have clearly been made over the decade from the inception of the DDA by continuing to build inaccessible premises even though there was a legal obligation not to discriminate by approving such practice. Costs incurred should be balanced against the savings accrued by not meeting legislative obligations.

Nor does the RIS consider all persons affected by current and/or future failure to provide access. In determining the affected population group it adds the number of people using wheelchairs and mobility aids. Yet, it fails to measure the ageing population (one does not require a mobility aid to appreciate improved access) nor expected increase in the number affected within the ageing population. The static measure belies the cost benefit. It also fails to consider/measure the social impact on relationships, or the cost to family members, partners, neighbours, work-mates when costing examples. The inability of a person with a disability to gain access to premises has a social cost for family members and friends who are unable to socialise with them. Further, such socialising may currently impose added financial cost on the family needing to accommodate added costs (eg travel costs of a family member unable to use public transport).

A further flaw of the RIS relates to its approach the built environment. At present, it notes, the building of two storey buildings, given local council restrictions, is the best value construction for the dollar. This may be truer in cities where space/land is at a premium than it would be in rural centres. The argument runs that the high cost of installing lifts in two storey buildings, will raise the price by such a degree, that the industry will suffer as the number of new two storey premises are reduced.

The RIS does not acknowledge that the preference for two storey buildings relates primarily to the concessions by state planning regulation as well as the BCA in that they do require a lift. The building of two storey premises on small blocks of land is not always/ has not always been the most cost effective alternative. Optimum design of buildings and cost efficiency is not static. It may be more valuable to a builder in the future, if the cost to build a two storey block with a lift on a small parcel of land is seen as cost prohibitive, the option to buy four adjacent blocks and build larger premises with a single lift will be more cost effective. Similarly, local council planning controls which currently prohibit buildings over two storeys may be changed by pressure from the building industry. Options of design in the built environment is not static, it changes with market pressures. The onus on the raised cost of two storey premises is misleading and suggests the market will have no option but to accept the increased cost without alternative resolutions.

Similarly, the suggestion of a significant shift away from strip shopping due to the Premises Standard is unsupportable. Strip shopping, as a preferred option has been in decline for decades. The convenience and economy of shopping at 'drive in' shopping-centres and round the clock availability of the convenience stores can make generic strip shopping non-competitive. Strip shopping is more likely to have poorer access than larger shopping complexes. Rather, positive implications include the demolition of old, non-viable buildings and their replacement by new, viable, accessible buildings.

The examples used to demonstrate the increased cost of building an accessible environment are also un-necessarily skewed by the high cost attributed to the installation of a lift in a two storey block of residential units. Council argues that the lift dimensions required in such circumstances under the amended BCA (with a floor space of 1700 x 1400cm) are an inappropriate minimum requirement for such premises. There is an argument that a lift of such dimensions would allow a turning circle for most wheelchairs. Yet, being pragmatic, Council argues that, if such a lift were replaced by one of smaller dimensions (that allowed chairs to back into (or out of) lifts and this made cost less prohibitive, such lifts should be permissible under the BCA for two storey premises. While acknowledging that there are some people with disabilities unable to back a wheelchair into (or out of) a lift Council proposes that most people in this situation would travel with an assistant to help with these functions. Thus there is scope to explore affordable lift provision within two storey buildings.

The costing of the lift for the two storey dwelling is flawed for another reason. It estimates cost at 'the top end' of the current market, by costing a lift that was not intended for use in a two storey building. The market will undoubtedly produce a cost effective alternative if lifts were required in two storey dwellings.

Council's last concern relates to the RIS use of construction cost, rather than overall project cost, when measuring the added costs of access. This process fails to consider that building costs are varied according to markets. In areas with increased land costs development costs must be minimised to maintain the same profit margin on expenditure. Usually added costs are absorbed by a broad range of individuals, including developers, purchasers, and possibly tenants. Further, in larger developments, the costs are amortised, by bodies to which they are insignificant. It needs to be remembered that as things now stand the cost of inaccessible premises are often borne by the people least able to bear them.

Conclusion

Council is not unequivocally opposed to any form of an Access to Premises Standard. Council also acknowledges and welcomes the improvements within the BCA. However it feels that the code in its present form does not cover sufficient contingencies to meet the requirements of an acceptable DDA Standard. Our concerns re exemptions, limitations, the non-mandatory nature of the Protocol and the flawed arguments of the RIS all combine to suggest that further development is needed before finalising these documents as part of an Access to Premises Standard.