

30 June 2024

Department for Health and Wellbeing

SA Health

Health.AutomatedExternalDefibrillators@sa.gov.au

Strata Community Association's Response to the Automated External Defibrillators (Public Access) Act – Draft Amendment Bill

Strata Community Association SA/NT (SCA SA/NT) is pleased to have the opportunity to respond to the South Australian Governments' request for feedback on the proposed changes to the Automated External Defibrillators (AED) (Public Access) Act 2022.

Please find our feedback to the questions relevant to our organisation and the interests of our membership below:

5. Do you support the proposed Section 3 – Interpretation – Definition of building?

Conditionally, SCA (SA/NT) supports the proposed Section 3 – Interpretation – Definition of building.

5. Please add any comments to support

SCA (SA/NT) agrees with the proposed definition of a building, provided that that definition excludes class 2 buildings and does not pertain to strata and community plans.

Under Section 3 – Interpretation, the proposed definition of building states:

- *“a structure with a roof and walls which has a floor area of 600m² or more”*

Under Section 5 – Meaning of Prescribed Building, it states:

- *Amend Section 5 to insert, after paragraph c, the following:*
 - ***‘but does not include a building, or class of buildings, excluded from the ambit of this definition by the regulations,’***
- *As the proposed definition of ‘building’ in Section 3 includes reference to ‘a floor area of 600 m² or more’, the reference in this section is no longer required. The ability to exclude the regulations if required for the operationalisation of the Act.*

As SCA (SA/NT) understands, the definitions as provided above are dependent on the drafting of the regulations that have not as yet been finalised.

As such, SCA (SA/NT) has resolved to provide support for the proposed definitions, conditionally, as long as the regulations are written as such that Class 2 Residential Buildings are ‘excluded from the ambit of this definition.’

Similarly, when considering the definition of a ‘Prescribed Building’ as above, it denotes a building “with a floor area of more than 600 m².” A mixed-use strata building may in total have a floor area of more than 600m², however that total floor area may be divided into both commercial and private land.

5. Do you support the amendment to align floor area for the purpose of the Act's requirements with publicly accessible floor area?

SCA (SA/NT) does not currently support the amendment to align 'floor area,' believing that further consideration must be made in regard to mixed-use strata.

6. Please add any comments to support

As you may be aware, a mixed-use strata scheme is a strata scheme that falls into both categories of residential and commercial, and its layout may take many forms.

In the explanatory guide, it states that:

Publicly Accessible Floor Space

Section 7 of the Act provides that the owner of a relevant designated building or facility or a prescribed building must ensure that 1 AED is installed in the building or facility for every 1 200m² of floor area of the building or facility.

*A 'relevant designated building or facility or prescribed building' **must be on land used for a commercial purpose.***

Proposed Amendment

Amendment to Section 7 (1)(c) of the Act to insert 'publicly accessible' after the term 'floor area'.

Amendment to Section 7(3), before the definition of relevant building or facility, insert:

publicly accessible floor area, in relation to a building or facility, means—

(a) in relation to a building or facility only part of which is open to the public—the floor area of the part of the building or facility to which the public has unobstructed access while that part of the building or facility is open to the public; or

(b) in any other case—the floor area of the building or facility to which the public has unobstructed access while the building or facility is open to the public;

Amendment to Section 7(3)(b) to insert 'publicly accessible' before the word 'floor'.

This will align with the short title of the Act and supports the Act's intent in increasing the availability of AEDs for public use.

SCA (SA/NT) understands that the changes are to ensure that the current interpretation of the wording in 'floor area of a building' may lead to the installation of AEDs being mandated in areas of buildings that are not accessible by the public.

However, SCA (SA/NT) contends that it is difficult to define what is 'publicly accessible' when considering the examples of mixed-use strata or commercial only lots, as areas within a mixed-use strata may be technically accessible to the public however the land may residential, which may cause ambiguity with this definition.

Similarly, for example, SCA (SA/NT) would ask that the government consider the potential example of a single row of lots/commercial spaces, one next to the other, a format of commercial businesses which may potentially be included in the scope of these provisions.

SCA (SA/NT) would contend that there is no 'publicly accessible area' within the area of the lots, and that the AED would need to be in a secure location, which may not be feasible within this example.

Although the AED could potentially be included in the public access area of a business, that business may close at 5pm, or would require an AED to be placed in the middle of a restaurant for example, which is not practical and may contravene the accessibility needs of the AED as prescribed by the legislation.

SCA (SA/NT) would ask that the government further consider the clarity of the definitions of 'publicly accessible' to ensure that the requirements pertaining to mixed-use strata schemes and commercial areas without adequate secure locations are adequately addressed.