



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

Main Committee

COMMITTEES

Legal and Constitutional Affairs Committee

Report

SPEECH

Thursday, 20 August 2009

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Thursday, 20 August 2009
Page 8580
Questioner
Speaker Neumann, Shayne, MP

Source House
Proof No
Responder
Question No.

Mr NEUMANN (Blair) (10.11 am)—I am pleased to speak on the report *Access all areas*. Nearly four million Australians, according to the Australian Bureau of Statistics, suffer some form of disability. That results in them being excluded in large part from access to buildings, from access to the kind of employment that they wish to enjoy and from access to participation in cultural and community life, and we need to do something about it. That means that one in five Australians suffer from a form of disability. Whilst since 1992 we have had the Disability Discrimination Act on the Commonwealth statute books, the complaints mechanism has resulted in the prosecution of very few cases relating to disability concerning access to premises. The act does not provide detailed guidance with respect to buildings or detailed guidance for a building owner, designer or manager on what they must do to ensure that a building they construct, manage or design is accessible to all members of the Australian community. The consequences are that people who feel they have suffered unlawful discrimination pursue their cases on a case-by-case basis, and they seek outcomes through the Australian Human Rights Commission and, if not successful there, through the Federal Magistrates Court or the Federal Court of Australia.

The Building Code of Australia has been developed and maintained by the Australian Building Codes Board to provide a uniform system of building standards for this country. It provides guidance as to how buildings should be designed and built in accordance with appropriate standards. The Building Code is implemented with the concurrence and cooperation of the states and territories of this country, through building regulation laws, thereby ensuring we have a uniform building code throughout our nation. Since the introduction of the Disability Discrimination Act, it has become very obvious that there is not a good marriage between the Building Code and its regulations and protocols and the Disability Discrimination Act at a Commonwealth level. So premises standards have been developed. Those premises standards have been in draft form for about five years. They have had a long and protracted history. The Building Access Policy Committee was established by the Australian Building Codes Board in 1995. Stakeholders, representatives of the building industry, disability groups and the federal government were involved. Some recommendations to change the Building Code were made after the wide consultation.

The premises standards were tabled by the then Attorney-General in parliament on 2 December 2008. Given the years and years of consultation, review and consideration, the committee felt it was necessary that action should be undertaken and undertaken without delay. The committee urged that the finalisation of the premises standards should be a priority in the circumstances. The transport standards have had a long and protracted history as well and we do not want to see the outcome of the premises standards go the way of the transport standards which, seven years on, a final report of the review of the transport standards has still not been released.

I want to pay tribute to the secretariat for their great work they have undertaken in the circumstances concerning this very technical area of law. I want to pay particular tribute to their fine work, their competency, their diligence and their capacity—and the fact that they make us look so much better than we really are by the assistance they give us.

We need to ensure that the premises standards harmonise the Building Code and the Disability Discrimination Act so that people suffering from disability can get access to common areas. The premises standards in their draft form provide accessibility requirements for access and egress, accessible car parking, signage, hearing augmentation, tactile indicators, wheelchair seating spaces in class 9b assembly buildings, ramps, glazing on access ways, and braille and tactile signs. There are a number of objects in the premises standards: to ensure increased access and certainty; to ensure that we achieve a degree of equity and not just rely solely on cost-effective access to buildings; and, of course, need to give certainty to builders, designers, developers and managers. There are 19 recommendations. However, like the deputy chair, I am not going to recite all of those.

The committee supports the introduction of the draft access standards. The committee also looked at a number of classes of buildings. Class 1a buildings are detached or semi-detached residential buildings. Most residential housing in Australia falls into this classification. The draft premises standards do not apply to these private homes,

because they are simply not open to the public and access to premises, accordingly, should not be classified. Class 1b buildings are, by and large, smaller buildings used for short-term accommodation—B&Bs and eco-lodges. The premises standards do impose certain accessibility requirements for these buildings with four or more bedrooms or dwellings. They include a special bedroom and access to common areas. Class 2b buildings are buildings containing two or more sole occupancy units. In general they are residential apartments and flats, but not hotels, motels or the like. The 2004 draft premises standards impose accessibility requirements in relation to pedestrian entrance to units on at least one floor and to certain common areas serviced by an accessible ramp or lift.

It is important that we ensure that people suffering from a disability have access to class 1b and class 2b buildings. We heard evidence from people suffering from disability who could not get access to these types of buildings, could not find suitable accommodation when on holidays, could not find access to their rooms, could not find access to lavatories and found it difficult to get through common areas. The humiliation, desperation and feelings of isolation were quite clearly demonstrated in the submissions we received.

This committee received 146 submissions and held six public hearings and one roundtable. There was an enormous amount of interest in this particular committee's report. The committee recognised that many class 1b buildings are run by smaller businesses with limited resources, but it is clear also in the circumstances that, in the case of new and purpose-built class 1b buildings, we need to provide greater access for people with a disability. The committee also recognised that, regardless of the number of bedrooms that these class 1b buildings contain, there should be access for people suffering from disability and changes need to be made. So we are recommending in relation to new and purpose-built class 1b buildings but not existing class 1b buildings.

We also heard evidence in relation to fit-out and the implications for people suffering from disability of what fit-outs in buildings look like—and not just in the common areas and the lifts. The committee considered this and recommended that consideration be given to the development of disability standards in relation to fit-outs in buildings. It is important to consider how buildings look, whether people suffering from visual impairment can move around without bumping into things and how they can respond in circumstances where there is a fire or other type of emergency.

We recommended there be a review and that that review be undertaken in five years from the commencement date of the premises standards.

Perhaps the most contentious aspect was not just the 'regional or remote location' part of the unjustifiable hardship provisions but the presence of the unjustifiable hardship provisions as a limitation on the application of the premises standards. The premises standards provide that it is not unlawful to fail to comply with a requirement of the standards to the extent that compliance would impose unjustifiable hardship on a person or organisation. Unjustifiable hardship can only be assessed on a case-by-case basis and, even when unjustifiable hardship is proven, compliance is still required to the maximum extent not involving unjustifiable hardship.

We heard evidence from some people who were travelling around Australia, particularly in regional and rural areas, who could not get access to buildings which were suitable for them in their particular circumstances of disability. We also heard evidence from stakeholders from various parts of the building industry and the tourism and hospitality industry who, I must say, did not always show the degree of compassion, understanding and empathy with people suffering from disability that I would have liked them to have expressed.

It is important that there be less emphasis on dollars and more emphasis on people. People count a lot more. I would like to see more compassion shown and the industry have a really good, close look at itself in the circumstances. I know a number of members from this side of the House had a number of quite testy confrontations, almost, with people in those industries. I know the member for Moreton and I both had very interesting conversations with people who gave evidence from time to time. Even the chair, who is quite measured, cautious, diplomatic and dignified in the way he conducts the meetings, had some interesting discussions from time to time.

This is a bipartisan and unanimous committee report. It makes very important recommendations that will help provide dignity for people suffering from disability. I commend the report and urge the government to give serious consideration to it, to get a uniform national approach in relation to these matters and to ensure that we give all Australians, regardless of the geography and the circumstances in which they find themselves, the same kind of access to buildings, social inclusion, employment opportunities and lifestyle that we expect for all of us, our children and the generations ahead.