

INQUIRY INTO PUBLIC TOILETS

Hearing: Tuesday 1 April 2025

SUPPLEMENTARY QUESTIONS

Inner City Legal Centre

1. What is the current level of community engagement by local and state governments when designing new public toilets?

Outside of the scope of ICLC's submission.

2. In your submission you recommend additional mandatory and ongoing training be provided to NSWPF officers can you elaborate what type or training is needed and why?)

Through client casework at the Inner City Legal Centre, we have seen ongoing problems with Police NSW engagement with our LGBTQTIA+ communities. Sometimes there are very positive experiences, and sometimes the experiences are so negative that it may be necessary to advise clients on their legal options. There is stark inconsistency within the NSW Police Force in how LGBTQTIA+ community are being received and treated. This results in a general reluctance by many within the LGBTQTIA+ community to call the police for help when needed.

This inconsistency extends to how police, and others charged with enforcement or safety roles (such as private security) interact with LGBTQTIA+ community's use of public toilets and other facilities.

Historically, we have seen public toilets used as a site of harm from the police and others for our community, especially in the context of historical criminalisation of homosexuality. We refer to our previous submissions regarding 'beats' generally. Admittedly, the landscape of these incidents in NSW is very different to what it once was.

However, three issues persist – the first being that deep rooted mistrust of police remains for many in the LGBTQTIA+ community as a result of these and other historical harms, and the difficulties NSW Police have had in addressing this. The second being that there remains ongoing inconsistency in how the LGBTQTIA+ community experience interacting with the police today. The third issue is that occasionally, in parts of NSW, we see relevant targeted attacks on LGBTQTIA+ community (typically men who have sex with men, and transgender people) - for example an arrangement to meet up for sex in a space such as someone's apartment or a public toilet, and on arrival instead is assaulted by the person who arranged the meet up. For some members of the LGBTQTIA+ community – especially if they have chosen not to disclose their sexual orientation or sexual activity to their immediate circle - there are significant barriers to

seeking assistance from police. This reluctance can be based on that generalised mistrust, a specific previous negative experience, specific fears regarding disclosure, or if there's uncertainty about the legal implications regarding use of public spaces.

One way in which these barriers could be alleviated is through improved police training on the barriers for LGBTQTIA+ community members to reporting crime, or when interacting with police.

With the marked increase in anti-trans rhetoric internationally, and especially regarding public toilet use, we have specific concerns about an increase in harassment, and even violence towards LGBTQTIA+ (especially trans, gender diverse) community members. Increased training and diversified skills in first responders, like police, must be available should LGBTQTIA+ community members want to report or seek assistance or intervention from NSW Police.

3. Are there any recommendations for improving accessibility in urban areas?

Answered under question seven.

4. Are there any recommendations for improving accessibility in regional areas?

Answered under question seven.

5. Do you think an audit of accessible public toilets managed by councils and state government should be undertaken and if so, what are the basic standards that should be included?

We would direct you to the submissions by disability led organisations, and their expertise in accessibility design, needs and criteria for auditing.

If public toilets are audited, we would suggest that the following information is considered as part of the process:

- The current availability of all-gender bathrooms and the extent to which any unisex/all-gender bathroom is also the only accessible/ambulatory bathroom.
- Survey of use of unisex/all-gender accessible/ambulatory bathrooms and for what purposes (e.g. medicine administration, quiet space, refuge, handrail use, nappy change table, men and/or women's toilet unsafe or not preferred for transgender and gender diverse people, etc.)
- Size/dimensions of cubicles (suitability for people of different sizes and shapes, or with equipment or bags, as well as for people caring for children, or when a carer needs to accompany someone, etc.)

- Signage – to what extent artistic or alternative signage is used (including both all-gender/unisex, and ‘creative’ such as a triangle & circle or other interpretive images).

Additionally, we are aware that some local government areas specifically prohibit all-gender or ‘unisex’ bathrooms as a condition of development approvals and development control plans for nightlife venues. An audit should assess the extent to which development approvals and development control plans stipulate all-gender and unisex bathrooms are not approved, as this is contrary to best practice.

6. Could you speak to the importance of all-gender toilet signage and layout for community safety?

Answered under question seven.

7. How might single-stall all-gender toilets reduce incidents of harassment and discrimination?

Current anti-discrimination protections for transgender and gender diverse people are largely complaints based. That is, instead of a pro-active duty or mechanism of oversight for ensuring spaces do not discriminate, it is up to the person who has been discriminated against to lodge a complaint or initiate the relevant litigation. While there are currently available legal protections that could be used to address some forms of public toilet use related discrimination, there are limited pro-active duties to consider inclusion or oversight. In addition to expanded pro-active duties to prevent discrimination, or oversight mechanisms, we advocate for eliminating issues of discrimination by design.

We advocate for eliminating potential sites of discrimination by the use of all-gender single-use cubicle public toilets. All-gender, single stall bathrooms should be the norm and make up the majority of bathrooms offered in NSW. Gendered bathrooms may be appropriate in some specific areas alongside the all-gender bathrooms. However, we advocate that the majority should be all-gender bathrooms. This is both best practice to ensure transgender and gender diverse inclusion, as well as meeting the needs of many in the community (e.g. a parent and child or person and their carer/support person needs to use the same facility, or people who need additional privacy or quiet, addressing wait-time inequity).

The all-gender signage should be based on a clear and unambiguous system that tells the user what facilities the toilet has, not necessarily the identity of who the bathroom is for. Currently, most toilet signage is identity rather than utility based (i.e., stereotypical figure of man, or of woman in a dress).

The Transhub website, available here: <https://www.transhub.org.au/allies/bathrooms>, has useful examples of all gender toilet signage which does not utilise identity and instead informs the bathroom user of the facility available inside of the toilet.

We would suggest guidance from disability rights groups as to the most appropriate signage (identity based or other) for indicating the accessibility features of a public toilet.

Instead of a sign indicating that a bathroom is 'for men', we would propose a sign indicating what facilities the bathroom has – such as a urinal, toilet, shower, needle bin, baby change table, etc.

It's best not to assume what a person needs to do in the toilet or make generalisations about what type of person needs what facility. Inform the public what facilities are available in the toilet, and let individuals decide for themselves what facility they need.

By doing so we remove an unnecessary point of potential discrimination, and an unnecessary point of gendering people, and assuming what their needs are. We know from this inquiry so far, that men with a range of health conditions might require bins in public toilets, but current gendered public toilets blocks assume that they do not. It is best practice to design out unhelpful gendered assumptions about a person's needs, and to design out a site of conflict (such as 'gender policing' or harassing or questioning a person's use of a particular bathroom based on their appearance).

We know from client experiences that people can face harassment and harm when using public toilets if they do not fit stereotypes about how men and women should look or dress. This can be targeted at the trans and gender diverse community, but also impact cisgender (not transgender) gay, lesbian, bi and intersex people, and a range of people whose appearance is 'different'.

All-gender single-use cubicles can also deliver equity in wait times for toilets (and eliminate the notorious long queue for the women's bathroom).

Where existing public bathrooms are separated into 'for men' and 'for women', we advocate that trans and gender diverse people must be explicitly included and safe to use the bathroom that best aligns with their gender identity.

Additionally, it is important that venues and public spaces provide information in advance, on their website and on signage displayed at entries to buildings or on wayfinding signage. Communicating what toilets are available in advance is best practice so that bathroom users can be informed and plan ahead of time. We have heard through this inquiry the benefit this has for people with disabilities. This can also benefit trans and gender diverse people in identifying if and where all-gender bathrooms may be available.

8. What role does training of law enforcement play in ensuring safe public toilet access for trans and gender-diverse people?

We refer to our answer to question one, as well as our previous submissions.

9. Can you expand on the idea that public toilets serve multiple functions, especially for marginalised communities?

Public toilets should be designed with the needs of the most disadvantaged and marginalised members of society in mind, particularly those who are unhoused, as these spaces may be a key space where they are able to access privacy or attend to basic needs.

Dr Christian Tietz, in his submission to the inquiry (No 38) outlined the basic design premise that toilets fulfil a variety of functions and are expressive of collectively held values. Public toilets serve more than the single function of toileting - for example, toilets are often a place where people may shower, clean themselves up, change clothes, change nappies, change tampons or menstrual cups, safely use injecting equipment, emotionally regulate, take medication, and as a safe place to take refuge in. Single-use, all-gender cubicles can provide the opportunity to meet many of these needs.

The addition of benches in single stall toilets would increase the utility of bathrooms greatly for these tasks.

Single stall toilets when designed with the sink and hand drying area in the immediate toilet space (as opposed to being located externally to the toilet space) best suit a range of the above listed needs.

Additional space privacy per a cubicle, will also serve the needs of children and parents (of any gender), people with carers, people who need or prefer additional privacy and low-sensory spaces, people of different sizes, shapes and people with bags or assistive technology.

10. How could changes to public toilet regulation and design improve daily life for the people you serve?

See above answers and previous submissions.