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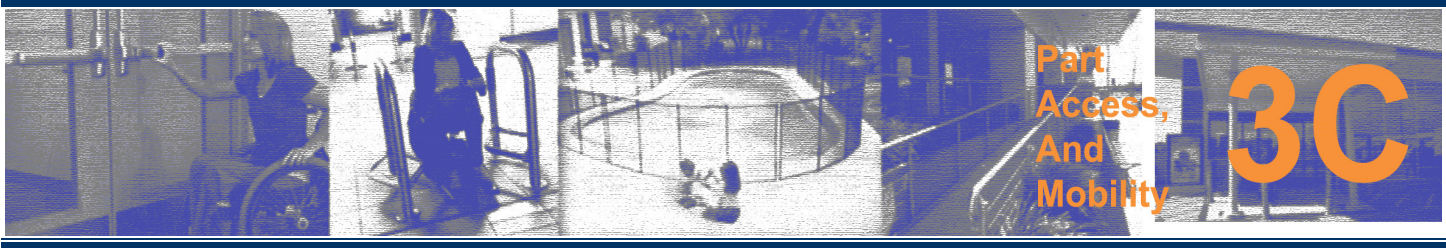
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## 3C.1. Introduction

In Australia, approximately 20% of the population identifies as having a disability. The lack of access to buildings, facilities and the built environment is not just an issue for people with disability; it can be an issue for the general community including parents with prams and older people with declining sensory capacity or mobility. Considering Australia's ageing population, and particularly as the City of Botany Bay's demographic profile indicates an ageing population, it is important that access issues are identified and addressed at the Development Application (DA) stage of development. Furthermore, providing inclusive access to public and commercial services, facilities and related infrastructure is good for business as it does not restrict or exclude potential customers.

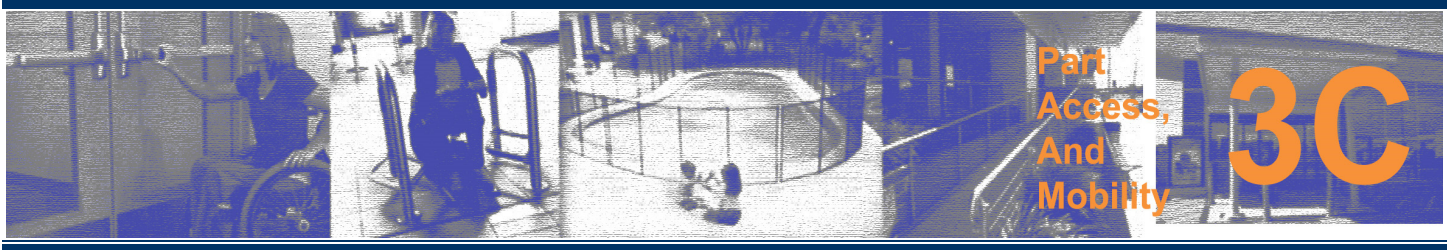
Access provisions respond to fundamental human rights and social justice. The *Disability Discrimination Act* (DDA) was implemented in 1992.

The objects of this Act are:

- ‘(a) to eliminate, as far as possible, discrimination against persons on the ground 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; and*
- (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.’*

Further information about the DDA is available at: [www.humanrights.gov.au](http://www.humanrights.gov.au) and [www.comlaw.gov.au](http://www.comlaw.gov.au)

Traditionally, the lack of physical access has related to the inequities faced by people with physical disability. As our population ages the need to provide "universal" or "inclusive" access for all of the community has become even greater. Access provisions benefit everyone at some stage of their life. Whether someone has a permanent mobility disability, is vision or hearing impaired, is a parent of a young child, is aged or is adversely affected by health or medical conditions, permanently or temporarily, many people in our society rely on, or require, equitable physical access.



### 3C.1.1 Legislative Framework

Council has an obligation under the *Environmental Planning & Assessment Act 1979* (the Act) to consider the provision of accessibility for people with disability when assessing development applications. The objectives of the Act include the promotion of the equitable access and inclusive participation of the community and this may be achieved through the provision of accessible and adaptable housing as well as improvements within the public domain.

The *Commonwealth Disability Discrimination Act 1992* (DDA) makes it unlawful to discriminate against people with disability in all areas of public life, including access to and the use of buildings and places. This has meant that development approved by Council, although able to comply with the *Building Code of Australia* (BCA), may not provide sufficient access under the DDA and may result in the owner/developer being subject to disability discrimination complaints to the *Australian Human Rights Commission* (AHRC).

The BCA contains provisions related to access for people with disability. The BCA, however, does not require access for people with disability to all buildings, nor to all parts of a building. The BCA was amended to reflect the *Disability (Access to Premises – Building) Standards 2010* (referenced as the Premises Standard throughout this Part).

The purpose of the **Premises Standards** is to both:

- (i) Provide for equitable and dignified access to new buildings and those areas of existing buildings that undergo renovation or upgrade that requires a building approval; and
- (ii) Provide greater certainty to people and organisations involved in the design, construction, certification and management of buildings in relation to the level of access required in the buildings covered by the Premises Standards.

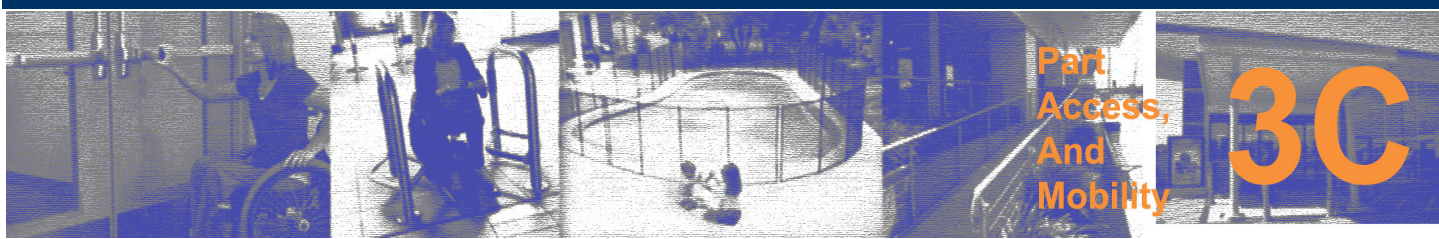
A list of Australian Standards referenced by the Premises Standards within Parts D3, E3.6 and F2.4 of the BCA includes:

- AS1428.1 (2009) Design for Access and Mobility
- AS1428.4.1 (2009) Tactile Ground Surface Indicators
- AS2890.6 (2009) Off-Street Parking for People With Disabilities
- AS1735.7 (1998) Stairway Lifts
- AS1735.8 (1986/Amdt 1 -1989) Inclined Lifts
- AS1735.12 (1999) Lifts, escalators and moving walks – Facilities for persons with disabilities
- AS1735.14 (1998) Lifts, escalators and moving walks - Low-rise platforms for passengers
- AS1735.15 (2002) Lifts, escalators and moving walks - Low rise passenger lifts – Non-automatically controlled
- AS1735.16 (1993) Lifts, escalators and moving walks - Lifts for persons with limited mobility — Restricted use — Automatically controlled

The Premises Standards apply to:

- Class 1b buildings being:
  - A new building with one or more bedrooms used for rental accommodation; or
  - An existing building with four or more bedrooms used for rental accommodation; or





- A building that comprises four or more single dwellings that are:
  - On the same allotment, and
  - Used for short-term holiday accommodation.
- Class 2 buildings including:
  - A new building that has accommodation for short-term rent; or
  - An existing building that has accommodation for short-term rent only where the original building was approved for construction after 1 May 2011.
- Class 3 and 5 - 10 buildings.

**Notes:**

- Under the BCA, all Class 2 buildings (residential apartment buildings) are captured under the requirements for access for people with a disability, not just those used for short-term rental accommodation.
- For all new buildings, it is expected that the BCA, Premises Standards and Table 1 of this Part, will be fully complied with.

The Premises Standards do not apply to free standing private dwellings (Class 1a), residential apartment buildings approved for construction before 1 May 2011 (Class 2) or a dwelling in a Class 5,6,7,8, or 9 building (Class 4).

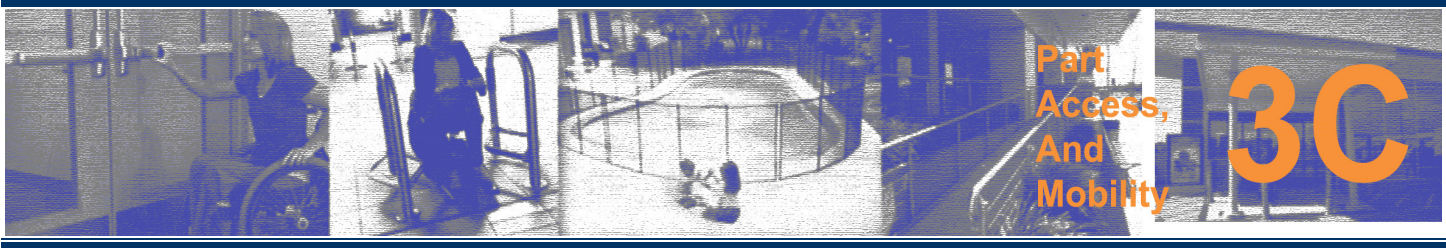
**Notes:**

- Under the BCA, all Class 2 buildings (residential apartment buildings) are captured under the requirements for access for people with a disability, not just those used for short-term rental accommodation.
- For change of use applications and applications involving existing buildings, only the new extension or modified part of the building are affected by the Premises Standard, if development or building approval is required. However the requirements in Table 1 of this Part may still apply.

Council's access requirements under Table 1 in this Part may include a different level of technical access than is required under the Premises Standards. It is the responsibility of the applicant to ensure the development meets the requirements of the relevant controls. Council's Development Application Guidelines may require a BCA compliance report to be submitted with a Development Application.

**Notes:**

- Where the access requirements for a particular development type do not comply with the BCA and Table 1 of this Part, Council may refuse the development application based on non-compliance with the DCP.
- In instances where a particular development type is covered by both Table 1 of this Part and the Premises Standards, the greater level of compliance prevails to the extent of any inconsistency.

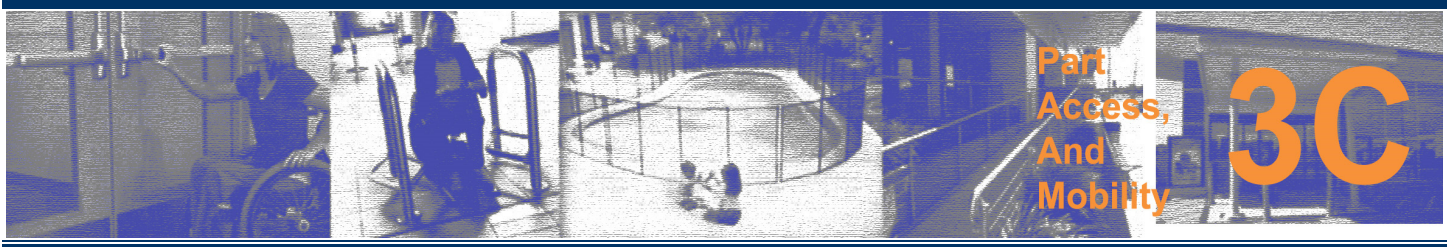


### 3C.1.2 Requirements for Submitting a Development Application

The development application must be accompanied by a report prepared by an appropriately qualified and experienced person detailing that the Development Application meets the requirements outlined in this plan.

### 3C.1.3 General Objectives

- O1** To ensure that dignified, equitable and safe access is provided to and within new buildings and facilities for people with a disability;
- O2** To encourage existing buildings and associated spaces to be upgraded to provide access for people with a disability.



## 3C.2 Access, Mobility and Adaptability

### Objectives

- O1** To encourage upgrading of existing buildings to provide access for all people;
- O2** To ensure that the range of housing opportunities available for people with disability or other special mobility needs is representative of the local population in terms of access, size, location, orientation and general amenity of accommodation; and
- O3** To encourage consideration of access and mobility issues early in the design process.

### Controls

#### General

- C1** All new development must comply with **Table 1** of this Part. A statement of consistency must be included with the statement of environmental effects indicating how the development provides access for people with disability in accordance with Table 1.
- C2** Vehicle parking for people with disability must be provided in the manner described in **Table 1** of this Part. A statement of consistency must be included with the statement of environmental effects for a development application that requires the provision of access for people with disability in accordance with Table 1.
- C3** All development, including community events, must comply with the provisions of the Disability Discrimination Act 1992, BCA, the Premises Standards and the relevant Australian Standards.
- C4** All residential development must comply with AS4299 - 1995 Adaptable Housing for those developments required to provide adaptable housing.

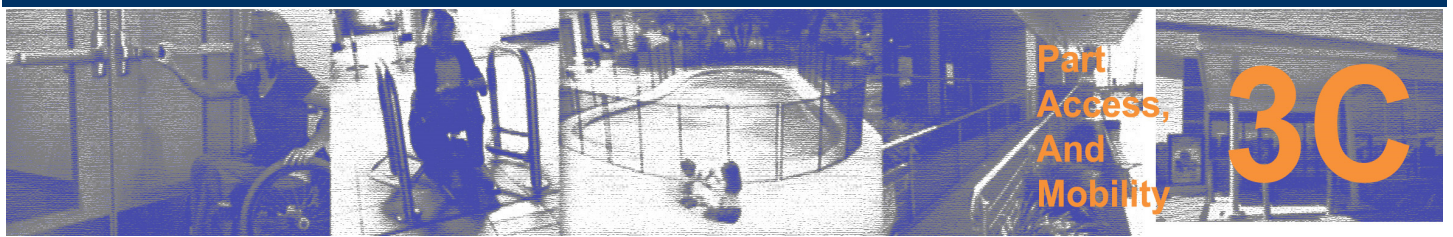
#### Note:

Adaptable housing is encouraged in all housing types, including dwelling-houses (single dwellings) and dual occupancies.

#### Unjustifiable hardship

- C5** In the case of development applications for alterations and additions to existing premises, or development applications for change of use of existing premises, a statement of unjustifiable hardship (included with the statement of environmental effects) is required to justify non-compliance with Table 1 of this Part.





**Note:** Development applications for new premises will comply with the provisions of Table 1 of this Part. Accordingly, the statement of unjustifiable hardship process does not apply to applications for new premises.

- C6** If the access requirements under the Premises Standards cannot be met for reasons that it would impose unjustifiable hardship, an application to the Building Professionals Board's Access Advisory Committee may be necessary. Part 4 of the Premises Standards outlines all the relevant circumstances that must be taken into account in determining whether compliance with the Premises Standards would involve unjustifiable hardship.

The statement of unjustifiable hardship submitted to Council must be included with the statement of environmental effects for a development application.

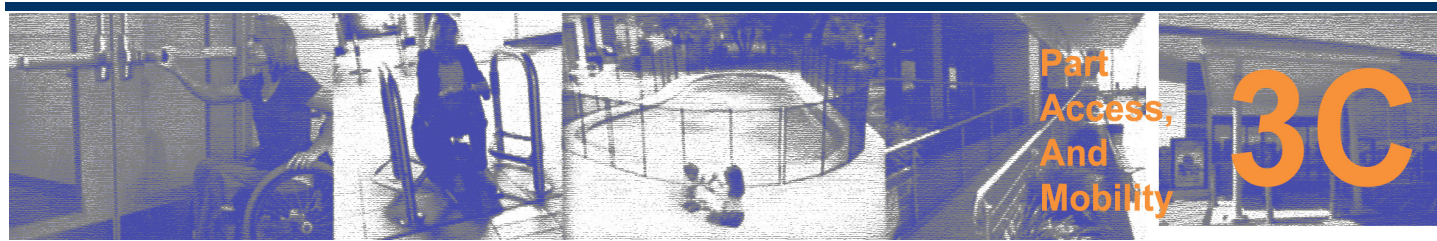
More information on the Building Professionals Board's Access Advisory Committee can be found at <http://bpb.nsw.gov.au/legislation-regulation/apply-unjustifiable-hardship> and Section 11 of the Disability Discrimination Act 1992.

## Access Management Plan

- C7** In cases where it may be difficult to physically configure an existing building or space so as to provide access for people with disability (as established through a statement of unjustifiable hardship in C5 above), Council may request that the applicant submit an access management plan as a means of helping to provide service to people who would be unable to gain access to the premises, or to identify how access to the premises will be progressively upgraded over time.
- C8** An access management plan submitted to Council must:
- (i) Identify the type of service (or operation) being proposed in the development application;
  - (ii) Identify where the service would not be accessible in the proposed premises;
  - (iii) Identify alternative methods of providing the service;
  - (iv) If alternative (accessible) premises are proposed for providing the service, identify the arrangements that need to be put in place to ensure that those premises are able to be used;
  - (v) Identify the methods by which the alternative service can be promoted to potential clients; and
  - (vi) Identify what can be done over time (such as through a building upgrade plan) to improve the accessibility of the primary premises.

**Note:** The above list is not exhaustive and additional matters will need to be addressed.

**Note:** Council may enter into a contract for large developments that are required to include vehicle parking with an allocation of accessible vehicle parking spaces for people with disability to enable Council to have "care, control and maintenance" of the accessible vehicle parking spaces. This will enable Council to police and allocate infringement notices if accessible vehicle spaces are misused and abused.

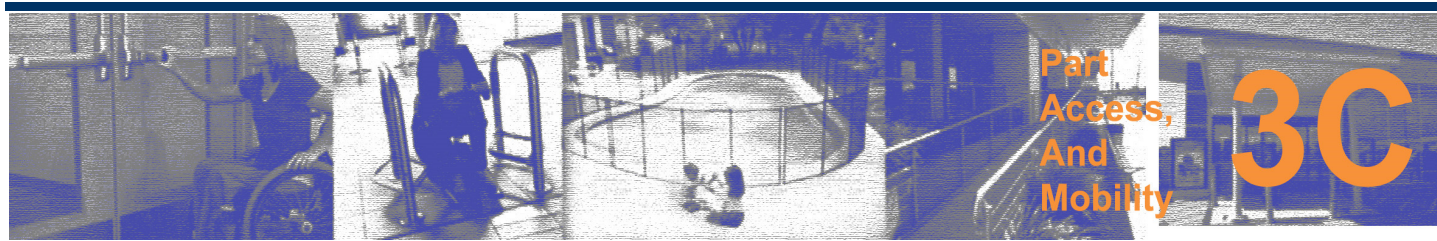


**Table 1 - Access Requirements**

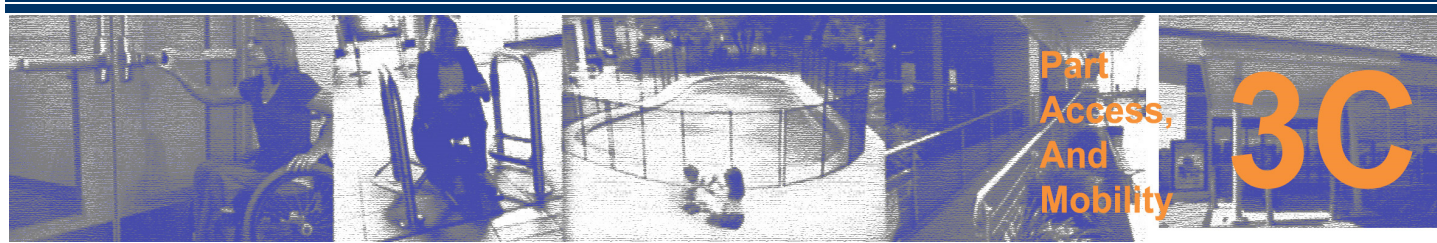
Development Types	Statement of Consistency	Adaptable housing	General access requirements	Accessible Parking
Attached dwelling, dwelling house, secondary dwelling	Nil	Livable housing guidelines is encouraged for all Class 1a and 1b detached and semi detaching housing (including secondary dwellings)	Encourage visitor access to the dwelling.	Encourage compliance with AS2890 Part 6.

Development Types	Statement of Consistency	Adaptable housing	General access requirements	Accessible Parking
Residential apartment buildings , conversion of non-residential buildings into apartments, shop top housing, multi dwelling housing and live/work buildings  (includes mixture of classes for those including commercial and industrial components)	Statement of consistency lodged with DA (Refer to Controls C1 and C2 of this Part).	In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B.  Refer to AS4299 Class B.	Appropriate access for all persons through the principal entrance of a building and access to all common facilities.  Development is to provide barrier free access to at least 20% of dwellings.  Refer to BCA, AS1428.1 and AS4299	Half of the adaptable dwellings provided in a development are required to have allocated accessible resident parking, (e.g. 8 adaptable apartments requires a minimum of 4 accessible spaces.)  At least 80% of these accessible spaces will be designed to AS4299 and a maximum of 20% of spaces complying with AS2890.6.

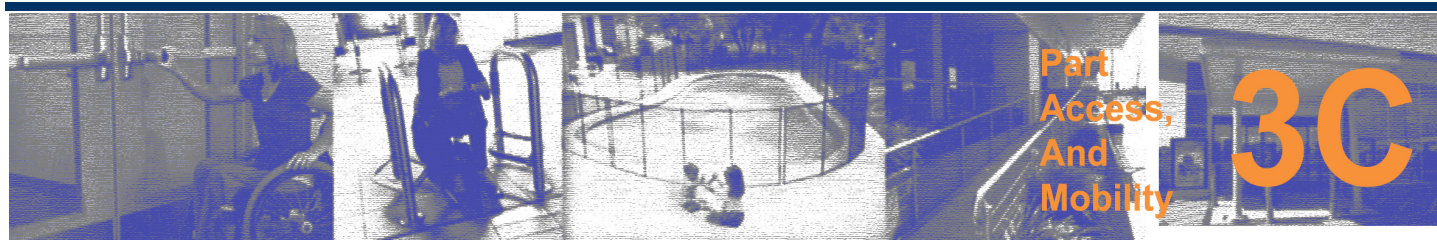




Development Types	Statement of Consistency	Accessible Accommodation	General access requirements	Accessible Parking
Hotels, motels, serviced apartments and boarding houses containing guests/tenants' rooms  Hostels and backpackers' accommodation containing guests' beds	Statement of consistency lodged with DA (Refer to Controls C1 and C2 of this Part).	Refer to Table D3.1 of the BCA regarding the minimum requirements for accessible rooms and units.  Hotels and motels will provide at least one accessible room or unit with an interconnecting door to a separate standard room.  Accessible resident rooms and units are to comply with relevant Australian Standards 1428.1, BCA and AS1428.2 with respect to furniture and fixtures within accessible rooms and units including an allowance for a queen sized bed and related circulation spaces around the bed.	Access for all persons through the principal entrance and access to any common laundry, kitchen, sanitary or other common facilities in accordance with relevant Australian Standards 1428.1, 1428.4.1 and lifts where provided.  Refer to BCA and AS1428.2 with respect to furniture and fixtures within accessible rooms and units.	There is to be one accessible parking space for every accessible room or unit as specified by Table D3.1 of BCA  Refer to AS2890 Part 6 for relevant standards for accessible parking spaces.

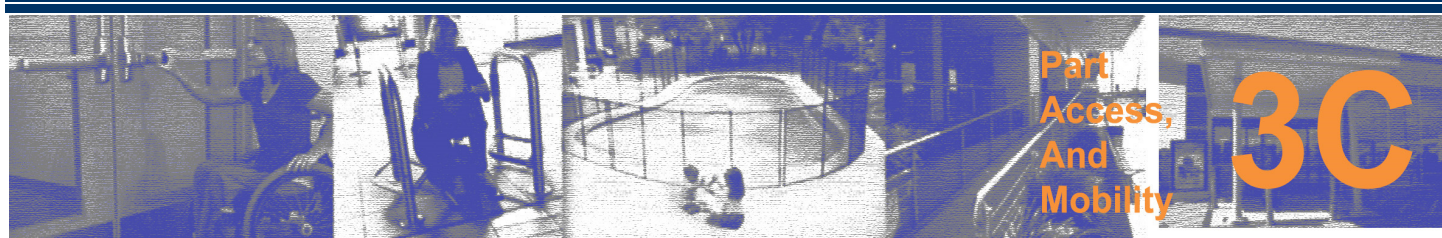


Development Types	Statement of Consistency	Accommodation	General access requirements	Accessible Parking
Commercial and industrial developments (including office premises, business premises, retail premises, industry and warehouses.)	Statement of consistency lodged with DA (Refer to Controls C1 and C2 of this Part).	Nil	<p>Appropriate access to and within all areas normally used by the occupants, designed in accordance with the BCA and relevant Australian Standards.</p> <p>General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities, indoor and outdoor recreational facilities.</p>	<p>In a vehicle parking area containing 5 or less vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided although not signposted and reserved only for people with disabilities.</p> <p>In a vehicle parking area containing 6-49 vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided.</p> <p>The ratio of accessible parking spaces will comply with Table D3.5 of BCA, except that car parks for retail and medical facilities will provide 5% of spaces as accessible.</p> <p>Refer to AS2890 Part 6 for relevant standards for accessible parking spaces.</p>

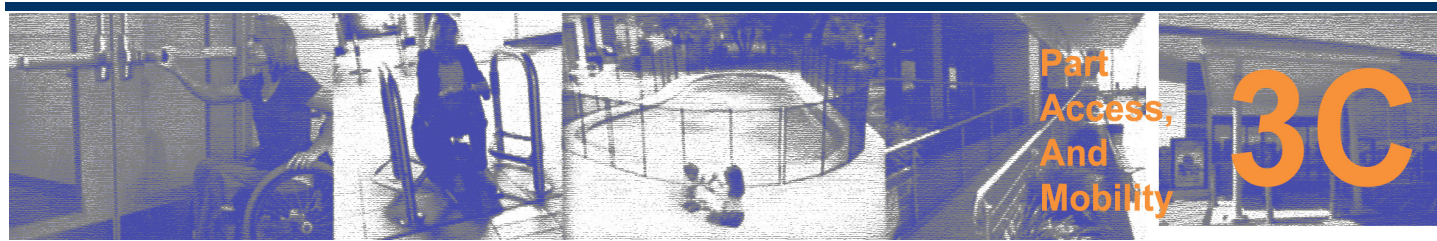


Development Types	Statement of Consistency	Accommodation	General access requirements	Accessible Parking
<p>Places of assembly (including cinemas or churches) public buildings (including council and government offices), health care buildings, educational establishments or child care centres.</p> <p>Residential Care Facilities</p>	<p>Statement of consistency lodged with DA</p> <p>(Refer to Controls C1 and C2 of this Part).</p>	<p>Refer to Table D3.1 of the BCA regarding Class 9c residential care facilities</p>	<p>Access for all persons through the principal entrance and access to appropriate sanitary facilities in accordance with the BCA and relevant Australian Standards.</p> <p><b>Note:</b> The Premises Standards requires that all Class 9a and some Class 9b (schools and early childhood centres) to be accessible to and within all areas normally used by the occupants. Specific technical access requirements are specified in the Premises Standards for Class 9b (assembly buildings not being a school or early childhood centre), and Class 9c buildings.</p> <p>The following matters (where applicable) will be addressed:</p> <ul style="list-style-type: none"> <li>▪ Continuous accessible path of travel (CAPT);</li> <li>▪ Accessible seating arrangements;</li> <li>▪ Comparable sight lines;</li> <li>▪ Gradient of floor surface;</li> <li>▪ Measures for people with hearing impairments;</li> <li>▪ Appropriate sanitary facilities; and</li> <li>▪ Accessible automatic teller machines (ATMs).</li> </ul>	<p>In a vehicle parking area containing 5 or less vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided although not signposted and reserved only for people with disabilities.</p> <p>In a vehicle parking area containing 6-49 vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided.</p> <p>The ratio of accessible parking spaces will comply with Table D3.5 of BCA, except that car parks for retail and medical facilities will provide 5% of spaces as accessible.</p>





Development Types	Statement of Consistency	Accommodation	General access requirements	Accessible Parking
Aquatic centres and public swimming pools	Statement of consistency lodged with DA  (Refer to Controls C1 and C2 of this Part).	Nil	<p>Access for all persons through the principal entrance and access to appropriate sanitary facilities in accordance with the BCA and relevant Australian Standards.</p> <p>The following matters (where applicable) will be addressed:</p> <ul style="list-style-type: none"> <li>▪ Continuous accessible path of travel (CAPT);</li> <li>▪ Accessible public telephones;</li> <li>▪ Safe, equitable and dignified access into and out of any swimming pool;</li> <li>▪ Appropriate ramps and handrails; and</li> <li>▪ A mechanical or hand operated hoist to assist people in and out of a pool</li> </ul> <p>Refer to Part D3.10 of the BCA and related Specification.</p>	<p>In a vehicle parking area containing 5 or less vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided although not signposted and reserved only for people with disabilities.</p> <p>In a vehicle parking area containing 6-49 vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided.</p> <p>The ratio of accessible parking spaces is to comply with Table D3.5 of BCA, except that car parks for retail and medical facilities are to provide 5% of spaces as accessible.</p> <p>Refer to AS2890 Part 6 for relevant standards for accessible parking spaces.</p>



Development Types	Statement of Consistency	Adaptable housing	General access requirements	Accessible Parking
Public open space and facilities	<p>Statement of consistency lodged with DA</p> <p>(Refer to Controls C1 and C2 of this Part).</p>	Nil	<p>Access for all persons through the principal entrance and access to appropriate sanitary facilities and unique amenities and features in accordance with the BCA and relevant Australian Standards AS1428.1, AS1428.2, AS1428.4.1 and DDA Transport Standard where applicable.</p> <p>The following matters (where applicable) will be addressed:</p> <ul style="list-style-type: none"> <li>▪ Accessible infrastructure relating to public transport;</li> <li>▪ Continuous accessible path of travel (CAPT);</li> <li>▪ Unique amenities and features are to be accessible including viewing platforms;</li> <li>▪ Appropriate sanitary facilities;</li> <li>▪ Seating design in common areas; and</li> <li>▪ Location and design for an accessible public telephone.</li> </ul>	<p>In a vehicle parking area containing 5 or less vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided although not signposted and reserved only for people with disabilities.</p> <p>In a vehicle parking area containing 6-49 vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided.</p> <p>The ratio of accessible parking spaces will comply with Table D3.5 of BCA, except that car parks for retail and medical facilities will provide 5% of spaces as accessible.</p> <p>Refer to AS2890 Part 6 for relevant standards for accessible parking spaces.</p>