



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 8 - CUSTOMER SERVICE

INQUIRY INTO PUBLIC TOILETS

Hearing: Monday 31 March 2025

SUPPLEMENTARY QUESTIONS

Mr Julian Laurens and Mx Megan Spindler

People with Disability Australia

(1) Are there any recommendations for improving accessibility in urban areas?

There should be more accessible public toilets built to proper standards available. This includes increasing the number of Changing Places facilities. All accessible public toilets must be available during reasonable hours.

The design and placement of accessible public toilets must be done within a co-design process and consultation with people with disability. Accessibility to the actual accessible facility must be considered. This includes ensuring signage and other information to assist a person with disability to locate an accessible public toilet quickly is appropriate. Examples of this would include having signage in Braille, providing hearing loops to provide audio information on directions to a toilet, and providing Tactile Ground Surface Indicators (TGSI) to assist a person who is blind or has low vision to navigate towards the toilet.

PWDA notes that not all people with disability are able to navigate internet apps to locate toilets.

All local councils must be provided with funding support from the State Government when needed to ensure that appropriate public toilet facilities are made available in line with the recommendations emerging from the co-design and consultation process.

PWDA believes that the design, placement and maintenance of public toilets operated by local government and other agencies (such as railways) and those in private places such as shopping centres, must consider and incorporate principles of “Universal Design”¹ and the “Design for Dignity” guidelines developed by the Australian Disability Network.²

Article 2 of the **Convention on the Rights of Persons with Disabilities** (CRPD) defines “Universal Design” as:

“[T]he design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.”³

(2) Are there any recommendations for improving accessibility in regional areas?

As for answer (1) above, noting again the importance of Adult Change/Changing Places facilities. PWDA notes that there is a particular lack of Changing Places facilities in rural and remote areas.

PWDA notes that rural councils may face additional challenges such as large geographic areas, and lower revenues. However, that does not preclude them from recognising rights, and engaging in a co-design process and applying Universal Design and Design for Dignity principles. Rural councils may need additional support, including information, expertise and financial support so that they can meet their consultation obligations and provide a facility that meets the needs of the community.

(3) Is there any specific policy that needs to be examined or amended to address barriers for people with disabilities accessing public toilets?

PWDA believes that access to fully accessible public toilets should be recognised as a fundamental human right and should be recognised in NSW law and policy. A right to accessible public toilets should extend to a positive duty on local and state governments to provide that service.⁴

¹ See for example - <https://universaldesignaustralia.net.au/> - where universal design principles are applied across a broad range of built environment settings.

² Design for Dignity Guidelines available at https://australiandisabilitynetwork.org.au/wp-content/uploads/2021/10/Design_for_Dignity_Guidelines_Aug_2016.pdf

³ United Nations, *Convention on the Rights of Persons with Disabilities*, A/RES/61/106 (12 December 2006) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

⁴ Richard Weinmeyer has recently provided an important overview of how Indian High Courts have developed jurisprudence since 1980 finding that there can be a right to public toilets (requiring the state to act) based on an

This right is developed from and consistent with recognition by the United Nations General Assembly that all persons have a right to safe drinking water⁵ and a right to sanitation.⁶ The Sustainable Development Goals developed by the United Nations stipulate that access to public toilets is essential for realising the human right to sanitation for all people.⁷

PWDA notes the ongoing discussion around gendered vs all-gendered public toilets. PWDA notes the National Construction Code (NCC) generally identifies separate facilities for males and females, or in some cases, 'unisex'. In 2024 the Australian Building Codes Board (ABCB) undertook a public consultation and review⁸ with a view to amend the NCC to remove binary language and include amongst other things, 'all-gender' bathrooms, and remove references to 'sex' (in favour of 'gender') and 'unisex' (in favour of 'accessible'). The proposed amendments are designed to make it easier to build all-gender bathrooms for those who want them.⁹

PWDA is supportive of efforts to expand availability of 'all-gender' accessible public toilets.¹⁰

(4) 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?

An audit is urgently needed to identify what is and is not working. Current local government audits such as the Local Government Infrastructure Audit undertaken by the Office of Local

interpretation of Article 21 of their Constitution (and Article 47) and international law. Public toilets are linked to human dignity and the ability to enjoy other rights. Weinmeyer notes cases *Ratlam v. Vardhichand* (1980), *Koolval v. Rajasthan* (1986), *Saryajani v. Pune* (2015), and *National Highway Projects in the State of Bihar v. State of Bihar* (2022). See Richard M. Weinmeyer, 'Lavatories of Democracy: Recognizing a Right to Public Toilets Through International Human Rights and State Constitutional Law,' (2024) 62:2, *University of Pennsylvania Journal of Constitutional Law*, 402, 446-450.

⁵ United Nations General Assembly, A/RES/64/292 (28 July 2010) – The human right to water and sanitation. <https://docs.un.org/en/A/RES/64/292>

⁶ United Nations General Assembly, A/RES/70/169 (17 December 2015) – The human rights to safe drinking water and sanitation. <https://digitallibrary.un.org/record/821067?v=pdf#files>

⁷ Léo Heller, *The human rights to water and sanitation in spheres of life beyond the household, with an emphasis on public spaces* (2019), A/HRC/42/47. UN Human Rights Office https://www.ohchr.org/sites/default/files/Documents/Issues/Water/10anniversary/A_HRC_42_47_User_Friendly_Version.pdf

⁸ <https://www.abcb.gov.au/news/2024/consultation-open-all-gender-sanitary-facilities>

⁹ See recently Audrey Courty, 'Australia is considering making changes to build all-gender toilets. What are they?' (ABC News, 20 March 2025) <https://www.abc.net.au/news/2025-03-20/all-gender-bathrooms-in-australia-explained/105003442>

¹⁰ Eric Peterson, *Creating Bathroom access & A Gender Inclusive Society: Policy Brief* (Haas Institute for a Fair and Inclusive Society, UC Berkeley, 2018) https://escholarship.org/content/qt19r9v71k/qt19r9v71k_noSplash_4d736802bf2220ed32068ea7e3590d82.pdf?t=qc332h

Government in June 2013¹¹ are now significantly out of date and appear especially silent on the provision of public toilets.

There are examples of councils that have demonstrated ‘best practice’ in developing a public toilet strategy.¹² A state audit should identify further instances of ‘best practice’ and develop further learnings from these case studies to share.

The audit should be a way to further support councils to develop, implement and review Disability Inclusion Action Plans (DIAP) and public toilet strategies. It would provide insights into councils’ ability to meaningfully engage and consult with community members.

There needs to be agreement across all councils and the state government on what an actual accessible toilet *must* look like. Currently there is significant variation in what may be considered a ‘minimum’ standard, especially as some public toilets may have been constructed prior to amendments to the relevant construction code and standards.¹³

Experiences around dealing with vandalism need to be collated and strategies to deal with this across the state developed.

PWDA suggests that the design, provision and management of public toilets by councils and state government must go beyond just the basic requirements of the National Construction Code and the ‘standards’ (AS 1428.1:2021 Standard – Design for access and mobility), and incorporate principles based on Design for Dignity¹⁴ and Universal Design.

Furthermore, the Public Toilet Design Principles developed by Katherine Webber (and as amended by PWDA) in her 2019 Churchill Fellow Report must be a central consideration.¹⁵

¹¹ <https://olg.nsw.gov.au/councils/council-infrastructure/infrastructure-and-grants/infrastructure-audit/>

¹² On local council strategy see e.g. Katherine Webber and Deanna Grant-Smith, ‘Addressing sanitation injustice through local government public toilet strategies’, (2024), 66, *QUT Centre for Justice, Briefing Paper Series*.
https://eprints.qut.edu.au/254525/13/BP66_WebberGrantSmith_Sanitation_Formatted_FINAL_002.pdf

¹³ For an insightful account of this dilemma faced by a person with disability see the 2021 ABC News Special Report by Robyn Thompson, ‘Having access to toilets is a basic human right, but for those with a disability, access is still a common problem’ - <https://www.abc.net.au/news/2021-11-21/why-more-toilets-need-to-be-accessible/100593506>

¹⁴ https://australiandisabilitynetwork.org.au/wp-content/uploads/2021/10/Design_for_Dignity_Guidelines_Aug_2016.pdf

¹⁵ Katherine Webber, *Exploring Accessibility and Inclusion in Public Toilets*. Churchill Fellowship Report. The Winston Churchill Memorial Trust (2019) <https://www.churchilltrust.com.au/fellow/katherine-webber-qld-2018/>

(5) What is the current level of community engagement by local and state governments when designing new public toilets?

The experience of PWDA in reviewing council and state government engagement around public toilet design is that it appears uneven – particularly in respects to clear co-design processes.

PWDA believes there must be clear legislative provisions in NSW requiring the planning and delivery of public toilets and outlining the process that must be undertaken for that. Such a process would include an emphasis on consultation and co-design with community members.

We do acknowledge that some councils do appear to be more engaged – they may have a specific public toilets action plan for example or a council ‘public toilet strategy’ which is available to the public and which is transparent on what type of community engagement has taken place and how that has been incorporated into decision making. Some of these are available online. Such strategy documents are not universal.¹⁶

In many instances, it is difficult to determine what community engagement has taken place and how that was considered in the final decision making.

An example of this is the recent case of Dubbo, with a toilet block being built with new methods (3D printing) and in an outdated style, despite modern standards stipulating single use cubicles for example and that they are safe and accessible for people with disability. In the Dubbo case the toilets do not meet the needs of the community, and it is difficult to understand why the toilets were built in the way they were.

(6) Are there emergency call buttons or alarms installed in accessible toilets for individuals who may require assistance?

While available in some settings, this is not widespread in the experience of PWDA. This is partly because of the wide variation in what an accessible public toilet looks like across councils, and private properties.

(7) Is the signage for accessible toilets clear for people with vision impairments or intellectual disabilities?

¹⁶ Katherine Webber and Deanna Grant-Smith, ‘Addressing sanitation injustice through local government public toilet strategies’, (2024), 66, *QUT Centre for Justice, Briefing Paper Series*.
https://eprints.qut.edu.au/254525/13/BP66_WebberGrantSmith_Sanitation_Formatted_FINAL_002_.pdf

In the experience of PWDA accessible toilet signage is not always clear/visible/understood. It is important that there is standardised signage used throughout the state. This standardised signage must be approved by people with disability.

A further issue is the actual design or quality of the accessible toilet is not clear making it difficult to determine whether an 'accessible' toilet is in fact accessible by a particular person and suitable for their needs. This again is because of continuing issues around the implementation of basic minimum standards in the design and provision of accessible public toilets.

As we noted above, people who are blind or low vision may require signage and directions in Braille, and further directions assistance through the use of Tactile Ground Surface Indicators (TGSI).

(8) Can you explain how inaccessible toilets create barriers to participation for people with disability?

Article 3 of the CRPD identifies that key principles underpinning the Convention include '[r]espect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons', the '[f]ull and effective participation and inclusion in society' of people with disability, and '[a]ccessibility'.

Article 9 of the CRPD states that people with disability have a **right** to access public spaces on an equal basis with others. States Parties must facilitate this. Article 9(1) states:

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces.¹⁷

¹⁷ United Nations, *Convention on the Rights of Persons with Disabilities*, A/RES/61/106 (12 December 2006) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

The Commonwealth *Disability Discrimination Act 1992* (Cth) makes it unlawful for public places to be inaccessible to people with disability, and unlawful for discrimination based on disability to occur in relation to the provision of goods, services, and facilities.¹⁸

Having an accessible physical environment is important (i.e. ramps). However, accessing and engaging with that physical environment is still dependent on other factors, one of those being the availability of accessible public toilets.

The lack of suitable public toilets means, quite simply, that a person with disability will be less likely to leave their home and engage in the public sphere. Thus, accessible public toilets are a **critical enabler of other human rights** for people with disability, in this case for example, a right to access public spaces, and express their autonomy. Accessible public toilets affirm the inherent dignity of people with disability. In denying dignity and autonomy, a lack of accessible public toilets constitutes a direct attack on fundamental human rights.

(9) What are some examples of best practice in inclusive toilet design?

Academic Katherine Webber has identified examples of best practice in terms of public toilet strategies and design in Australian and overseas jurisdictions.¹⁹ They have identified clear principles that should inform the design of accessible public toilets nationally.

(10) How important is it to involve people with lived experience in designing public amenities?

Public infrastructure must meet the needs of that community. It can only do that if the actual lived experience of people who will use the facilities is considered at all stages.

CRPD article 4(3) makes clear that there is an obligation on decision makers to always consult with people with disability and their representative organisations. Article 4(3) CRPD states:

In the development and implementation of legislation and policies to implement the present Convention, **and in other decision-making processes concerning issues**

¹⁸ *Disability Discrimination Act 1992* (Cth), ss 23, 24.

¹⁹ See e.g., Katherine Webber, *Exploring Accessibility and Inclusion in Public Toilets*. Churchill Fellowship Report. The Winston Churchill Memorial Trust (2019) <https://www.churchilltrust.com.au/fellow/katherine-webber-qld-2018/>; Katherine Webber, 'We Need to Talk about Public Toilets: Policy agendas for inclusive suburbs and cities', (2021), Issue 1, *Policy Futures: A Reform Agenda*, 28-66. <https://policy-futures.centre.uq.edu.au/reform-agenda>; Katherine Webber and Deanna Grant-Smith, 'Addressing sanitation injustice through local government public toilet strategies', (2024), 66, *QUT Centre for Justice, Briefing Paper Series*. https://eprints.qut.edu.au/254525/13/BP66_WebberGrantSmith_Sanitation_Formatted_FINAL_002_.pdf; Katherine Webber, 'Australian local government public toilet discourses: Points of conflict between rights, risks, and responsibilities' (Master of Philosophy Thesis, Queensland University of Technology, 2024) <https://eprints.qut.edu.au/251451/1/Katherine%20Webber%20Thesis.pdf>

relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.²⁰

All council public toilet strategies must identify *how* people with disability will be consulted with.

(11) Should Changing Places facilities be required in all large public developments?

Yes.

(12) What specific reforms would improve accountability for accessible toilet provision in NSW?

PWDA would like to see:

- a. Development of a statewide strategy/plan for the provision of accessible public toilets to support consistency in design and maintenance.
- b. A right to accessible public toilets in NSW included in legislation and policy, with a positive duty on the state to act to provide accessible public toilets. Local governments must be required by legislation to plan and deliver public toilets.
- c. There must be clear identification of which Minister and Portfolio is responsible for accessible public toilets in NSW.
- d. A clear coordinating or regulatory authority beyond the local council. This agency could be the existing NSW Office of Local Government or the NSW Local Government Association, or NSW Health (or a new agency). There must be a disability voice in this agency.

The organisation must be provided with the ability to coordinate a NSW strategy, advise councils on the provision of accessible public toilets, investigate that councils are providing those services, and *review* the process around their provision and use. This regulatory body may work with other bodies such as the NSW Ombudsman to receive and investigate complaints regarding the provision of accessible public toilets in NSW. It may work with other government and private sector industry and representative bodies such as those involved in providing consumer goods and services where toilets are provided by the entities (such as railways and shopping centres).

²⁰ United Nations, *Convention on the Rights of Persons with Disabilities*, A/RES/61/106 (12 December 2006) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>