



Reform of the Disability Standards for Accessible Public Transport

NSW Government Response to the Consultation
Regulatory Impact Statement

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1 Introduction

The NSW Government thanks the Department of Infrastructure, Transport, Regional Development and Communications for the opportunity to comment on the Reform of the Disability Standards for Accessible Public Transport Consultation Regulation Impact Statement (Consultation RIS). NSW supports the modernisation process as critical to ensuring that *Disability Standards for Accessible Public Transport 2002 (Cth)* (Transport Standards) meet the current and future needs of people with disability. It is also critical to provide sufficient guidance to transport operators and providers to practically fulfil their obligations under the *Disability Discrimination Act 1992 (Cth)* (DDA) in a continually modernising transport and technology environment.

The NSW transport system serves our State's approximately 8 million residents, 300,000 businesses and 40 million visitors each year. NSW maintains Australia's largest rail, bus and ferry networks to meet this demand, with the Sydney metropolitan area having the country's highest rate of public transport use.

NSW aims to provide public transport vehicles, stops and interchanges that all customers can use without difficulty. Access for all customers, no exceptions, is a core objective of Future Transport 2056¹. Transport for NSW, as the lead agency responsible for delivering accessible transport, is implementing the Disability Inclusion Action Plan 2018-2022 which details the steps being taken to remove barriers in accordance with the Transport Standards².

Since 2011, the NSW Government has spent more than \$2 billion making transport accessible, modern and safe at train stations, ferry wharves, transport interchanges and in new commuter car parks through the Transport Access Program. Now, almost 90 per cent of transport customer journeys begin from locations that are accessible to people with disability.

Decades of experience in implementing Transport Standards has demonstrated that amendments are needed in order to provide practical and achievable accessibility measures for transport operators. This includes the removal of standards with prescriptive or technical specifications that are simply not feasible due to the nature of transport environments. The impracticality of some requirements has led to transport operators and service providers, particularly in the rail and maritime environments, relying on unjustifiable hardship and equivalent access provisions of the DDA. This creates legal uncertainty and increases administrative burden. Further, the current prescriptive approach has restricted the scope of alternative solutions that may achieve the same or better outcomes for people with disability.

The NSW Government supports the widely held view of the disability sector that requirements in the Transport Standards should articulate the design functional outcomes without the need to reference specific Australian Standards. This favours an approach with some degree of self-regulation, such as the approach in duty based legislation. Public transport operators, in consultation with stakeholders are best placed to determine the most efficient and optimal accessibility outcome. This would not only make the requirements of the Transport Standards more accessible for disability stakeholders but also assist transport providers to fully understand and implement requirements.

This submission outlines NSW positions and preferred options for implementation on the 17 areas of reform outlined in the Consultation RIS.

¹ <https://future.transport.nsw.gov.au/plans/future-transport-strategy>

² <https://future.transport.nsw.gov.au/plans/disability-inclusion-action-plan-2018-2022>

NSW Government Response to Reform of the Transport Standards: Consultation RIS – May 2021

2 NSW Government Response

2.1 Staff training and communication

Preferred policy approach: Regulatory, with amendments

The NSW Government supports the introduction of regulation on staff training and communication. However, amendment to the proposed regulation is required as it does not allow for sufficient flexibility in the delivery of training programs for all transport providers and operators.

NSW would be supportive of an outcomes based approach that requires transport providers and operators to undertake disability training to meet the specific roles and responsibilities of staff. This would result in a more consistent delivery of training not just for frontline staff but also for corporate staff. NSW acknowledges the benefit of engagement of people with disability in the development of training programs.

Staff training needs to be based on an understanding that disability needs are diverse and individual. Any requirement for staff training must be scalable across all transport operators both large and small, metropolitan and regional.

2.2 Mobility aid safety

Preferred policy approach: Non-regulatory

The NSW Government understands that a research project is being conducted by the Victorian Government. Until these findings are known, no regulatory change has been proposed. NSW supports this approach. In the interim, providing guidance would be beneficial to conveyance designers, operators, service providers and people with disability that utilise mobility aids. It is important to recognise that no current solution exists in the marketplace to actively contain movement of a mobility aid that is independently operable by all users and caters to all mobility aid types. Any future solutions should be tested and adopted to support independent use by a wide range of mobility aid users.

2.3 Priority seating

Preferred policy approach: Regulatory, with amendments

Sub-option 4 for determining the ratio of priority seats, or other alternative calculation method.

There is a growing need for priority seating. Currently, NSW adheres to the minimum requirements for priority seating as currently prescribed in the Transport Standards. Priority seats are identified with decals and in most cases with a differing upholstery or colour.

Prescriptive requirements for priority seating assist in catering to the needs of a wide range of users with accessibility requirements, including older people. The amount of priority seating should be based on seat numbers rather than capacity as this can be calculated differently in various contexts. Considerations around location, signage and contrast should not form part of the regulatory requirements. These elements should remain as guidance.

2.4 Allocated spaces in transit

Preferred policy approach: Regulatory

Sub-option 4 in relation to items allowed to intrude into vertical space.

The NSW Government is supportive of a regulatory option for allocated spaces. The addition of a vertical requirement, which is already in place for conveyances such as taxis, will ensure consistency across other modes. This support is on the basis that the Australian Government

undertakes a technical review of the proposed requirements in relation to any potential conflicts with the Australian Design Rules.

The majority of conveyances across all modes in NSW have allocated spaces in accordance with the Transport Standards. Older fleets introduced prior to the commencement of the standards, particularly in relation to trains and buses, are gradually being retired and replaced with newer conveyances that have compliant accessible facilities on board. The adoption of regulatory requirements should not be considered for legacy fleets already in service as the costs of retrofitting to meet these requirements may be significant and technically not feasible.

2.5 Digital information screens

Preferred policy approach: Non-regulatory

The inclusion of digital information screens into the Transport Standards needs to allow for future innovation and technological change. Instead of specific outputs for screens, a high level performance requirement should be considered. This performance requirement should articulate the criticality of providing equivalency of information provided by digital information screens in audio or other information outputs. This may also be supported by inclusion in guidance on the benefits of adopting Australian Standards for public procurement processes for information and communication technology products and services.

If a regulatory option were to be considered, requirements in relation to luminance, glare, polarisation and location should be removed or included as guidance.

The polarisation of screens is a result of the product supply from external suppliers. Considering that displays are often off the shelf monitors, the polarisation is predetermined.

Location is difficult to mandate. The location of screens needs to be viewed by all customers, including people with disability. It is not always possible to maintain line of sight that is free from obstructions in all areas of transport precincts due to factors such as crowding and required infrastructure.

Glare is difficult to mitigate given the majority of transport precincts are in outdoor environments. Generally, multiple screens are provided in a transport precinct which would mitigate the issues and give customers the opportunity to locate a display that is legible or free from glare.

In NSW, there would be significant cost to retrofit luminance requirements in legacy displays across all modes. NSW would support this requirement being made mandatory for new assets or system overhauls but not retrospectively for existing systems.

2.6 Lifts

Preferred policy approach: Non-regulatory

There would be a significant cost to update existing lifts to meet the proposed regulatory changes. There also appears minimal overall benefit for people with disability associated with the additional requirements. Understanding how any proposed amendments will apply to existing lift assets is critical. Current lift designs in NSW meet and often exceed the minimum requirements of the Transport Standards. They can accommodate a stretcher but would not meet the minimum dimensions proposed in the regulatory option.

Having additional lift options as proposed under the National Construction Code may be beneficial in future but the viability of these products in the operational context needs to be further explored. Lift options for product selection can be limited due to constraints with legacy infrastructure, operational requirements and heritage considerations. In particular, this may often mean that opting for larger lift types is not feasible. Further, some of the proposed regulatory changes related to maintenance are unfeasible and do not take into consideration site and situational complexities that may arise.

It is our understanding that the current AS1735.12 has been reissued in 2020 with the support of the lift industry. It would be more prudent to understand if adopting these requirements within the Transport Standards would be a more appropriate solution in prescribing lifts that are fit for purpose.

2.7 Website accessibility

Preferred policy approach: Regulatory, either WCAG2.0 AA (sub-option 1) or WCAG2.1 AA (new option)

The Australian Government endorsed the Web Content Accessibility Guidelines (WCAG) version 2.0 for all government websites, making accessibility a mandatory requirement for all NSW Government websites.

Current NSW Government policy requires compliance with WCAG 2.0 AA as a minimum. All NSW Government digital services are also required to meet the Digital Service Toolkit Design Standards³.

Meeting full compliance with WCAG AAA is not achievable and is not supported as a mandatory option. This is due to the inability to meet AAA requirements for dynamic information presented in interactive maps or for real-time information.

2.8 Communication during service disruption

Preferred policy approach: Non-regulatory option 2

Communication during service disruptions impacts all customers, including people with disability. It is important to note that there are varying levels complexity in relation to disruptions that need to be accommodated. For example, a major flood will have different response requirements and time durations in comparison to a planned track work event.

The NSW Government supports the development of a guideline to provide practical assistance on how to meet the needs of people with disability while allowing sufficient flexibility to accommodate the variables faced during service disruptions. Factors that are taken into consideration include the duration of the disruption and the level of impact to customers. Providing examples of expected functional outcomes may help to drive positive change. The guidelines may also outline the importance of providing accessible alternative travel options for customers during disruptions.

When complex disruptions are unplanned, greater importance is placed on the provision of real time and accurate information to allow customers to make informed decisions that best suits their individual travel needs. Where possible, staff assistance is provided to customers to the greatest extent possible. Should regulatory options be pursued, sufficient flexibility is required to cover a range of disruption scenarios.

2.9 Gangways

Preferred policy approach: Regulatory, with amendments

The NSW Government supports greater clarity around differentiating between a fixed ramp found in traditional static environments and gangways found in marine environments. However, to mitigate safety issues, clause 5 within the proposed specification for the location of tactile ground surface indicators (TGSIs) on the treadplate should be amended to be placed on the pontoon.

³ <https://www.digital.nsw.gov.au/digital-service-toolkit/design-standards>

Gangways and pontoons upgraded by the NSW Government in the ferry network utilise standardised designs to meet accessibility requirements. Gangway standardised designs include the provision of TGSIs both on the pontoon and on the landside levels, handrails and widths to accommodate tidal ranges to meet the 80% requirement as required under the current Transport Standards. Intermediate landings are difficult to achieve in the NSW marine environment. As such, gangways are designed to be as short as possible, but stability and support for customers is ensured through the provision of handrails.

2.10 Assistance animal toileting facilities

Preferred policy approach: Non-regulatory

The NSW Government supports the implementation of a non-regulatory option for assistance animal toileting facilities. It is acknowledged that there are customer benefits associated with installing these facilities, particularly in high patronage public spaces. However transport interchanges, where the majority of these facilities would be beneficial, have existing site constraints making it impractical or impossible in some cases to provide these facilities. Key constraints include limited space on existing railway stations and heritage impacts. For context, 70% of all operational passenger stations in NSW are protected by a heritage listing.

A non-regulatory approach provides the opportunity to work with the disability sector and gather data to ensure that facilities can be delivered where most appropriate in the context of the above constraints.

2.11 Emergency egress

Preferred policy approach: Status quo

The intended outcome of this proposed reform area is unclear. Therefore the NSW Government supports the status quo option.

The proposed reform relates only to infrastructure as defined under the Transport Standards. In the majority of cases, infrastructure, as defined, applies to items associated with bus and tram stops in road reserves. It is unclear why emergency egress for these specific items needs to be mandated. There is no evidence to suggest this is an issue currently in NSW for bus, light rail or tram stops. It is also important to note that the majority of facilities, such as bus stops, are the responsibility of Local Government.

Premises to which the Premises Standards apply have mandatory egress provisions under relevant building regulations and should not form part of the reform process. It is understood that this proposal also does not relate to emergency egress on board vehicles and vessels.

2.12 Fit for purpose accessways

Preferred policy approach: Non-regulatory

The NSW Government supports a non-regulatory option for this proposal. This proposal identifies a number of good planning principles which should be developed as guidance material. However, the proposal fails to acknowledge the appropriateness of ramps versus other vertical transport options such as lifts. In locations that experience significant level changes, ramps may not be appropriate and lifts should be installed. Although they will continue not to be the sole means of access, in some cases stairs may still be appropriate for those individuals that prefer and can use stairs.

The intent of providing a fit for purpose accessway is always the objective of good design principles. The outcomes to be achieved within this proposal are subjective and difficult to regulate. Users of stairs and ramps have a preference based on their individual needs. Generally, where these are co-located, a customer will choose the option that best suits their

needs. Further, stairs provide a greater throughput of customers which is particularly important in emergency evacuations or locations with heavy patronage.

2.13 Wayfinding

Preferred policy approach: Non-regulatory

This proposal contains many different elements related to overall wayfinding in a precinct. In most cases, there is difficulty in meeting the requirements as proposed or clarification is necessary.

Commentary is provided below per element on the proposed reform.

- Tactile ground surface indicators (TGSIs) - The requirements for TGSIs are covered in another reform proposal which include the updated provisions and references to the relevant Australian Standards. Generally, there is support for this change however it should be noted that there are difficulties in calculating and achieving luminance contrast requirements.
- Luminance contrast for abutting surfaces - Generally, there is support for the requirements related to luminance contrast of abutting surfaces to an access path. However it is widely acknowledged that there are difficulties in testing for luminance contrast and so this may not be readily achievable.
- Braille and tactile signs - Tactile and braille elements of signage are covered for certain sign types under the Premises Standards. It should be noted that there are discrepancies related to the provision of signs in the National Construction Code in comparison with Australian Standards references which should be resolved prior to any adoption.
- Step ramps - Generally there is support for this requirement, however its appropriateness would need to be verified by people with disability to identify any potential impacts of the change.
- Signs per AS1428.4.2 (2018) - There is general support for added guidance on the application of AS1428.4.2 (2018) however the use of this standard should not form part of any regulatory change. It is acknowledged that the provision of these signs may be beneficial in complicated sites but adoption is not feasible or practical in the majority of transport sites in NSW.

2.14 Tactile ground surface indicators

Preferred policy approach: Regulatory

The NSW Government supports a regulatory response in relation to the application of directional tactile ground surface indicators (TGSIs). Directional TGSIs are utilised by customers with vision impairments however there is no clear guidance on the application of directional TGSIs within the current Transport Standards. Clarification is required to assist with their rationalised use, to ensure maximum effectiveness for customers and to minimise conflict between disability user groups.

Land ownership is a key barrier to the consistent application of TGSIs in transport precincts. For example, some local governments have conflicting or differing requirements regarding the installation of both directional and warning TGSIs.

The NSW Government continues to investigate innovative solutions that can support customers who are blind, have low vision or a vision impairment such as smart phone technology. However, it is acknowledged that technology solutions cannot be used by all customers and so alternatives such as TGSIs need to be considered where appropriate.

2.15 Passenger loading areas

Preferred policy approach: Regulatory, with amendments or new proposed

The NSW Government agrees that passenger loading areas should be defined under the Transport Standards. However, a distinction needs to be made between passenger loading zones for private vehicles and taxi ranks. Further, either additional distinction or separate requirements are needed for off-street and on-street requirements, with on-street requirements being non-mandatory. The following specific provisions within the proposed mandatory requirements are not supported and should either be refined or moved to guidance: **3(a), 3(c), 3(d), 3(e), 3(f), 3(h)** and **3(j)**.

Passenger loading areas are generally located on Local Government property which requires extensive consultation with land owners. It should be noted that, due to the natural topography of streetscapes, at times it may not be appropriate or achievable to make facilities accessible.

2.16 Provision of information in multiple formats

Preferred policy approach: Regulatory

The NSW Government acknowledges the genuine customer need for information to be provided through non-digital channels. Producing alternative formats for online material such as printed timetables on an as-need basis can help to address demand while allowing operators to manage costs.

Consideration should be given to having a single, outcomes based requirement to support all customers in accessing the same information with minimal constraints through appropriate channels. This would provide space and opportunity to accommodate future innovation. Provisions which prescribe the formats in which information should be provided may become redundant in the face of technological advancements. Information on preferred formats could be provided as guidance.

2.17 Amendments to references to Australian Standards Tables of amendments

The NSW Government supports the amendments to update references Australian Standards with the exception of using ISO7001 in Part 16.2 of the Transport Standards. This reference should be moved to guidance or specific elements should be identified for inclusion rather than adoption of the international standard in its entirety.

Where appropriate, the revised Transport Standards should consider replacement with text alternatives. This improves the accessibility of legislation for people with disability as currently members of the public pay to access such standards. There also needs to be consideration in ensuring any updated references are aligned with other building legislation or codes that apply, such as the Premises Standards. To avoid issues in the use of outdated references, future guidance on the use of newer versions of standards would be beneficial.

Where updated standards are adopted, they should not be applied retrospectively to assets that are compliant with existing standards (noting that the Transport Standards have referred to superseded standards for some time).

3 Conclusion

The NSW Government remains committed to supporting development of a revised set of Transport Standards that are practical to implement and provide inclusive outcomes for people with disability.

A key aspect to the successful reform of the Transport Standards will be the integration of feedback from previous reviews of the Standards undertaken in accordance with Part 34 of the Transport Standards. The findings of the periodic reviews are critical in identifying focus areas for the modernised Transport Standards both for operators and people with disability. NSW requests that the outcome report of the third review be prioritised and released as soon as practicable to ensure the modernisation process considers the outcomes of that review.

Any future proposed amendments to the Transport Standards must align with the reform of the Premises Standards, which are currently being reviewed. There is often ambiguity on the extent to which the building classification from the Premises Standards applies to transport environments such as railway stations. These environments are complex and often need to take into account other standards, industry requirements and legislation such as the Rail Safety National Law and heritage laws. Creating alignment between all relevant regulations and legislation is critical to ensuring that there are no conflicting requirements being imposed on operators and service providers. NSW also requests that any proposed requirements are subject to an independent technical review.

All requirements proposed in the Consultation RIS, aside from updates to Australian Standards references, are additional to the current standards. If all requirements are integrated into future regulation, the upfront capital costs and ongoing costs of implementation will be significant. At the time the Transport Standards were endorsed in 1999, it was on the stipulation that sufficient funding to state and local governments should be supplied for full implementation. To date, implementation of the Transport Standards has been primarily funded by state and local government. NSW has made significant investment to bring infrastructure into compliance with the current Transport Standards.

The NSW Government believes new requirements should only apply to new infrastructure, premises or conveyances and where appropriate for major upgrades.