

# DISABILITY DISCRIMINATION ACT AND APPLICATION

## FACT SHEET

The purpose of this fact sheet is to bring the Disability Discrimination Act (DDA) to the attention of owners, builders and developers. It is not designed as a definitive guideline or checklist. It is the responsibility of owners, builders and developers to ensure they are fully informed of their DDA obligations. The producers accept no liability for any actions that may arise from reliance on this information.

### THE DISABILITY DISCRIMINATION ACT

In 1992 the Federal Government passed legislation to implement the Disability Discrimination Act (DDA), making it unlawful to discriminate on the grounds of disability in the following areas:

- employment
- clubs and associations
- education
- accommodation
- buying land
- sport
- access to premises and public places
- provision of goods, services and facilities
- administration of Commonwealth laws and programs.

### TYPES OF DISABILITIES COVERED BY THE DDA

- Physical (eg. cerebral palsy)
- Intellectual (eg. downs syndrome)
- Psychiatric (eg. schizophrenia)
- Sensory (eg. visual impairment)
- Neurological (eg. stroke)
- Learning disability (eg. dyslexia)
- Physical disfigurement (eg. scarring)
- Disease causing organisms in the body (eg. HIV/AIDS)

### HOW THE DDA RELATES TO THE BUILDING CODE OF AUSTRALIA

The Building Code of Australia (BCA) refers to several standards administered

by Standards Australia. These standards include important access issues relating to physical mobility, for example; AS 1428 -1- 2001 and AS 1428 -1 -1992 Design for Access & Mobility; AS 2890 Car Parking and AS 1735 Lifts.

The BCA's access provisions are currently under review to make it more reflective of the DDA. However, recognising that some guidance is desirable in the period leading up to the completion of the revised BCA access provisions, the Human Rights and Equal Opportunity Commission has released Advisory Notes on Access to Premises.

The purpose of the guidelines is to provide those concerned with the design, construction and management of buildings with an understanding of the current responsibilities and rights under Section 23 of the DDA. In addition, it is suggested that owners, builders and developers familiarise themselves with the requirements of the DDA and relevant state anti-discrimination legislation (see resource list overleaf).

#### COUNCIL'S ROLE

Council is obliged to notify owners, builders and developers of the existence of the DDA and is required to satisfy itself that developments will not unlawfully discriminate against people with disabilities. Council assesses this at the development assessment stage.

A construction certificate can also be issued by council or an accredited certifier and will certify compliance with the BCA. However, the construction certificate does not indicate that the proposal complies with the requirements of the DDA, therefore consideration of the DDA should be undertaken by Council or

#### Principal Certifying Authority (PCA)

##### WHAT CAN HAPPEN IF AN OWNER BUILDER OR DEVELOPER DOES NOT COMPLY WITH THE DDA

A complaint can be lodged against an owner, builder and developer with Human Rights and Equal Opportunity Commission (HREOC). In this event the following may occur:

- The owner, builder and developer may be asked to a conciliation meeting with the complainant and a HREOC officer to attempt to resolve the issue.
- If a resolution is not found, the owner, builder and developer may have to attend a hearing in the Federal Court to determine if the complainant has been unlawfully discriminated against. If proven, the Federal Court may order that works be carried out immediately to resolve all aspects of disability discrimination.

In the case Cooper Vs Coffs Harbour City Council, the Council was found to have breached the DDA by permitting (ie. approving) a development that discriminated against people with disabilities.

## GOOD PRACTICE EXAMPLES

How can owners, builders, and developers comply with the DDA? When designing residential or commercial property owners, builders and developers should be mindful of disability access issues such as:

- Entrance to the building property - Is the entrance level? If not, what can be done to make it accessible? A ramp? A lift? Is the entrance door wide enough for wheel chair access, and can someone easily operate it with a disability.
- Movement within the building property - Are the corridors wide enough to allow easy movement? Are they well lit? Is there clear signage? Is a lift provided to permit smooth access from one level to another? Does the lift comply with accessibility requirements such as tactile control panel, audio messages, etc?
- Multi-Unit developments - Are entrances to each unit wide and easy to operate? Can someone with a disability live in the unit comfortably? One or two specially designed units could be allocated. This may simply mean having an open plan design, bathrooms and toilets which comply with requirements and kitchens that can be easily operated by someone with a disability, for example, if a person is using a wheelchair, the benches, stove, oven etc need to be an appropriate height.
- Commercial properties - As with residential properties, owners, builders and developers of commercial properties should ensure that the entrance to and movement within a commercial complex allows equal access to all potential users. Additionally, all facilities within the property such as reception counters, toilets, public telephones etc need to be fully accessible.
- Parking facilities - When parking facilities are provided in residential or commercial properties, owners, builders and

## USEFUL CONTACTS

Human Rights and Equal Opportunity Commission (HREOC)  
National Office, Level 8,  
Piccadilly Tower 133  
Castlereagh St, Sydney NSW  
2001  
Phone: (02) 9284 9600 Fax: (02) 9284 9611  
TTY: 1800 620 241  
General enquiries and publications: 1300 369  
711 [www.humanrights.gov.au](http://www.humanrights.gov.au)

NSW Anti Discrimination Board  
Level 4, 175-183 Castlereagh St, Sydney NSW  
2000  
Phone: (02) 9268 5555 Fax: (02) 9268  
5500  
TTY: (02) 9268 5522  
Toll Free: 1800 670 812 (only within New  
South Wales)

Australian Local Government  
Association Australian Local  
Government Centre  
8 Giles Crt, Deakin ACT 2600  
Phone: (02) 6281 1211 Fax: (02) 6122  
9401  
[www.alga.asn.au](http://www.alga.asn.au)

## ACROD NSW DIVISION

103, 1 Floor,  
Sydney  
developers should make sure that they allocate specifically designed spaces for residents, visitors or customers with a disability and ensure that such spaces comply with the necessary standards for 'Accessible Parking'.

This leaflet provides just a few examples of good and bad practice relating to disability access. It is the responsibility of owners, builders and developers to find out more about good disability access and compliance with the DDA. A list of useful contacts is offered at right. Ensuring equal access to residential and commercial properties is not only a humanitarian act or a protection from the law, it also makes good business sense!

1-5 Commercial Rd, Kingsgrove 2208  
Phone: (02) 9503 1666 Fax: (02) 9554 3188  
[www.acrodnswn.net](http://www.acrodnswn.net)

Independent Living Centre  
1 Fennel St, Parramatta NSW 2150  
Phone: 1300 885 886 Fax: (02) 9890 0966  
[www.ilcnswn.asn.au](http://www.ilcnswn.asn.au)

NSW Disability Discrimination  
Legal Centre Level 2, 52 Pitt  
St, Redfern NSW 2016  
Phone: (02) 9310 7722 Fax: (02) 9310 7788  
TTY: (02) 9313 7190  
[www.ddlcnswn.org.au](http://www.ddlcnswn.org.au)

Association of Consultants in Access,  
Australia Inc (ACA Australia)  
326 Autumn St, Herne Hill VIC 3218  
Phone: (03) 5221 2820 Fax: (03) 5221 2820  
Email: [ACAA.Secretary@bigpond.au](mailto:ACAA.Secretary@bigpond.au)

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Government Association of Australia and  
Disability Division of Local Government  
Community Services.

Further information contact Liverpool  
City Council on 1300 36 2170.

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