

Access and Mobility

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I.0 Introduction

I.1 Land to which this Part applies

This Part applies to all land within the Former Auburn Local Government Area where Council is the consent authority.

I.2 Development to which this Part applies

This Part applies to all proposed developments except for:

- Building Class 1a (detached dwellings and dual occupancies, multi dwelling housing (villas, row, town and terrace houses) and Class 2 (residential flat buildings) unless development exceeds 5 or more housing units; and
- Building Class 10a (non-habitable buildings such as private garages, carports, sheds, etc.) and Class 10b (structures such as retaining walls, mast antennas, etc.) as specified in the Building Code of Australia (BCA).

I.3 Purpose of this Part

The intention of this part is to ensure that all members of the community have unimpeded access to a wide range of premises in the built environment. Section 4 of the *Disability Discrimination Act 1992 (DDA 1992)*, refers to premises as:

- “(a) a structure, building, aircraft, vehicle or vessel;
(b) a place (whether enclosed or built on or not); and
(c) part of premises (including premises of a kind referred to in paragraph (a) or (b)).”

Access refers to an environment which is free from barriers for people with either temporary or permanent disabilities. It includes entry to, and mobility within, a building or place by means of the provision of a continuous accessible path of travel. It also means the provision of information in such a manner that can be interpreted by people with sensory disabilities.

It is noted that the *DDA 1992* allows discrimination against a person with a disability, where to do otherwise would cause unjustifiable hardship. This hardship, described under section 4.0 of this Part shall be proven to Council.

I.4 What is a disability?

Section 4 of the *DDA 1992* defines disability in relation to a person as a:

- “(a) total or partial loss of the person’s bodily or mental functions; or
(b) total or partial loss of a part of the body; or
(c) the presence in the body of organisms causing disease or illness; or
(d) the presence in the body of organisms capable of causing disease or illness; or
(e) the malfunction, malformation or disfigurement of a part of the person’s body; or
(f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
(g) a disorder, illness or disease that affects a person’s thought processes, perception of reality emotions or judgement or that results in disturbed behaviour; and includes a disability that:
- presently exists; or
 - previously existed but no longer exists; or

- *may exist in the future; or*
- *is imputed to a person.”*

It includes people who have temporary or permanent disabilities, have had a disability in the past, have a disability in the future, or are believed to have a disability through an illness.

1.5 The role of this Part

The Former Auburn Local Government Area (LGA) community includes people with disabilities of a temporary or permanent nature, people with age related disabilities, as well as people with particular temporary restrictions on their mobility. This part:

- sets out Council's requirements for the provision of access to, and mobility within, all premises within the Auburn LGA;
- aims to ensure that all members of the community have unimpeded access to a wide range of premises i.e. housing, shops, businesses, facilities and services such as banks, entertainment, recreation etc. which may be constructed within the Auburn LGA;
- provides performance criteria and development controls for access and adaptable housing; and
- provides a mechanism for exemption from this Part under exceptional circumstances described under section 3.0 of this Part.

1.6 Structure of this Part

This Part is structured as follows:

- Section 2.0 addresses design guidelines for access.
- Section 3.0 addresses exceptional circumstances.

1.7 How to use this Part

All applicants should consider the following four (4) steps when lodging a development application in accordance with this Part:

- Step 1: Consider whether this Part applies to a particular type of development proposed by checking the BCA classifications for buildings and structures.
- Step 2: Consider the requirements that the development shall comply with by referring to this Part, relevant Australian Standards and BCA provisions.
- Step 3: Applicants shall provide evidence that the requirements of *DDA 1992* and this Part have been considered and addressed in the design of the proposed developments when lodging a development application to Council. The evidence shall be included in or attached to the Statement of Environmental Effects (SEE) as part of the report prepared by a qualified and experienced building professional.
- Step 4: If a case of unjustifiable hardship is made under exceptional circumstances, this hardship shall be demonstrated to Council's satisfaction. A copy of the claim for grounds for unjustifiable hardship (refer section 3.0 of this Part for the claim criteria) shall be submitted by the applicant when lodging a development application with Council. (The Council will not accept the development application without the copy of the claim for unjustifiable hardship.)

1.8 Submission requirements specific to access and mobility matters

Access is one of many important design objectives which are considered by Council. Council will assess each application on its merits having regard to this and other plans and policies that apply to the development proposals.

Where this Part is relevant to a development proposal, the development application must be compliant with all requirements stated in steps 1, 2, 3 and 4 above.

Applicants are encouraged to consult with Council to discuss their proposal prior to lodging a development application. Council conducts pre-lodgement meetings to provide development advice which is subject to a fee. General planning advice can also be obtained from Council's Duty Planner.

2.0 Design guidelines for access

Objectives

- a. Improve access to and mobility within all premises of the Auburn LGA.
- b. Provide equal access opportunities to all sections of the community within the Auburn LGA.

2.1 New/proposed development

Performance criteria

- P1** Development applications ensure an integrated approach to the provision of access to buildings.
- P2** Development complies with the relevant Australian Standards and BCA provisions.

Development controls

Note: Development controls specified in the Australian Standards and the BCA for walkways, ramps and landings, handrails and grab rails, doorways, doors and circulation space at doorways, lifts, stairways, sanitary facilities, building controls, surface on a continuous path of travel, car parking, signage indicating access, seating in public entertainment areas, hearing augmentation listening systems and lighting, shall be considered.

- DI** The following key standards shall apply when designing for access and mobility:
- AS 1428.1 – Design for Access and Mobility: General Requirements for Access – New Building Work.
This standard sets out the minimum requirements for disabled access that apply to all proposed developments that are subject to development applications except for buildings classes specified in section 1.2 of this part within the Auburn LGA.
 - AS 1428.2 – Design for Access and Mobility: Enhanced and Additional requirements – Buildings and Facilities.
This standard sets out enhanced requirements for the minimum access stated under AS 1428.1.
 - AS 1428.3 – Design for Access and Mobility Requirements for Children and Adolescents with Physical Disabilities.

This standard sets out requirements for the design and installation of tactile indicators for use on ground floor surfaces to assist the mobility of people with vision impairment.

- AS 1428.4 – Design for Access and Mobility: Tactile Ground Surface Indicators for the Orientation of People with Vision Impairment.

This standard sets out requirements for the design and installation of tactile indicators for use on ground floor surfaces to assist the mobility of people with vision impairment.

- Building Code of Australia.
- AS 2890 – Parking facilities.

This standard sets out access requirements relating to off street commercial vehicle parking.

2.2 Existing development, subject to a development application

Performance criteria

- PI** No building work is to be undertaken that results in a decrease in the existing level of access.

Development controls

- DI** For all major alterations and renovations to existing buildings, development shall comply with the development controls in section 2.1.

2.3 Building work which involves changes to an existing entrance/exit, but no major alteration to other parts of the property

Development controls

- DI** Refer to development controls in 2.1 above.

Note: If the use of an existing building changes it may also change its classification under the BCA. If this is the case, Council can require the premises be made fully accessible.

2.4 Minor building works which do not affect the access to the property

Development controls

- DI** Refer to development controls in 2.1 above.

2.5 Change of use which includes building work

Development controls

- D1** If major new work/alterations/additions are proposed, comply with the requirements of this Part and refer to development controls in section 2.1 above.
- D2** If minor works include a change to the entrance/exit, comply with access requirements in section 2.1 above.
- D3** If there is no change to the building classification and there is only minor building work, comply with access requirements in section 2.1 above.

2.6 Change of use with no building work

Development controls

DI The application shall comply with the provisions imposed by the *DDA 1992*.

3.0 Exceptional circumstances

This part adopts a consistent approach with the *DDA 1992* where claims of exceptional circumstances will be considered during the development application process, providing the case for unjustifiable hardship has been proven to Council. Unjustifiable hardship is a mechanism in the *DDA 1992* for the consideration of instances where access and mobility requirements are reasonable, impractical or not cost effective. Whilst exceptional circumstances under this Part are based on the *DDA 1992* concept of unjustifiable hardship, they do not necessarily represent all the issues considered under this legislation.

3.1 Unjustifiable hardship

Former Auburn City Council is bound by the requirements of the *Environment Planning and Assessment Act 1979*, the *Local Government Act 1993* and accompanying Regulations to ensure that adequate access is provided for people with a disability. Council also upholds section 23(1) and (2) of the *DDA 1992* which allows discrimination against a person with a disability, where to do otherwise would cause unjustifiable hardship. 'Unjustifiable hardship' is assessed on a case by case basis. Grounds for claiming unjustifiable hardship must be made in accordance with the requirements of *DDA 1992*.

Section 11 of the *DDA 1992* determines what constitutes unjustifiable hardship, where all relevant circumstances of the particular case are to be taken into account. The following criteria need to be addressed on the grounds for a claim for unjustifiable hardship:

- **Benefits:** The extent to which the people will benefit from the development complying with this Part (positive and negative feedbacks from the disabled and community).
- **Detriments:** The extent to which the people be detrimentally affected if the development is not accessible; (the effect of both positive and negative, on other people by providing the required level of access, for example people delivering goods, people with prams or trolleys and staff).
- **Cost:** The cost of compliance with this Part that refers to the actual cost incurred on the access provisions alone.
- **Other special considerations:** Include technical difficulties in providing access, topographical restrictions, the effect of any alterations and additions that have an impact on heritage significant properties, safety, design and construction issues.
- **Alternatives:** The alternatives which have been investigated to overcome the above special considerations shall be submitted with the development application.
- **Ability to meet the costs:** The ability of the applicant to meet the cost of complying with this Part. Development applications shall be supported with additional information such as financial reports to document the situation.

What would be an unjustifiable hardship to one person(s) or organisation(s) may not be for another and could not be specified as a general statement applying to all cases. The provisions of Section 11 of *DDA 1992* require assessment on a case by case merit basis and in some circumstances the applicant may claim for unjustifiable hardship complying with access standards for the Council's final decision.