



COX RICHARDSON

PELICAN BEACH RESORT PATHWAYS

ACCESS REPORT

Morris-Goding Accessibility Consulting

DRAFT

11th December 2006

1. INTRODUCTION

1.1. Background

Morris-Goding Accessibility Consulting has been engaged by Cox Richardson to provide advice relating to accessibility requirements of the pathway leading to the beach front within the Pelican Beach Resort, Coffs Harbour.

1.2. References

The following standards are to be used to implement the Report:

DDA – Disability Discrimination Act

AS 1428 – Design for Access & Mobility

BCA - Building Code of Australia

2. ACCESS REQUIREMENTS

2.1. General

The DDA requires appropriate access for people with disabilities. Appropriate access must be independent, dignified and equitable and therefore is required to be via the main entrance.

2.2. Disability Discrimination Act (DDA)

In considering wheelchair access into the premises, the Disability Discrimination Act (DDA) must be taken into account. The DDA attempts to eliminate, as far as possible, discrimination against persons on the ground of disability and ensures, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community.

Discrimination in the provision of accessible accommodation is unlawful except if the building (or property) requires adjustments, which would impose unjustifiable hardship on the person providing the accommodation.

The Human Rights and Equal Opportunities Commission (HREOC) explain in their Advisory Notes that the DDA makes it unlawful to discriminate against people with a disability, in relation to access to, and use of, premises that the public enter or use.

2.3. Unjustifiable Hardship

However, the HREOC Advisory Notes also allows for a defence of unjustifiable hardship in situations where the provisions of full access within existing premises or property would prove too demanding because of technical, topographical, safety or financial limits. This is explained in section 23 of the DDA, which recognises that it may not be possible or fair to enforce the requirements of access to premises in all situations.

The costs involved in making the adjustment take into account the financial situation of the provider, technical limitations, and design & construction issues. The Human Rights and Equal Opportunities Commission (HREOC) states in their Advisory Notes that:

The HREOC Advisory Notes section 6.3 explain that:

“Where equitable and dignified access to, and use of, premises has not been provided people with disabilities are entitled to complain. In those circumstances, a defence of unjustifiable hardship may be available to the respondent. Circumstances relevant to unjustifiable hardship may include:

- technical limits;*
 - topographical restrictions;*
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- *safety, design and construction issues;*
- *the benefit for people with disabilities; and*
- *the costs involved in providing access”*

It must be noted that where equitable and dignified access has not been provided people with disabilities are entitled to complain. In those circumstances, a defence of unjustifiable hardship may be available to the respondent.

3. ACCESS REVIEW

In this case, an accessibility review has been undertaken of the pathway leading from within the Pelican Beach Resort.

The site is proposed for the development of 4 storey apartments, 3 storey town houses and 2 storey single dwellings. The site has a fall of approximately 17 metres from the highway to the beach. Due to the extreme gradients of the site along the internal road, the provision of wheelchair access within the meaning of AS1428.1 would be extremely difficult to achieve.

The following design options could be provided, however as can be seen, these options are fraught with difficulty and hardship.

Lift Access

The provision of a series of lifts and joining accessible paths could be provided. This would entail huge capital outlay and bulk earthworks to achieve the desired outcome. Technically it is unknown if this could even be achieved.

Ramp Access

The provision of 1:14 gradient ramp access would mean an extensive series of ramps that cover over 153 metres. This is not suitable as wheelchair users could not use these ramps due to factors such as fatigue and lack of strength. Under the draft DDA Premises Standards, a series of ramps cannot rise more than 3.5 metres. Therefore ramps leading to the beach would be regarded as non-functional and non-compliant.

4. CONCLUSION

Based on the topographical limitations of the property, it is reasonable for the client to make a claim of unjustifiable hardship under section 23 of the DDA for the provision of full access down to the beach from the highway.

In order to claim unjustifiable hardship, the owner of the development will provide the NSW Department of Planning, all relevant information including an estimate of the amount of work involved in order to clearly demonstrate unjustifiable hardship relating to this project.

Furthermore, the following recommendations should be used by the client to provide a partial solution to assist with accessibility.

- (i) Provide a pathway with no steps so that assisted access can be achieved
- (ii) Provide rest seating areas at intervals of 60 metres. Where possible, these rest seating areas should have levelled areas.
- (iii) Where possible provide a handrail along the pathway to assist persons with ambulant disabilities.
- (iv) Provide a signed accessible car bay at the car park adjacent the beach at the bottom of the pathway. The width of the accessible car bay is to be 3.2 metres wide.

Sincerely,



David Goding
Morris-Goding Accessibility Consulting