

Access

ALL AREAS



STORY: DAVID KIRKPATRICK

The community is being consulted on new disability access standards for buildings.

Bruce Bromley understands buildings and the thought that needs to go into designing them.

He is a disability access consultant and the managing director of Equal Access Pty Ltd based in Melbourne.

Mr Bromley has conducted access ‘audits’ on some of Australia’s major public buildings. When asked for specific examples of what he actually does during those audits, the conversation quickly turns to toilets.

“In toilets there are something like 60 items alone we look at for compliance, that’s how complex it is,” he says.

And how many come up to scratch? “You’re looking at about two per cent.”

Mr Bromley’s example highlights part of the problem with the current guidelines for disability access.

The existing Building Code of Australia contains specific provisions on access to and within buildings for people with a disability. In reality, the end result can fall drastically short of what’s required.

“There are Australia-wide access standards under the BCA, but does it always happen? The answer is ‘no,’” Mr Bromley says.

He believes there are two areas where it falls down: there is a lack of understanding by architects, developers and building surveyors about the legislative requirements and the legislation is contradictory in some places.

“It falls back to building surveyors and building inspectors to check these things. The complexities of the standards, as well as every other discipline involved with building a building, are just so difficult. Some things just slip through to the keeper.”

If a person with a disability can’t get into a building, or cannot access goods or services, they can make a complaint of discrimination under either state or territory discrimination laws or under the Commonwealth Disability Discrimination Act 1992.

“Having a built environment that everyone can use is good for business.”

But the legislation is complaints-based (as opposed to compliance-based). Up until now the intent and objectives of the Disability Discrimination Act have not been supported by detailed technical requirements, so there is no clear way to ensure a building complies with it.

Mr Bromley’s business website is littered with articles about people with a disability suing building owners, businesses or government bodies because they couldn’t gain access to buildings or public transport or some other type of facility that able-bodied people take for granted.

“What happens currently is that if someone can’t get into a building, that says I am being discriminated against because the building is inaccessible and generally the building owner will be instructed to bring it up to compliance,” Mr Bromley says.

“But building owners can appeal and argue that compliance would bring them ‘unjustifiable hardship’, or it is structurally not possible, and cost too much money. They can apply to have that decision overturned and they will get sign-off on that.”

Which is where the draft Disability (Access to Premises — Buildings) Standards come into play.



Photos: jupiterimages

They were tabled in federal parliament by Attorney-General Robert McClelland in December last year.

"The premises standards will specify the type of access that will comply with Australia's disability discrimination system," Mr McClelland said at the time.

"This is turn will help to reduce red tape by harmonising the requirements with the building code of Australia, which in turn is adopted by state and territory building laws."

The draft standards are intended to cement the legal obligation of certifiers, developers and managers, under existing human rights legislation, to provide access for people with disabilities to new buildings or to parts of existing buildings undergoing major refurbishments.

The standards have been referred to the House of Representatives Legal and Constitutional Affairs Committee for review of their appropriateness and effectiveness.

Announcing the inquiry, committee chair Mark Dreyfus (Member for Isaacs, Vic) said: "These standards will further protect and promote the full participation of people with disabilities in the community and have important

BETTER ACCESS:

The new standards will cement the legal obligation of developers.



LEGAL OBLIGATION:

Developers and managers will have to comply with the new building access standards.

implications for the development of buildings that are accessible to the public.

“I encourage relevant disability and building industry representative bodies, state, territory and local government organisations, people with disability and other members of the public to examine the draft standards, consider how it impacts on their interests, and make a submission to our inquiry.”

The property industry has been reported as saying the new standards will raise compliance costs by an estimated \$620 million, while groups representing people with disabilities argue the financial benefits of providing better access far outweigh those costs.

Bruce Bromley is one of those building professionals who can see both sides of the argument.

“It is good to see that things are now starting to move forward with the addition of the standards,” he says.

“But I guess the other side of the argument from developers is that it will reduce their net rentable area and there has to be an economic viability for any development to go ahead.”

About 50 per cent of people aged over 55 have difficulty with their mobility, hearing or vision. By 2050 more than 25 per cent of the population will be over 65.

The committee’s inquiry will be investigating the appropriateness and effectiveness of the proposed premises standards in achieving their objectives. It will also examine the interaction between the premises standards and existing regulatory schemes operating in state and territory jurisdictions, including the appropriateness and effectiveness of the proposed Model Process to Administer Building Access for People with Disability. The committee will also look at whether the premises standards will have an unjustifiable impact on any particular sector or group within a sector.

One person planning to contribute to the inquiry is Dougie Herd, the Director of the Office of the Disability Council of NSW.

“People with a disability are citizens just like everybody else and it is a basic human right to be able to access the built environment,” Mr Herd says.

“If it is possible to get into a building in New York, or Edinburgh where I lived, or Glasgow, where I was born, it should be possible to get into a building in Australia.

“Having a built environment that everyone can use is good for business, particularly in Australia where the population is ageing.”



Mr Herd’s comments are backed up by the Australian Human Rights Commission, which has estimated that almost four million Australians have a disability.

About 50 per cent of people aged over 55 have difficulty with their mobility, hearing or vision. By 2050 more than 25 per cent of the population will be over 65.

If you add in families, friends and colleagues, the sheer number of people affected by disability is magnified even further.

Dougie Herd, who has been in a wheelchair since breaking his neck in two places during a swimming accident over 20 years ago, believes it makes good business sense to provide access to buildings for people with a disability.

“I’m a middle manager in the public sector and I’m only going to spend my pay in places that are accessible to me,” he says.

“So if I am going to go out to dinner with my family and friends and spend \$200 for a special evening, it makes sense if you own a restaurant to make it accessible to me.”

Mr Herd was involved in consultations about this issue under the previous Howard government and is concerned that some of the draft standards have been watered down.

“Clearly we are disappointed that there are no references to common areas of class two buildings, which are basically blocks of apartments,” he says.



“I’m only going to spend my pay in places that are accessible to me.”

“In previous drafts there had been a requirement that common areas such as lobbies and social areas like the pool would be accessible and that has been taken out.

“There has also been a debate about small buildings that are two or three storeys and no more than 600 square metres.

“The building industry is saying that it is too expensive to provide access to the second storey of those small buildings.

“In the future, most of these smaller buildings will be built in rural and regional NSW, and they will be doctors’ surgeries and chemists and it is essential that access be provided to first, second and third floors.

“There are no problems with access to 22-storey skyscrapers. There are plenty of lifts because no one wants to walk up 22 flights of stairs, but when it comes down to small buildings it’s a different matter.”

Despite some of his reservations, the new standards can’t come into force quick enough for Mr Herd.

“I think, in the main, people in the disability community are very happy that the draft standards have been published and consultations have been set in place,” he says.



LONG JOURNEY: *Dougie Herd (top) says it’s time to make decisions on new building access standards. Photo: Andrew Dawson. Inset: jupiterimages*

“There are some wins and losses in the draft and I’m hoping for a really good debate on the final standards.

“We all welcome the opportunity to discuss it, but this is the last time we need to have a discussion about this. It’s time to have a commitment and for the Australian parliament to reach a decision.

“Sometimes it is good to take a long time to get things right, but sometimes it can take too long coming. This is the end of a long journey and the sooner we reach it the better.” •

For more information on the review of the draft Disability (Access to Premises – Buildings) Standards being conducted by the House of Representatives Legal and Constitutional Affairs Committee, visit www.aph.gov.au/laca or email laca.reps@aph.gov.au or phone (02) 6277 2358.