# ACCESS TO HERITAGE PLACES: NSW

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ACCESS TO HERITAGE PLACES

This guideline document provides some useful information to assist owners, authorities, heritage consultants and anyone who may be involved with providing Disability Access to Heritage Places. It sets out the statutory requirements, a process to solve issues and provides illustrations to show how some situations have been resolved to assist in providing access to Heritage Places.

INTRODUCTION

Dignified access for people with disabilities should be provided to, and within heritage places. However, many heritage buildings offer specific challenges that need to be overcome when providing access for all. Any proposal for change to a heritage place should be informed by, and tested against, a thorough understanding of the impact on significance. In many cases heritage, planning and building permits will be required when undertaking changes to a heritage place to provide access for all.

All buildings, including heritage places, are subject to the requirements of the Federal Disability Discrimination Act 1992 (DDA) and complementary state based legislation such as the NSW Anti-Discrimination Act 1977. The DDA applies whether buildings are in public or private ownership (excluding private residences). This Act requires that people with disabilities be given an equal opportunity to access premises without discrimination unless a case of unjustifiable hardship exists.

Should heritage buildings undergo change then the requirements of the National Construction Code (NCC) Volumes 1 and 2 Building Code of Australia (BCA) (herein referred to as the BCA), will apply to the new work and this includes a number of specific provisions for people with disabilities. There is also a requirement under the Premises Standards (see below) for the affected part (the access way from the new work to and including the main pedestrian entry) to also comply with the BCA requirements for access for people with a disability. Any change to a heritage building needs to consider the impact on the heritage values.

Providing access for all to heritage buildings has broader equity issues including improved access that benefits a range of users including parents with children in strollers, couriers and furniture movers as well as people with disabilities. Inclusive design, universal design, or access for all, is an overriding objective that should always be aimed for when upgrading a heritage place.
This Guideline provides information on disabled access, inclusive design or universal access to heritage places. This may include buildings and their setting such as gardens. Its aim is to show that it is possible to modify a range of heritage buildings so that they are accessible to people with a disability while maintaining the heritage values of the place. There are more detailed guides to overcoming the practical problems associated with providing access for people with disabilities, some of which are included in the resources section of this Guideline.

**BACKGROUND**

**Disability Discrimination Act 1992 (DDA)**

The definition of disability, as described in the DDA, can be summarised as anything that results in a total or partial loss of a person’s bodily or mental functions. This includes physical, visual, hearing, intellectual and psychiatric impairments. Current Australian statistics indicate that some 20% of Australians have a disability. This rises to 50% for people over 60. The DDA is Commonwealth legislation requiring that people with a disability be given equal opportunity to participate in, and contribute to, a full range of economic, social, political and cultural activities. The goal of the DDA is not fulfilled by limited access. Instead it promotes and protects equality of full access: physical, informational and attitudinal.

Under Section 23 of the DDA it is unlawful to discriminate against a person on the basis of a disability.

The DDA is a complaint based Act. It requires people who consider themselves discriminated against to lodge a complaint with the Australian Human Rights Commission (AHRC). The right to access is not absolute in law and the DDA includes provision in Section 11 whereby a person can argue that to implement the provisions of the DDA would cause them unjustifiable hardship. The grounds for unjustifiable hardship can include impacts on heritage buildings. The Federal Courts would decide on whether a defendant would suffer unjustifiable hardship if required to provide access.

Complaints about the lack of provision of access for people with disabilities should in the first instance be made to the person who manages or owns the heritage place. Where no resolution can be achieved a complaint may be lodged with the Federal Human Rights and Equal Opportunity Commission under the DDA. Complaints can also be made through the NSW Anti-Discrimination Act 1977, where there has been a breach of the Act.

**Premises Standards**

The Disability (Access to Premises – Buildings) Standard 2010 (referred to on the Premises Standards) provides details of the design and construction required for building work to meet the obligations of the DDA and parallels the BCA for the areas covered by the BCA.

The Premises Standards also includes details of what could constitute unjustifiable hardship and Clause 4.1 includes as one of the possible reasons for unjustifiable hardship as “if detriment involves loss of heritage significance – the extent to which the heritage features of the building are essential, or merely incidental, to the heritage significance of the building.”

There is also a requirement under the Premises Standards that in existing buildings the affected part (the access way from the new work to and including the main pedestrian entry) also comply with the requirements of the BCA for access for people with a disability.

**Building Code of Australia (BCA)**

Whenever new work is undertaken it must meet the requirements of the BCA and this includes several specific provisions for people with disabilities. In particular, the following clauses relate to disabled access:

- D3 General Requirements and Access
- E3.6 Lifts
- F2.4 Toilet Provisions
As the BCA is not applied retrospectively, there is no requirement to upgrade a building to current BCA with regard to access for people with disabilities if no new work is proposed. In NSW the BCA is applied through the Environmental Planning and Assessment Act 1979.

**Application of the Premises Standards/BCA to heritage buildings**

Both the Premises Standards and the BCA are applicable to new buildings and new building work in heritage and other existing buildings. In addition, the Premises Standards also include requirements for the ‘affected part’ of existing buildings, as mentioned above.

Application of the ‘affected part’ requirements often form the basis of consideration of the unjustifiable hardship provisions of the Premises Standards.

There is currently no process to determine unjustifiable hardship in NSW other than a court decision arising from a complaint. The basis of a decision is the need to demonstrate why it would impose unjustifiable hardship to comply with the NCC.

Another process is that any applicant for construction certificate can make an application to the Principal Certifying Authority (PCA) to consider an alternative that may be addressed by any other means, such as an Performance Solution under the BCA.

**Heritage Council of NSW**

The Heritage Council of NSW has a Technical Conservation Committee that can provide free technical advice to decision makers and building owners on situations that include provisions for fire protection, access for people with disabilities or the integration of building services into heritage buildings.

**Heritage**

Heritage legislation at Commonwealth, State and Territory or local level seeks to conserve and protect the heritage significance or heritage values of a place. Significance is expressed in a Statement of Significance which describes the value of the place to the community and includes a range of criteria embodying aesthetic, historic, scientific and social values. These are defined in the Burra Charter Guidelines as detailed below.

**Aesthetic value**

Aesthetic value includes aspects of sensory perception for which criteria can and should be stated. Such criteria may include consideration of the form, scale, colour, texture and material of the fabric including original parts and features such as stairs, verandahs and balustrades. It can also include the smells and sounds associated with the place and its use.

**Historic value**

Historic value encompasses the history of aesthetics, science and society, and therefore to a large extent underlies all of the terms set out in this section.

A place may have historic value because it has influenced, or has been influenced by, an historic figure, event, phase or activity. It may also have historic value as the site of an important event. For any given place the significance will be greater where evidence of the association or event survives in situ, or where the settings are substantially intact, than where it has been changed or evidence does not survive.

However, some events or associations may be so important that the place retains significance regardless of subsequent treatment.

**Scientific value**

The scientific or research value of a place will depend on the importance of the data involved, on its rarity, quality or representativeness, and on the degree to which the place may contribute further substantial information.

**Social value**

Social value embraces the qualities for which a place has become a focus of spiritual, political, national or other cultural sentiment to a majority or minority group.
Heritage legislation aims to protect significant heritage for past, present and future generations. All works to places on the NSW State Heritage Inventory, or included in State Department Section 170 Heritage Lists, including those made to improve access, will require a permit under the NSW Heritage Act 1977. Many alterations, especially the provision of external ramps etc. will require planning permission where a heritage place is included in the Local Environment Plan (LEP) or attached schedules of a local planning scheme under Local Government control.

The guiding document for conservation practice is the Australia ICOMOS Charter for Places of Cultural Significance (The Burra Charter). The Burra Charter defines conservation as including all the processes of looking after a place: maintenance, preservation, restoration, reconstruction and adaptation. One of the guiding principles of the Burra Charter is a cautious approach of changing as much as necessary but as little as possible (Article 3). This approach should guide any works to provide access for people with disabilities.

The heritage values can be found in a range of possible documents such as:

- a Conservation (or Heritage) management plan
- a heritage assessment report
- a State or Federal Heritage inventory sheet
- a Local Government Heritage report or register
- a non-government heritage inventory such as those with the National Trust or Australian Institute of Architects.

Alternatively a statement as to why a place matters and why it has been included on heritage list can be obtained from a Local Council office or Heritage Advisor.

Most statements of significance will define what is most important about a place and this will enable an understanding of what elements are important to conserve, to retain significance and other areas where change is possible.

GUIDING PRINCIPLES

In providing access to heritage places, aim to meet the obligations of the various acts and regulations while providing the same opportunities for all including people with disabilities to use, appreciate and enjoy heritage places. This includes ensuring access for all through providing:

(a) car parking as close as is reasonable
(b) access to the buildings on a common or similar route
(c) access into the building at the same entry used by all where possible. This is usually referred to as the principle public entrance, and may or may not be the original or historic entry
(d) access throughout each level of a building
(e) access to, and between all levels of the building
(f) use of toilets and other facilities
(g) information in all formats written, visual and audio
(h) access to services such as telephones, vending machines, counters and retail outlets
(i) access throughout the site including open space, landscapes, gardens and garden structures.

Inclusive design and Universal access is about ensuring independence and dignified access for all users entering and using places. Some details in (g), (h) and (i) above may not be included in the BCA but are factors that are considered under the DDA.

The objective is to achieve maximum access with minimal impact on the heritage values while complying with relevant heritage, planning and building legislation and adopting the sound conservation philosophy contained in the Burra Charter.
PROCESS

The recommended process for resolving and implementing improvements for access to a heritage place is to:

(a) Determine the significance of the heritage building or place and identify the elements of significance. This will usually be set down within the heritage list or register and may be a very simple or a more expansive statement. There may be a need to seek advice from a Council’s Heritage Adviser or a suitably qualified heritage consultant to clarify or expand the statement. If a Conservation Management Plan (CMP) on Heritage Assessment Report exists, this will be useful in understanding significance. CMPs should provide policies that allow design solutions that meet the legislative requirements while retaining heritage significance.

(b) Undertake an access audit, using an access consultant if necessary, to determine the place’s existing and required level of accessibility to: the principle public entry, all parts of the building and site, to services provided and to information.

(c) Develop accessibility options which may include using an architect with experience of working with heritage places and testing these against the significance or CMP’s conservation policies. The options that maximises access but has the minimum impact on heritage significance should generally be selected. At this stage some advice from the NSW Technical Conservation Committee can assist in clarifying reasonable options.

(d) Establish a preferred solution and prepare an action or implementation plan. The final strategy to overcoming access issues in heritage places may involve performance based responses (or Alternative Solutions) rather than standard BCA Deemed to Satisfy solutions and can include management responses such as providing awareness training.

(e) Obtain appropriate heritage, planning and building permits prior to implementing the action required.

SOLUTIONS

There is no one solution to a problem. Different heritage buildings will have varying levels of significance, different settings, and there may be a range of possible solutions to optimising access for all. Each case needs to be assessed on its own merits and the best set of solutions found.

There will be situations where:

- The inclusion of a new addition to a heritage listed building enables access to be provided in the new work with linkages to the heritage section.

  **MAITLAND ART GALLERY**
  A new building adjacent the original heritage listed building has enabled access to be achieved into the original building.

- Adaptive reuse of heritage buildings enables new work within a building incorporating access and promoting the heritage aspects through interpretation.
NEWCASTLE MUSEUM
The conversion of the former Railway buildings with some new structures enabled access to the whole building.

- Integration of new work including access into less significant parts of heritage places.

PADDINGTON RESERVOIR
The former reservoir was converted to a public space which includes access to all areas.

FORMER BANK BUILDING, MARTIN PLACE, SYDNEY
A new entry created adjacent to the original corner stepped entry, by opening up an adjacent former window to provide direct access and internal refurbishment of ramp/lifts enable access to ground floor.

- Access is prevented due to the significance of the place and that provisions for access would destroy the significance so unjustifiable hardship provisions apply.

GEORGE STREET, SYDNEY
Several steps right on footpath prevent access without substantial alteration of a building within a heritage precinct.

The following examples illustrate a range of solutions to overcome a range of access issues but still respect the heritage significance of the place.
• CAR PARKING AND ACCESS

OLD PARLIAMENT HOUSE, CANBERRA, ACT
Designated parking located close to main entry with complying access to the entry via an alternative entrance under the main steps.

• VERTICAL ACCESS OFF STREET – OVERCOMING A SMALL CHANGE IN LEVEL

BRIDGE STREET, SYDNEY
The former step has been replaced by a step ramp.

LANDS DEPARTMENT BUILDING, BRIDGE STREET, SYDNEY
Part of the steps have been cut back to provide a step ramp as well as a “Call for Assistance” offered.

ANZ BANK, WYNYARD STREET, SYDNEY
The footpath has been raised to floor level where space is available without providing excessive gradients to overcome the entry step.
HYDE PARK BARRACKS, SYDNEY
A checker plate ramp added to existing entry steps to overcome the step.

VERTICAL ACCESS OFF STREET – OVERCOMING STEPS AT THE FRONT

CUSTOMS HOUSE, SYDNEY
New steps and symmetrically placed ramps have been constructed in front of the original building to provide access replacing steps to the portico that previously existed.

ART GALLERY OF NSW, SYDNEY
A new ramp of sculptural and quality design added over the top of the existing steps provides access to the ground floor entry.
SCOTS PRESBYTERIAN CHURCH, WYNYARD, SYDNEY
Part of the entry steps has had a ramp added over the top to enable access.

SYDNEY TOWN HALL
The George Street entry has a main stair so a side access has been provided. Two smaller leaves of a door have been joined together to provide one larger opening and the door automated to enable easy access.

TOCAL FUNCTION CENTRE RAMP, PATTERSON NSW
New ramp to former hayshed now adapted to a Function Centre uses timber to reflect rural details.
• VERTICAL ACCESS OFF STREET – LARGE LEVEL CHANGE

ST JAMES RAILWAY STATION, SYDNEY
A new lift added beside the original and small entry, which provides access to the tunnel and entry level of the railway station.

• VERTICAL ACCESS WITHIN BUILDING – SMALL CHANGES OF LEVEL

156 CLARENCE STREET, SYDNEY
A platform lift and modified stairs has been installed as part of the internal refurbishment of the foyer to overcome the level difference between street and ground floor.

BELGENNY FARM, NSW
A light-weight portable ramp is used to overcome a step at the entrance, which is installed daily as the Museum opens. This solution requires management with staff and volunteers to install it daily.

PRAHAN TOWN HALL, PRAHAN, VIC
A high-quality reversible glazed ramp has been provided in the foyer to overcome a change in level.
• VERTICAL ACCESS WITHIN BUILDING – LARGE CHANGES OF LEVEL

BRIDGE STREET, SYDNEY
A lift has been incorporated into the existing building in a suitable and less significant space off the foyer.

• UPGRADING EXISTING STAIRS

OLD PARLIAMENT HOUSE, CANBERRA, ACT
An addition bar clamped on existing balustrade to increase height and meet safety requirements.

QUEEN VICTORIA BUILDING, SYDNEY
Discrete tactile indicators added over patterned mosaic tiles at an escalator.

QUEEN VICTORIA BUILDING, SYDNEY
A new brass handrail and glass balustrade added in front of the original balustrade.
- SIGNAGE

**DEPARTMENT OF EDUCATION BUILDING, BRIDGE STREET, SYDNEY**

Signage added to indicate what and where assistance is available.

- ACCESSIBLE WC FACILITIES

Spaces within buildings that are less significant can be found to incorporate accessible and ambulant toilets.

- EXISTING LIFTS

**ATHENAEUM LIBRARY, MELBOURNE, VIC**

The existing historically significant lift still provides access within the Athenaeum, Collins Street, Melbourne. Management systems are in place to provide staff assistance to wheelchair users who otherwise would find the manual doors and non-compliant controls difficult to use.

- CULTURAL HERITAGE LANDSCAPES

Complying ramps or even lifts can be provided to access key vantage points, such as a lookout or site of significance. They can be designed with suitable materials such as timber and stone to blend with the site and still be accessible.

**MUNDARING WEIR, WEST AUSTRALIA**
FREYCINET NATIONAL PARK, TASMANIA
An accessible pathway, which does not detract from the landscape, provides access for all to the Cape Tourville Lighthouse.

• INTERPRETATION

OLD MELBOURNE GAOL
Interpretation considers people with vision impairment with:

– Raised tactile model of layout
– Large print and braille information
– Audio guide including details of how to circulate around the site
– Objects that can be touched and handled.
RESOURCES

General References

Disability Discrimination Act 1992 (Commonwealth)
Disability (Access to Premises – Buildings) Standards 2010
NSW Anti-Discrimination Act (1977)
NSW Environmental Planning and Assessment Act (1979)
NSW Heritage Act (1977)

References

Access for All to Heritage Places – Technical Leaflet

http://www.english-heritage.org.uk/publications/easy-access-to-historic-buildings/

http://www.english-heritage.org.uk/publications/easy-access-historic-landscapes/

Martin, E., 1999, Improving Access to Heritage buildings: A practical guide to meeting the needs of people with disabilities, Australian Heritage Commission, Canberra

Websites


Association of Consultants in Access, Australia Inc. www.access.acn.au