



AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

Submission

**Inquiry into the draft Disability (Access
to Premises- Buildings) Standards**

24 March 2009

INTRODUCTION

The Australian Local Government Association (ALGA) represents the interests of more than 560 councils at the Federal level. Its membership is made up of the associations of local government in each state and territory. The ACT Government is also a member in its role as the local authority in the Australian Capital Territory.

ALGA, through its President Cr Geoff Lake, represents local government's national interests at both COAG, and at various ministerial councils. For the record, ALGA is also a member of the Australian Building Codes Board (ABCB) and has participated in the deliberations of the ABCB's Building Access Policy Committee for several years.

ALGA wishes to acknowledge from the outset that this submission should be read in conjunction with any other submissions received from either state and territory based local government associations or individual councils.

Given the high level and strategic nature of ALGA's involvement in issues relating to disability access and national building standards, ALGA does not intend to make comments on detailed operational issues that confront the sector, nor do we wish to comment on detailed features of the premises standards. This is more appropriately done at the individual local council level.

ALGA has taken an overarching perspective and our comments are focused on the basic intent of the policy, local government's involvement with matters relating to social inclusion and building controls and the need for adequate resources to be made available to ensure any finally agreed disability standards are properly implemented and subsequently evaluated.

In summary, the local government sector welcomes the release of the draft disability standards which have the potential to significantly reduce the ongoing confusion that exists between parties involved in building regulation and meeting the intent of the Commonwealth Disability Discrimination Act (DDA) of 1992.

ALGA's main recommendation arising from this submission is that Commonwealth, in partnership with state and territory governments make sufficient additional resources available to build local government capacity to fully implement future Disability Premises Standards as part of the Building Code of Australia (BCA) and state and territory building codes. Implementation being defined as covering training of professional staff, assisting with production of relevant information material and ensuring ongoing and robust evaluation of the impact of the Disability Standards is undertaken.

Local Government in Australia

Local government in Australia is a dynamic and extremely diverse sector, consisting of more than 560 councils. These range from the Brisbane City Council (population close to 1 million and expenditure of some \$2 billion pa) to councils like Jerilderie Shire (population less than 2,000 people and an annual expenditure of less than \$7 million).

As a collective, local government has an annual expenditure of more than \$23 billion, which represents around 2 per cent of the national GDP. In employment terms, local government accounts for 1.3% of the Australian workforce (about 165,000 employees). More importantly, local government provides multiple essential services and infrastructure that serve as the foundation for local and regional communities. For the numerous rural, regional and remote communities, local government is often the only institutional presence and one of the key drivers of economic and social activity.

The key benefits and strengths of local government include:

- wide and established networks of political governance and public administration;
- strong links and accountability to the communities it represents;
- practical service orientation and sound organisational skills which make it capable of innovative, timely and flexible responses;
- its contribution in the delivery of strategic planning, community education and social inclusion programs, operator of public services and infrastructure and planning and building regulator; and
- its role as a local information provider, to support both Commonwealth and State/Territory policy development and implementation.

A serious challenge facing a majority of local governments is related to financial resources. The report of the House of Representatives Standing Committee on Economics, Finance and Public Administration, *Rates and Taxes: A Fair Share for Responsible Local Government*, October 2003 and subsequent reports into local government financial sustainability have found that local government is struggling to meet community demand for more intensive 'human services to the people', as well as maintain its increasingly ageing physical asset base of roads and community infrastructure. PricewaterhouseCoopers (2006) has estimated the backlog to be in the order of \$14.5 billion. Consequently, local government faces the choice of reducing services, ignoring its deteriorating physical infrastructure and/or increasing its revenue base.

Given the demands upon local government and its limited capacity to raise further additional own-source revenue, adequate revenue growth for general purposes can only be achieved through increased intergovernmental financial transfers. In the absence of such funding growth, government assistance in the

form of additional resources to implement policy initiatives, such as the Disability Standards is crucial.

Given that the overarching objective of local governments is to look after the broad interests of the communities they serve, ALGA is of the view that the great majority of councils in Australia would welcome the Government's release of the draft disability standards last December for two specific reasons:

1. Firstly, local government has long been an advocate for creating and building socially inclusive and diverse communities. Local government recognises that people with a disability have a right to quality facilities and services that enable them to live and fully participate in their communities; and
2. Secondly, as both a major regulator of planning and building approvals, as well as a major owner and custodian of a range of public facilities, local government believes that the release of draft standards has the potential to reduce the uncertainty arising from the existing lack of consistency associated with building regulations and the legislative requirements of the DDA.

Role played by local government in building inclusive communities

Local governments have a long history of participating in a range of social and community programs designed to build and maintain inclusive and resilient communities. Councils' commitment to ensuring that all members of a community are treated with respect and dignity can be seen in the various policies adopted by councils and in the roles played by local government as both a regulator of the planning and building systems and manager of public buildings and public spaces.

As such, ALGA wishes to reinforce that the local government sector is a key participant and stakeholder in the eventual implementation of any finally agreed disability (access to premises) standards and will require some external support to fulfill its dual role in implementing this policy.

This need for additional resourcing does not diminish or reduce local government's support for the Commonwealth Government to more closely align the requirements of the BCA with the long standing requirements contained in the DDA. Achieving more inclusive societies and improving certainty for all the stakeholders in the building and construction process are worthy goals.

Impact on existing public buildings and exemption provisions

ALGA has not assessed the detailed standards criteria contained in the draft disability standards given that State and territory local government associations

and individual councils are better placed to make practical comments on the value or otherwise of these provisions.

ALGA does wish however, to acknowledge the severe financial pressures being experienced by local governments around Australia and stress that there are legitimate reasons why some councils may find themselves not being able to upgrade buildings to meet agreed disability access standards. As such, it is important that the question of “unjustifiable hardship” remain a legitimate avenue for building owners, including councils, to cover the particular circumstances such owners find themselves in.

Local Governments commitment to local and regional communities.

Local government plays a vital role in fostering the wellbeing of local communities. As the sphere of government closest to Australians, it is best able to identify the local needs of the communities it represents.

ALGA is of the view that it is a fundamental responsibility of local government to respond to the needs and aspirations of local communities. Individual communities, through their local elected representatives should have the freedom to develop desirable policies or standards for their built environment.

Through effective community partnerships, local government has the ability to develop innovative, best-practice solutions to local requirements. This process ultimately leads to better built environments, tailored to community needs and should be encouraged, not restricted through further regulation.

ALGA is on public record that it does not consider that the capacity for local government to respond to community expectation inappropriately erodes national consistency. As several Productivity Commission inquiries have noted, councils can sometimes be frustrated by a lack of response from other levels of government in introducing controls that respond to local need or which address issues such as environmental sustainability or community cohesion.

ALGA therefore raises the issue that notwithstanding the introduction of the draft disability standards, there should not be any impediments for individual councils to exceed any finally agreed standards if a Council believes that this would be more appropriate for their particular community. The fact that some Councils have adopted adaptable housing policies for Class 2 buildings is a case in point.

Implementation Support

Whilst local government is already committed to achieving a more inclusive society and welcomes the intent to provide clearer information on how the construction and refurbishment of certain buildings can meet the responsibilities outlined under the Commonwealth DDA, there remain significant questions on

how best to implement the proposed standards. As argued by the Australian Human Rights Commission, “at the end of the day, however, there is no way around the fact that they are complex documents with many layers of cross referencing, and a full understanding of the documents and how they fit together will involve considerable effort”.

Given this fact it will be important to ensure that additional resources are made available for local governments to properly implement the policy. Councils, in their role as planning authorities, building regulators and certifiers, will play an influential role in the implementation process, and as such, support to undertake the necessary training of officers, administrative staff and production of information material is an important investment.

The State and territory local government associations are in good positions to provide further advice on how the education of the local government sector may best be carried out and what support would be needed to assist councils in producing information material to cater for the changes that will eventually arise from the endorsement of the National Disability (access to premises- building) standards.

ALGA believes that the Commonwealth should commit to the ongoing evaluation of any agreed disability standards to ensure that Standards continue to deliver the most effective and efficient improvements to the built environment.

Conclusion

In summary, ALGA believes that the majority of councils throughout Australia would welcome the release of the draft Disability standards as they are already committed to the principle of improving access to buildings and public places for all members of their community in order to ensure everyone can participate in the social, economic, cultural and political life of a civilized society.

However it should also be noted that many councils are under severe resourcing constraints and in certain circumstances may find it necessary to seek exemptions under the “unjustifiable hardship” option. This is particularly an issue when there is a need to urgently refurbish older community buildings, rather than construct something new.

While there is general support to reduce the confusion between national and state and territory building regulations and the DDA, the Commonwealth and State Governments, should not underestimate the need to properly resource and fund the implementation of the disability standards. Local government will play an important role in the delivery of more accessible buildings when final disability standards are adopted. Appropriate training of building surveyors and planners, and distribution of information material will be critical to implementing the new standards.

Yours sincerely

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Chief Executive