

## ITEM 1

## PUBLIC EXHIBITION - REVIEW OF CHAPTER E1 OF WOLLONGONG DEVELOPMENT CONTROL PLAN 2009: ACCESS FOR PEOPLE WITH A DISABILITY

On 15 December 2009, Council endorsed the Wollongong Development Control Plan (DCP) 2009. The DCP came into force on the 3 March 2010, following the commencement of the Wollongong Local Environmental Plan 2009. Chapter E1: Access for People with a Disability of the DCP 2009 outlines the statutory framework and the legislated requirements for providing access for people with a disability.

A review of Chapter E1: Access for People with a Disability has been undertaken to update the chapter in line with current legislation, recognised best practice and existing Council policies and documentation. Furthermore, a review of the development controls adopted by other local Councils regarding access and mobility was undertaken.

This report recommends Council endorse the reviewed draft Chapter E1: Access for People with a Disability, for public exhibition.

### RECOMMENDATION

- 1 Draft Wollongong Development Control Plan (2009) Chapter E1: Access for People with a Disability be exhibited for a minimum period of 28 days.
- 2 Following the exhibition period, a report outlining the submissions received from the public exhibition process with recommendations regarding progression of the draft DCP amendments be prepared for Council's consideration.

### REPORT AUTHORISATIONS

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### ATTACHMENTS

- 1 Draft Chapter E1: Access for People with a Disability

### BACKGROUND

In 1993 the *Federal Disability Discrimination Act 1992* (DDA) commenced which made it unlawful for a person to discriminate against another person on the grounds of disability in the areas of work, accommodation, education, access to premises, clubs and sport. Operating under the DDA 1992 framework is the National Construction Code (NCC), which includes the Building Code of Australia (BCA).

On 15 December 2009, Council endorsed the Wollongong Development Control Plan (DCP) 2009. The Wollongong DCP (2009) commenced on 3 March 2010, which includes Chapter E1: Access for People with a Disability (the Chapter).

The Federal Government identified that shortfalls in the NCC and BCA existed and on 1 May 2011 the Government introduced the Disability (Access to Premises – buildings) Standards 2010 (Premises Standards). The purpose of the Premises Standards is to ensure dignified, equitable, cost-effective and reasonably achievable access to buildings, and facilities and services within buildings, is provided for people with a disability; and, to give certainty to building certifiers, developers and managers that if the Standards are complied with they cannot be subject to successful complaint under the DDA in relation to the matters covered by the Premises Standards.

Since the Chapter E1 came into force, a number of other legislative changes have occurred:

- In 2014 the *NSW Disability Inclusion Act 2014* (DIA) commenced. The DIA required NSW Councils to implement a Disability Inclusion Action Plan (DIAP) by 1 July 2017.

- In 2016 Council endorsed the Disability Inclusion Action Plan 2016-2020 following consultation with the community. The DIAP 2016-2020 guided Council in making services, facilities, activities and information more inclusive and accessible.
- On 19 February 2019 Council adopted the Ageing Plan 2018 – 2022 which was developed in consultation with the community to identify key priorities for making the City of Wollongong a great place for older people. One of five focus areas was the creation of liveable communities – where people can move about easily to access services and facilities and participate in community life. Actions to achieve the priority included improve footpaths that link important places like town centres, park, railway stations, and bus stops. The actions of the focus area assisted in informing the review of Chapter E1 and the desired built form outcomes.
- On 31 August 2020 Council adopted the Disability Inclusion Action Plan 2020 – 2025. An action in the Plan is the review of Council's planning documents including DCP Chapter E1: Access for People with a Disability.

The provisions of the Federal and State legislation prevail over Council's DCP creating some inconsistencies, which have been manageable in recent years. Given the number of informing documents that are now in place, it is timely to update the DCP chapter to remove inconsistencies and reduce confusion.

## PROPOSAL

The revised draft DCP chapter has been updated to reflect the legislative changes indicated.

The proposed amendments are identified and recorded in the attached draft DCP chapter through tracked changes. Content proposed to be deleted appears as red text with a strikethrough. The content proposed to be added/amended appears as underlined blue text. An example has been provided below to provide clarity.

Text proposed to be removed	<del>Example of removed text</del>
Text proposed to be added / amended	<u>Example of text that has been added</u>

To ensure currency and to test the development provision, the Chapter was benchmarked against 12 other DCPs adopted by Councils throughout NSW. The benchmarking exercise examined the date of adoption and any pursuing amendments, controls introduced to assist and guide developers in providing improved access provisions and references to current legislation, codes and standards.

Generally, Chapter E1 was comparable to the external DCPs reviewed. An area of improvement was identified in relation to references to the Premises Standards. Chapter E1 has been amended to better reference to the Premises Standards and unjustifiable hardship provisions. This specifically related to development identified as a list heritage item.

The review of other DCPs highlighted that some NSW Councils have introduced controls to improve the interface between the public realm and private development. This primarily focused on access being provided within the setback of a proposal and interfacing with the public domain without the need for transition or gradient changes. It is proposed to introduce similar provisions into Chapter E1 to promote the seamless transition between the public realm and the entrances of private development that will be utilised by the public.

The Australian Standards and Premises Standards detail the minimum requirements to comply with the DDA. However, there is a need to provide greater clarity to developers on the desired built form outcome, particularly between the public realm and private development. The provision of best practice access for people with a disability involves limiting transitions between the public realm and the entrance to private development. This feedback has been included in the draft Chapter E1. A diagram has been

included with supporting text detailing to developers the desired built form outcomes and the advantages of providing access with seamless transitions.

## CONSULTATION AND COMMUNICATION

Consultation was carried out with internal council staff during the drafting of the revised Chapter E1. Council staff involved in assessing access and mobility throughout the Wollongong LGA assisted in identifying shortfalls in the Chapter.

If Council endorses the draft amendment to the DCP for exhibition, the draft DCP chapter will be exhibited for a minimum period of 28 days, and will include:

- Notification in the local newspaper of the exhibition dates;
- Exhibition website with the draft material and opportunity for comment;
- Physical copies available in the Wollongong Library.

Following the exhibition period, submission will be reviewed and reported to Council with further recommendations regarding progression of the DCP chapter.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goal. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2022	Operational Plan 2020-21
Strategy	4 Year Action	Operational Plan Actions
1.3.1 Manage land uses to strengthen urban areas and improve connectivity to train stations and key transport routes	1.3.1.1 Impacts from development on the environment are assessed, monitored and mitigated	Engage with other tiers of government, the development/building industry and the broader community to achieve improved development outcomes

## RISK MANAGEMENT

The revised DCP chapter will provide more clarity to Council and the development industry regarding the requirements for access provisions to buildings and public spaces. The exhibition process will allow the community to provide further input to the revised chapter.

## CONCLUSION

The Wollongong DCP Chapter E1: Access for People with a Disability has been reviewed following internal consultation with Council staff. It is recommended that the revised draft DCP Chapter be exhibited for 28 days to allow community input.

Following the exhibition period, submissions will be reviewed and reported to Council with further recommendations regarding the progression of the guiding document.



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## 1 INTRODUCTION

1. This Chapter of the Development Control Plan was developed by Council in response to the Disability Discrimination Act 1992 (DDA) and Council Access Policies. To promote an accessible environment for residents and visitors, and to provide equal opportunities to participate in all aspects of the community. The Chapter should be read in conjunction with the current Wollongong City Council Disability Action Plan~~The purpose of this Chapter of the DCP is to outline the current statutory framework concerning the provision of equitable access for all people, including people with a disability.~~
2. In 2018, the Australian Bureau of Statistics (ABS) conducted a Survey of Disability, Ageing and Carers. The survey showed that just over one in six people in NSW have a disability that affects one or more daily activities such as self-care, mobility and communication. Furthermore, the rate of disability generally increased with age and this number expected to grow as the population lives longer and people acquire disabilities as they age.~~This Chapter of the DCP also sets out the minimum requirements for the provision of equitable access for people with a disability in the built environment.~~

## 2 PURPOSE

1. Wollongong City Council is committed to the provision of equal access and creating an accessible environment for all. Wollongong City Council is dedicated to creating a community where people with disabilities are afforded the same opportunities to the broader community. Council recognises improving accessibility enhances the quality of life for the whole community.
2. The purpose of this Chapter of the DCP is to outline the current statutory framework concerning the provision of equitable access for all people, including people with a disability, to publicly accessible buildings.
3. This Chapter of the DCP sets out the minimum requirements for the provision of equitable access for people with a disability in the built environment, whilst providing safe continuous pathways.

## 2.3 STATUTORY FRAMEWORK

### 2.13.1 Commonwealth Disability Discrimination Act 1992

#### 2.1.13.1.1 General

1. The *Disability Discrimination Act 1992 (Commonwealth)* (DDA) makes it unlawful to discriminate against a person with a disability in regards to the provision of access to and the use of premises. The *Disability Discrimination Act 1992* came into effect on 1 March 1993 and encourages everyone to be involved in implementing the DDA to share in the overall benefits to the community and the economy that flow from participation by the widest range of people~~The Commonwealth Disability Discrimination Act 1992 (DDA) came into effect on 1 March 1993.~~
2. The objectives of the DDA are to eliminate, where possible, the discrimination against people on the grounds of disability. In addition to ensuring, where possible, that a person with a disability has the same rights to equality before the law and the wider community; and, to promote recognition and acceptance within the community, with the same fundamental rights. This is through making every area and facility open to the public, open and accessible to people with a disability~~The objects of the DDA (section 3) are:~~

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~~“(a) — To eliminate, as far as possible, discrimination against persons on the grounds of disability in the areas of:~~

~~—— (i) — Work, accommodation, education, access to premises, clubs and sport; and~~

~~—— (ii) — The provision of goods, facilities, services and land; and~~

~~—— (iii) — Existing laws; and~~

~~—— (iv) — The administration of Commonwealth laws and programs.~~

~~“(b) — To ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and~~

~~“(c) — To promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.”~~

3. The DDA makes it unlawful to discriminate against people with a disability in all areas of public life, including access to and use of buildings and places which include government administration buildings; public domain areas; educational establishments and libraries. The full list of buildings and establishments to which it is unlawful to discriminate against providing access to people with a disability is contained within the DDA.~~The DDA aims to eliminate bias against people with disabilities and protect their rights to equality as a community member.~~

4. While the DDA makes it unlawful to discriminate against providing access to people with a disability, the DDA also sets out provisions for when access cannot be provided. Section 23 of the Act states it is not unlawful to discriminate against access when a building has previously been designed or constructed as inaccessible to a person with a disability and alterations would impose unjustifiable hardship to the access provider.~~The DDA makes it unlawful to discriminate against people with a disability in all areas of public life, including access to and use of buildings and places. Public places include the following places or buildings:~~

~~Government administration buildings;~~

~~Public domain areas (footways and walkways);~~

~~Educational establishments;~~

~~Libraries;~~

~~Retail shopping centres as well as specialty retail shops, supermarkets, department stores, discount department stores;~~

~~Banks, financial institutions etc;~~

~~Restaurants / cafes;~~

~~Hotels;~~

~~Professional offices;~~

~~Theatres and other Places of Public Entertainment;~~

~~Major sporting or recreational facilities;~~

~~Registered clubs;~~

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Medical centres;

Medical practitioner or other health care practices;

Hospitals; and

Public transport services.

5. ~~Under the DDA, every area and facility open to the public should be open and available to people with a disability.~~

6. ~~The DDA provides in section 23(1)(c) and (d) that:~~

~~“It is unlawful to discriminate against another person on the ground of the other person's disability or a disability of any of that other person's associates.....”~~

~~(c) In relation to the provision of means of access to such premises;~~

~~(d) By refusing to allow the other person's access to, or the use of, any premises that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not).”~~

7. ~~Section 23(2) of the DDA also provides that it is not unlawful to discriminate in relation to access to such premises if:~~

~~“(a) The premises are so designed or constructed as to be inaccessible to a person with a disability; and~~

~~(b) Any alteration to the premises to provide such access would impose unjustifiable hardship on the person who would have to provide that access.”~~

58. The DDA concept of 'unjustifiable hardship' has been included in this part of the DCP to determine in what circumstances the provision of access and mobility is financially unreasonable or uneconomical.

69. ~~Section 11 of the~~ DDA states that in determining what constitutes 'unjustifiable hardship', all relevant circumstances of the particular case are to be taken into account, including:

~~“(a) The nature of the benefit or detriment likely to accrue or be suffered by any persons concerned; and~~

~~(b) The effect of the disability concerned; and~~

~~(c) The financial circumstances of the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship; and~~

~~(d) In the case of the provision of services, or the making of facilities – an action plan given to the Commissioner under section 64.”~~

Note: A decision about what constitutes unjustifiable hardship can only be made by the Federal Court on a case by case basis in response to an actual complaint.

See Cooper v Human Rights and Equal Opportunity Commission [1999] FCA 180 regarding and the responsibilities of developers and consent authorities when considering unjustifiable hardship and approvals.

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7. Applicants should note that the granting of consent by the consent authority that is noncompliant with the BCA or these provisions due to technical limits, topographical restriction or heritage significance does not protect the applicant against a complaint being made against them under the DDA.
- ~~108.~~ However, the 'Unjustifiable hardship' is only relevant to changes of land use and some alterations and additions to existing buildings but does not apply to new developments used by the public. New buildings must provide satisfactory accessibility for all people, including people with a disability.
- ~~11. The Federal Court of Australia in *Cooper v Human Rights and Equal Opportunity Commission* [1999] FCA 180 reinforced the fact that both property developers and consent authorities are responsible for considering DDA principles in the design of new buildings or any redevelopment or alteration to an existing building, regardless as to whether or not a proposal requires access provision under the Building Code of Australia.~~
- ~~12. In *Cooper v Human Rights and Equal Opportunity Commission* [1999] FCA 180, the Federal Court also held that an applicant / property developer must provide sufficient written documentary evidence to the consent authority which conclusively proves that 'unjustifiable hardship' will be caused to the applicant if the consent authority was to impose a requirement for upgrading of an existing building to ensure that it provides suitable access and mobility requirements for all people, including people with a disability.~~
- ~~13. In determining what constitutes 'unjustifiable hardship', all relevant circumstances of the case will be taken into consideration including financial constraints, topographical constraints and other physical constraints in providing equitable access to and within a building for all people, including people with a disability.~~

### **2.1.23.1.2 Evidence Required to Prove Unjustifiable Hardship**

1. Full written evidence must be provided by an applicant to conclusively prove that unjustifiable hardship will be caused to the applicant if the consent authority (Council) was to impose a requirement for upgrading of the existing building to meet equitable access requirements.
2. The documentary evidence must include a detailed breakdown of the actual costs of providing suitable access and mobility requirements for people with a disability in the existing building, in comparison to the actual total building costs of the project. The costs of each design option (with or without provision for disabled access) and a percentage of the total development cost required for providing the equitable access should also be provided. The costs should be prepared by either a quantity surveyor or alternatively, another suitably qualified and experienced consultant who can accurately assess the building costs for the project.
3. The written evidence should also outline the physical design constraints for each design option and provide reasons for any non-compliance with the DDA, BCA or relevant Australian Standard (if relevant).
4. Council reserves the right to seek additional documentary evidence from an applicant, where Council is of the opinion such additional information is necessary to determine as to whether 'unjustifiable hardship' will occur.
5. ~~Further~~Moreover, Council reserves its right to seek the upgrading of an existing building to guarantee the provision for a continuous accessible path of travel from public domain or car parking areas to and within the subject building, where Council is of the opinion, the applicant has failed to prove that 'unjustifiable hardship' will occur.
6. It is the responsibility of all applicants to identify and apply these mandatory provisions when designing a building.



## **3.2 Disability (Access to Premises – Buildings) Standards 2010 including the Access Code for Buildings**

### **2.2—Environmental Planning and Assessment Act 1979**

1. The Disability (Access to Premises – Buildings) Standards (Premises Standards) commenced on the 1 May 2011. The Premises Standards set to bring together the requirements of the DDA and the those of the Building code of Australia and codify the general requirements for access to premises.
2. The overarching purpose of the Premises Standards is to ensure dignified, equitable, cost effective and reasonably achievable access to buildings, and facilities and services within buildings, is provided for people with a disability; and
3. To give certainty to building certifiers, building developers and building managers that, if access to buildings is provided in accordance with the Premises Standards, the provisions of that access, to the extent covered by these
4. Copies of the Premises Standards, an explanatory statement and frequently asked questions can be viewed and downloaded from [www.ag.gov.au/premisesstandards](http://www.ag.gov.au/premisesstandards). In addition, the Australian Human Rights Commission has produced Guidelines on the application of the Premises Standards. These guidelines are helpful in interpreting the standards and can be viewed and downloaded from [www.hreoc.gov.au/disability\\_rights/standards/PSguide.html](http://www.hreoc.gov.au/disability_rights/standards/PSguide.html)
- ~~1. Section 79C of the Environmental Planning and Assessment Act 1979 requires that a consent authority in determining a Development Application to take into consideration a number of factors, including “the public interest”. The “public interest” may include the provision of suitable access and mobility within a building or facility for people with a disability.~~

### **2.3.3 Building Code of Australia and Australian Standard AS as1428.1**

#### **2.3.13.3.1 General**

1. The Building Code of Australia (BCA) and Australian Standard AS 1428 – Design for Access and Mobility provide the main framework for regulating access and mobility requirements for people with a disability. The BCA regulates where access is required and Part 4 of AS 1428 – General Requirements for Access – New Building Work provides the requirements on how that access is to be provided. The BCA also calls up AS 1428.4 TGSI for the orientation of people with vision impairment.
2. New development must achieve the prescribed minimum standards and provide equitable access for people with a disability. Where substantial alterations are proposed to an existing development, the consent authority has the discretion to enforce the provisions of the BCA.
3. The BCA is performance based and therefore allows for a boarder range of solutions; making it easier to plan and design for specialised needs that apply to particular buildings. Where an alternative solution is proposed, the applicant must demonstrate to the consent authority how the alternative solution achieves the same outcome as a “deemed to satisfy” provision given in the BCA.
4. The BCA was amended in 2011 to ensure that it was consistent with the Premises Standards. Compliance with the BCA and state building laws and regulations will result in compliance with the Premises Standards.

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52. The main parts of the Building Code of Australia which relate to access, mobility and the provision of sanitary facilities for people with a disability are:

- Part D3 Access and Egress for People with Disabilities;
- Part E Lift Installations; and
- Part F2 Sanitary Facilities and other facilities

~~Part F – Sanitary Facilities for People with Disabilities.~~

6 The BCA Makes reference to some of the Australian Standards applicable to design of equitable access. Designers and planners should refer to the most relevant and current provisions of both the referenced Australian Standards and non-referenced Australian Standards in respect to any development. The most recent Australian Standards will be referenced during the assessment of development applications occurring within the Wollongong Local Government area.<sup>7</sup> Australian Standard AS 1428 – Design for Access and Mobility provides the main framework for regulating access and mobility requirements for people with a disability. The BCA regulates where Australian Standard AS 1428 suite of documents are required. Other Australian Standards that apply to public access and mobility concern:

- (a) Lifts and escalators
- (b) Off-street parking and people with disabilities
- (c) Automatic teller Machines
- (d) Adaptable housing
- (e) Slip resistance and pedestrian surfaces

Australian Standards are subject to regular review and modification.

Copies of Australian Standards can be obtained from:  
Standards Australia  
Level 10, The Exchange Centre  
20 Bridge Street  
Sydney NSW 2000  
Ph: 1800 035 822  
[www.standards.org.au](http://www.standards.org.au)

7. Additionally, the Australian Human Rights Commission has published “The Good, the Bad and the Ugly – Design and Construction for Access April 2008” document, which provides good and bad examples concerning access and mobility arrangements as well as sanitary facilities for people with a disability. This document may be obtained via the Commission’s website at:

[www.humanrights.gov.au/disability\\_rights](http://www.humanrights.gov.au/disability_rights)

8. Selected examples from this document of good and poor access and mobility arrangements for people with a disability are included in Appendix 1.

### **~~2.3.2 Continuous Accessible Path of Travel~~**

1. The BCA and AS1428.1 require the design of a “continuous accessible path of travel”, which aims to create paths of travel to and/or within a building to provide people with a disability with

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~~uninterrupted and comfortable access to all areas and facilities, which are generally open to the public.~~

- ~~2. This accessible path of travel should not incorporate any steps, humps, stairways, revolving doors, escalators or other impediments that prevent the path of travel being utilised by all people, including people with disabilities. It should make provision for adequate lighting for night time use, and generally not include areas with the potential for entrapment. The provision of a continuous accessible path of travel is fundamental to creating a safe and accessible environment.~~
- ~~3. A continuous accessible path of travel must be provided:~~
  - ~~(a) From accessible parking spaces and passenger drop off points to entrances of buildings;~~
  - ~~(b) To connect buildings, facilities and spaces that are on the same block or part of the same complex, where topographically possible;~~
  - ~~(c) To connect accessible entrances of a building to all accessible spaces and facilities within the building;~~
  - ~~(d) To minimise distances travelled between accessible elements of buildings and facilities; and~~
  - ~~(e) From public spaces to entrances of buildings.~~
  - ~~(f) From the allotment boundary site at the main point of entry.~~
  - ~~(g) Through the principle public entrance.~~

### **3.4 Environmental Planning and Assessment Act 1979**

1. Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires that a consent authority in determining a Development Application to take into consideration a number of factors, including "the public interest". The "public interest" may include the provision of suitable access and mobility within a building or facility for people with a disability.

### **3.5 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

1. Accessibility for Seniors Housing is to be provided in accordance with the requirements of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

### **3.6 Relevant Australian Standards for Access, Mobility and Adaptability Access to Heritage buildings**

1. Heritage buildings and their curtilage should comply with relevant heritage controls and requirements. Heritage buildings are, however, covered by the DDA and could be subject to complaints to the Premises Standards if access was not originally provided. Designs should respect the principle that access to heritage buildings should be provided but not diminish the heritage significance of the building, curtilage or environment. Discussions should be held with Council staff to strike a balance between these issues. Thus, development proposals involving heritage items will therefore be assessed on a merit basis. However, the proposal should follow these basic principles:

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- (a) The provision of access for people to and within heritage items should have minimal impact on the significant fabric of the item and, as far as possible, be reversible;
  - (b) Where such access is likely to have a major adverse impact on significant fabric, alternative solutions should be considered;
  - (b1) Alternate design solutions should demonstrate, following discussion with Council staff, that a balance has been reached between the issues of providing access and retaining heritage significance.
2. Applicants should note that alternate design solutions will only be acceptable as a 'last resort' and that every effort should be made to ensure that equitable access is provided through the principle entrance of the building.
3. New works are to comply with Premises Standard. Premises Standard provides a process of application for exemption under Unjustifiable Hardship granted by the Building Professionals Board where appropriate.

## ~~2.4~~

1. ~~The relevant Australian Standards which provide requirements for access, mobility and adaptability in the design and construction of buildings and facilities are listed as follows:-~~
- ~~(a) AS1428.1 (2001) Design for Access and Mobility – General Requirements for Access – New Building Work;~~
  - ~~(b) AS1428.2 (1992) Design for Access and Mobility – Enhanced and Additional Requirements – Building and Facilities;~~
  - ~~(c) AS1428.3 (1992) Design for Access and Mobility – Requirements for Children and Adolescents with Physical Disabilities;~~
  - ~~(d) AS1428.4 (2002) Design for Access and Mobility – Tactile Ground Surface Indicators for the Orientation of People with a Vision Impairment;~~
  - ~~(e) AS4299 (1995) Adaptable Housing;~~
  - ~~(f) AS1735.12 (1999) Lifts and Escalators Part 12: Facilities for People with Disabilities;~~
  - ~~(g) AS2890.1 (1993) Parking facilities. Part 1: Off-street Car Parking Facilities;~~
  - ~~(h) AS4586 (2002) Slip Resistance Classification of New Pedestrian Surface Materials;~~
  - ~~(i) AS1158.3.1 (1999) Road Lighting – Pedestrian area (category P) lighting – Performance and Installation Design Requirements;~~
  - ~~(j) AS1680.0 (1998) Interior Lighting – Safe Movement;~~
  - ~~(k) AS2220.2 (1989) Emergency Warning and Intercommunication Systems in Buildings – System Design, Installation and Commissioning;~~
  - ~~(l) AS2899 (1986) Public Information Symbol Signs – Part 1 General Information Signs; and~~
  - ~~(m) AS3769 (1990) Automatic Teller machines – User Access.~~

### 3.7 Interfacing with the Public Domain

#### ~~2.5 Bridging the gap between the Building Code of Australia and the Disability Discrimination Act 1992~~

1. Generally, Wollongong City Council does not permit private development which encroaches upon the public domain as it is perceived to be alienation of public space and not in the public's best interest.
2. To provide equitable access, pedestrian entrances should be constructed to meet the existing public domain without the need for steps or ramps. Where finished floor levels are required to be elevated from the public domain, the transition should occur within the internal footprint of the building. Access within developments that account for levels changes should comply with the applicable legislation and codes and with the Australian Standards.

Figure 1 illustrates built form outcomes that challenge manoeuvrability and generally limits equitable access within public spaces. Figure 2 demonstrates a desirable interface between new development and the public domain featuring level transitions allowing for equal access.



1 unnecessarily raised access to storefronts and residential apartments foyer enclosed by fencing located within the public realm, which requires the use of stairs to navigate transition changes.

**Figure 1: Complicated interface with the public domain**



2 Ground floor commercial and shared public entrances at street level, featuring thresholds that are unhindered by steps that promote accessibility.

**Figure 2: Level interface with the public domain**

2. In some exceptional cases it may be appropriate to allow for development to encroach upon or alter the public domain so that equitable access can be provided to a building. In proposing



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that access be provided via a ramp or other mechanical device on the public domain or alteration of the public domain the applicant must demonstrate the following:

- (a) Providing access by other means will result in a substantial loss of original fabric of a heritage item, thereby impacting on the significance of the place, and that the provision of equitable access is highly desirable, with no alternative access options available;
  - (b) The proposal involves a significant public building where equitable access is highly desirable and there are no alternative access options available; and
  - (c) The safety, accessibility, legibility and consistency of public domain will not be adversely affected.
3. Should an applicant propose to use the public domain to provide equitable access to a building, Council's consent as owner of the land must be obtained prior to lodgement of a development application. To obtain Council's consent the applicant must fully document all access options that have been pursued.
4. To assist in the assessment of Development Applications where equitable access is required, Council recommends the provisions for access be prioritised during the design phase. Where required, the applicant should identify access provisions as part of a pre-lodgement meeting which is recommended by Council.

### **3.8 Continuous Accessible Path of Travel**

1. The BCA and AS1428.1 require the design of a "continuous accessible path of travel", which aims to create paths of travel to and or within a building to provide people with a disability with uninterrupted and comfortable access to all areas and facilities, which are generally open to the public.
2. This accessible path of travel should not incorporate any steps, humps, stairways, revolving doors, escalators or other impediments that prevent the path of travel being utilised by all people, including people with disabilities. It should make provision for adequate lighting for night-time use, and generally not include areas with the potential for entrapment. The provision of a continuous accessible path of travel is fundamental to creating a safe and accessible environment.
3. A continuous accessible path of travel must be provided:
  - (a) From accessible parking spaces and passenger drop off points to entrances of buildings;
  - (b) To connect buildings, facilities and spaces that are on the same block or part of the same, complex, where topographically possible;
  - (c) To connect accessible entrances of a building to all accessible spaces and facilities within the building;
  - (d) To minimise distances travelled between accessible elements of buildings and facilities; and
  - (e) From public spaces to entrances of buildings.
  - (f) From the allotment boundary site at the main point of entry.
  - (g) Through the principle public entrance.

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1. ~~The Building of Australia (BCA) is currently under review (i.e. as of April 2009) to ensure that the BCA is more consistent with the DDA given that compliance with the BCA does not necessarily mean that developments meet the legislative requirements of the DDA. This has meant that development whilst complying with the BCA may nevertheless be subject to potential complaint to the Australian Human Rights Commission or subject to an appeal to the Federal Court of Australia in respect to the DDA legislation.~~
2. ~~In April 2000, an amendment was made to the DDA to allow the Australian Government's Attorney General to formulate 'Disability Standards for Access to Premises' (Premises Standard), in order to help clarify the accessibility requirements under the DDA.~~
3. ~~The Australian Building Codes Board was requested by the Australian Government to develop the draft Premises Standard. Once the Draft Premises Standard is adopted, the BCA will be amended so that in the future, compliance with the access provisions of the BCA will also mean compliance with the Premises Standard and hence, the DDA.~~
4. ~~In the interim, it is recommended that applicants consider the Australian Human Rights Commission's "Draft Access Code for Buildings" as well as the Building Code of Australia and relevant Australian Standards including AS1428.1 and AS1428.2 and the Draft Premises Standard.~~
5. ~~The Draft Access Code for Buildings may be obtained via the Australian Human Rights Commission website at:~~  
  
~~[www.humanrights.gov.au/disability\\_rights/buildings/access\\_to\\_premises.html](http://www.humanrights.gov.au/disability_rights/buildings/access_to_premises.html)~~
6. ~~Details of the Draft Premises Standard may be obtained by contacting the Australian Building Codes Board via their telephone number 1300 857 522 or their email address: abeb@abeb.gov.au.~~
7. ~~Additionally, the Australian Human Rights Commission has published "The Good, the Bad and the Ugly – Design and Construction for Access April 2008" document which provides good and bad examples concerning access and mobility arrangements as well as sanitary facilities for people with a disability. This document may be obtained via the Commission's website at:~~  
  
~~[www.humanrights.gov.au/disability\\_rights](http://www.humanrights.gov.au/disability_rights)~~
8. ~~Selected examples from this document of good and poor access and mobility arrangements for people with a disability are included in Appendix 1.~~

## 34 DESIGN REQUIREMENTS

1. Access and facilities for people with a disability must be provided in accordance with the requirements of the DDA, BCA, [Premises Standards](#) and the relevant Australian Standards stated in Section 2.4.
2. Full compliance with the DDA, BCA, [Premises Standards](#) and Australian Standards will be required except in instances where unjustifiable hardship is demonstrated as outlined in Section [3.2.1.1](#).

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## Appendix: 1 – DESIGN EXAMPLES

All of these examples have been taken from *The Good, the Bad and the Ugly – Design and Construction for Access* publication, produced by Australian Human Rights Commission (April 2008).

### HANDRAILS

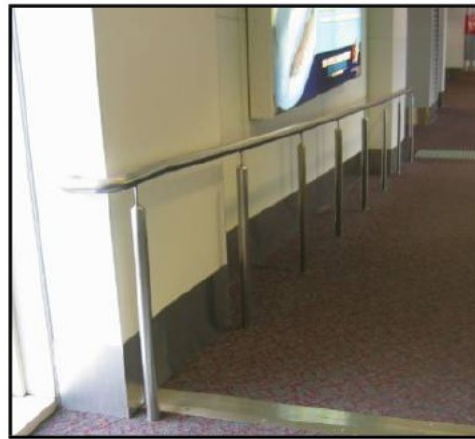


Figure 43: (Top left) Correct application of returning the handrail down and back onto itself to form 180° return onto a post. The handrails also provide clearances on the top 270° arc of the handrail and the 15mm directly under the handrail to allow for uninterrupted transition along the full length of the handrail for fingers and thumbs.

Figure 24: (Top right) Correct application of returning the handrail down and back onto itself to form 180° return onto a post. The handrails also provide clearances on the top 270° arc of the handrail and the 15mm directly under the handrail to allow for uninterrupted transition along the full length of the handrail for fingers and thumbs.



Figure 35: (Top left) Handrails which do not comply with the specifications of AS1428.1 for handrails on stairs suitable for people with a disability since the handrails fail to return to a side wall or downwards and back on themselves at 180°.

Figure 46: (Top right) Handrails which do not comply with the specifications of AS1428.1 for handrails on stairs suitable for people with a disability since the handrails fail to return to a side wall or downwards and back on themselves at 180°.



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Figure 57: (Top left) Correct return of the handrail to a side wall and the required 270° top arc clearance.



Figure 68: (Top right) Correct return of a handrail downwards and back on itself at 180°.

### STAIRWAY NOSINGS

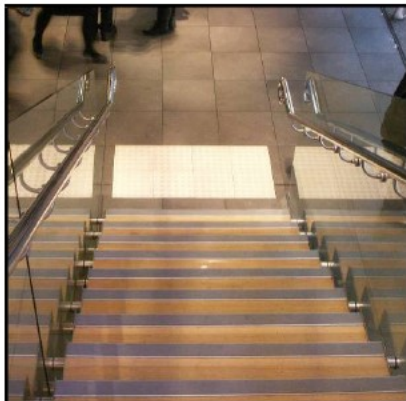


Figure 79: (Top left) The correct minimum luminance contrast and depth of treatment on the nosings of the treads / goings.



Figure 810: (Top right) The correct minimum luminance contrast and depth of treatment on the nosings of the treads / goings.

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## OPEN RISERS AND OVERHANGING TREADS ON STAIRWAYS



Figure 911: (Top left) Open risers and light sources coming from behind the stairway. Any person with a walking stick may lose their footing if their stick slipped through the stairway openings.

Figure 1012: (Top right) An enclosed stairway but has protruding lips which may cause problems for people with a prosthesis since it restricts leg movements and may also cause trip hazards.



Figure 1413: Correct enclosed opaque risers with no overhangs which meet the requirements of stairways suitable for people with disabilities, under AS1428.1.



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## LUMINANCE CONTRAST



Figure 4214: (Top left) TGSIs which fail to comply with the specifications of AS 1428.4 since they fail to provide the required luminance contrast. Under AS1428.4, a minimum of 30% luminance contrast is required for TGSIs, compared to the surrounding floor/ground surface. These photographs also show other non-compliant features such as the handrails and the lack of colour contrasting nosings.



Figure 4315: (Top right) TGSIs which fail to comply with the specifications of AS 1428.4 since they fail to provide the required luminance contrast. Under AS1428.4, a minimum of 30% luminance contrast is required for TGSIs, compared to the surrounding floor/ground surface. These photographs also show other non-compliant features such as the handrails and the lack of colour contrasting nosings.

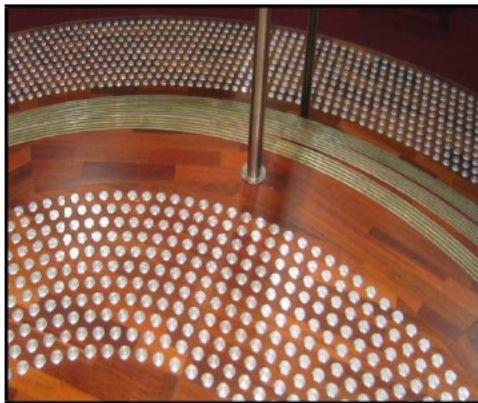


Figure 4416: (Top left) TGSIs which have a high luminance contrast, as required by AS 1428.4. The photographs also show the correct setback from the top nosings of 300 +/- 10mm and the minimum depth of 600mm.

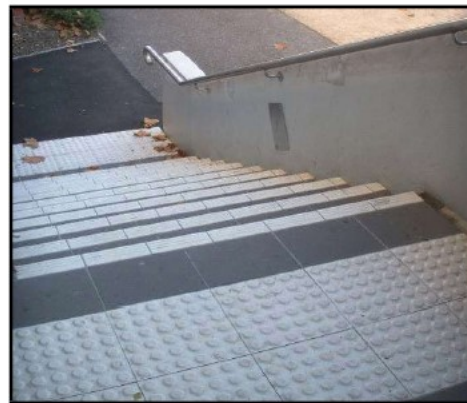


Figure 4517: (Top right) TGSIs which have a high luminance contrast, as required by AS 1428.4. The photographs also show the correct setback from the top nosings of 300 +/- 10mm and the minimum depth of 600mm.

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## TACTILE GROUND SURFACE INDICATORS

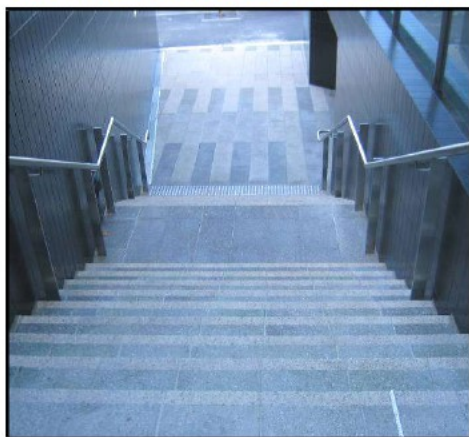


Figure 4618: The correct interpretation of the requirements for TGSIs on an intermediate landing with no handrail break: there are no TGSIs on the landing.

## DOOR THRESHOLDS

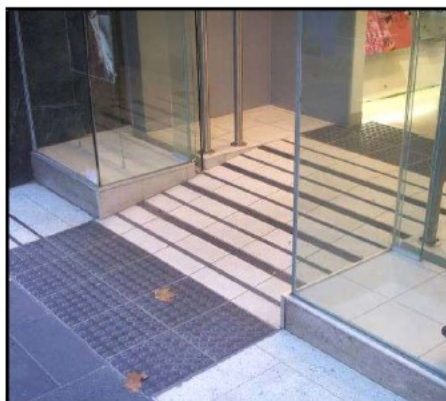


Figure 4719: A threshold ramp with an automatic door into a retail premises which complies with the BCA and AS1428.1 (without the need for a landing area).

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## LIFTS



Figure 4820: (Top left) Show call buttons which comply with the requirements of AS1735.12 in terms of their placement, luminance contrast application and raised tactile and Braille which are consistently placed adjacent to each button.

Figure 4921: (Top right) Show call buttons which comply with the requirements of AS1735.12 in terms of their placement, luminance contrast application and raised tactile and Braille which are consistently placed adjacent to each button.

## FLOOR SURFACES



Figure 2022: (Top left) Very shiny and slippery floor surfaces which fail to meet the "R" rating, as required by AS4586 and HB197.

Figure 2423: (Top right) Very shiny and slippery floor surfaces which fail to meet the "R" rating, as required by AS4586 and HB197.



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Figure 2224: (Top left) Show floor surfaces which meet the “R” rating under AS4586 and HB197.

Figure 2325: (Top right) Show floor surfaces which meet the “R” rating under AS4586 and HB197.

### HEIGHT AND DESIGN OF RECEPTION DESKS AND COUNTERS



Figure 2426: (Top left) Reception counters which allow for a frontal approach with an adequate toe plate and knee space for people who use a wheelchair.

Figure 2527: (Top right) Reception counters which allow for a frontal approach with an adequate toe plate and knee space for people who use a wheelchair.

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## ACCESSIBLE TOILET / WC FACILITIES



Figure 2628: Correct placement of toilet and shower fittings as per the requirements of AS1428.1. Note: The toilet roll holders are placed below the grab rail, to ensure people who use a wheelchair are able to rise off the pan and transfer back onto their wheelchair unencumbered.



Figure 2729: The correct installation of a washbasin and other fittings, including a shelf as required by Table F2.4 of the BCA.



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Figure 2830: The incorrect placement of the toilet paper holder too far forward of the WC pan, which forces patrons to lean excessively forward to get to the paper. This can result in patrons falling off the pan in attempting to reach the toilet holder.