

Submission to Australian Human Rights Commission (AHRC)

New Generation Rollingstock (NGR) Project Queensland Government

Application for temporary exemptions under the Disability Standards for Accessible Public Transport 2002 (Cth) and Disability Discrimination Act 1992 (Cth)

I wish to raise significant issues in regard to this project. In summary, the project fails to meet long established principles and legislation intended to provide access for people of all ages and abilities. Therefore exemptions should not be approved unless in strict accordance with those established principles. The proposals the subject of the exemption request by the Queensland Government do not meet the established principles.

How the NGR problems came about is very relevant, indeed essential, to informing any decision regarding “temporary” arrangements. The “temporary” arrangements are in effect illegal so questions as to where the Queensland Government sought its advice are crucial, as are questions as to why “nobody” involved in the project foresaw the need for “temporary exemptions” much earlier. The initial conclusion to such questions might well be to assume incompetence. However it is difficult to see other than a deliberate strategy to avoid meeting the requirements or an assumption that the need was not justified. In regard to this application by the Queensland Government, the following material therefore is only supportive of a decision by the AHRC in regard to any “temporary exemptions” that has conditions which ensure that not only current users of the SEQ train network now and during the Commonwealth Games, but into the design life of the new trains ensures, that all new and existing NGR trains comply with the requirements and their being used to the maximum benefit for those of all ages and abilities well into the future, ie well past 2030-31.

My experience

I am a now retired architect. During my career, I worked on a number of projects where providing better than minimum requirements for access was a priority. One of these buildings is the current state headquarters of the Spinal Injuries Association (Queensland) chosen as I understand it in part due to the building already being relatively easily accessible as a requirement of its previous owner in the 1980s, a major public company. Another in the late 1980s involved a project in Canberra where the client sought our interest in “testing” aspects of a draft version of AS1428. I mention these as they indicate both an early involvement with, as well as an ongoing history of experience with, both the regulatory and the practical application of requirements for access.

I mention these to indicate why I sought and was granted membership of the Association of Consultants in Access Australia, Inc soon after ACAA was incorporated and until about 2006. It became clear to me after carrying out several projects in this role that developers and project managers were seeking minimum compliance ie the least permissible provision. To the extent that not seeking more than minimum compliance was problematic and contrary to the principles of access for all, I decided to become an advocate rather than an auditor and resigned.

In the period 1990s-2000s, it was also becoming obvious that despite the Queensland Government promotion of its new concepts of “integrated planning” initially in Southeast Queensland (SEQ), the integration of land use and transport planning was not happening. Indeed if anything, the emphasis was on more of the same. As a part of the “Integrated Regional Transport Plan for SEQ”, the Plan set up the establishment of a “Regional Transport Reference Group” (RTRG) chaired by an eminent barrister and academic with a special interest in alternative dispute resolution. Having established a

community consultancy and advisory service known as the "Public Transport Alliance" (PTA), I sought and was granted membership of the RTRG.

The PTA sought to advocate for the interests of various non-motorised transport users (walking and cycling), public transport and unsurprisingly, access for people of all ages and abilities (a phrase that was frequently used by the PTA and myself in conference papers etc). In this role on the RTRG, I was able to raise the interests of various users whose interests were either not otherwise represented or overlapped if not conflicted with those of others. Examples of these will be used to illustrate the concerns with the current NGRs and proposed changes as documented to date by the Queensland Government. The RTRG was involved detailed examination of a number of major projects including at least two of the proposals for light rail in Brisbane.

After only a relatively short life, the RTRG was terminated by the then Minister on advice it is understood from the Department of Transport (now TMR). From the RTRG experience and "model", much more detail can be provided in regard to the setting up and operation of reference groups in regard to who selects participants and how public the proceedings are allowed. It is (or has been) common for participant members of reference groups to have to sign confidentiality agreements, making it impossible for the representatives to be able to represent the wider community.

One interesting highlight from the PTA period which at present I am unable to date was during (if I recall correctly) was known as "Disability Awareness Week" when the PTA nominated the then-latest additions to the QR Citytrain fleet known as the "Airport train" or "Airtrain" series for an award. QR received the major award in its category. This train layout (although some units may have subsequently been modified) set a new standard in access for all ages and abilities. At several European international conferences where I showed images of its layout and interiors, it was greatly admired. Arguably it set a new standard for short-mid range interurban and urban rail transport despite the restrictions of the Queensland "narrow" gauge. One question then is whether the NGRs represent a reduction in access in the current form and an even greater reduction as currently proposed by way of the "temporary exemptions" being sought by the Queensland Government.

In regard then to the current situation, I have watched with interest for any information readily made available to the public in regard to the NGRs since the initial publicity and promotion of the NGRs. I have noted some glossy illustrations were and remain available but at no time have I become aware of any detailed layouts of the trains although these often emerge by way of for example railway enthusiasts interest groups. I note too that none are made available by the Queensland Government in its application for exemption and in the following support documents.

Responses from and information provided by, the Queensland Government to the HRC

The following document appears to be the original application viz *Application for temporary exemptions under the Disability Standards for Accessible Public Transport 2002 (Cth) and Disability Discrimination Act 1992 (Cth)* which is dated 27 September 2017.

<https://www.humanrights.gov.au/sites/default/files/Application%20for%20temporary%20exemptions%20from%20the%20DSAPT%20and%20DD%20of%20the%20proposed%20A%20-%20NGR%20Project%20.pdf>

In this document, use is made only of descriptions rather than detailed drawings. While the descriptions may appear reasonable, they are unreliable given the lack of accurate drawings.

The following document appears to be the first response document to requests for further particulars viz *Application for temporary exemptions under the Disability Standards for Accessible Public Transport 2002 (Cth) and Disability Discrimination Act 1992 (Cth)* subtitled *Response to request for further information and documents of 18 October 2017 Public Version* and is dated 15 November 2017

https://www.humanrights.gov.au/sites/default/files/248448894_1_Public%20Version%20-%20New%20Generation%20Rollingstock%20Project%20-%20Joint%20Response%20to%20Request%20for%20Further%20Information%20-%2028%20November%202017%20%28002%29.pdf

Again there is much description but little or no specific detail.

The following documents on the AHRC website are noted as being received on 11 December 2017.

https://www.humanrights.gov.au/sites/default/files/248448894_1_Public%20Version%20-%20New%20Generation%20Rollingstock%20Project%20-%20Joint%20Response%20to%20Request%20for%20Further%20Information%20-%2028%20November%202017%20%28002%29.pdf

Important items of information were not able to be accessed from this link at 2.30pm on Monday January 9, 2018. Included in this category are the following ...

- train carriage layouts
- detailed designs of the disabled toilet facility and adjacent access
- records of meetings and in particular, decisions of the Reference Group (ARG) members.

<https://www.humanrights.gov.au/sites/default/files/Enclosure%202%20-%20Item%2012%20-%20Rectification%20steps.pdf>

This document provided no further specific details.

In addition, a very recent update to the TMR NGR website and dated 4 January 2018 is highly relevant but appears not to have been added to the AHRC website.

<https://www.tmr.qld.gov.au/Projects/Name/N/New-Generation-Rollingstock/Accessibility>

This is of particular interest as it represents in effect, the latest approach to resolving the issue from the perspective of the Queensland Government. It appears these proposals do not comply.

Reference Groups and wider community interests

The role of community as distinct from selected member reference groups has a history in Queensland with word games being prevalent hence words and derivatives such as consult, engage, involve, etc are commonly used as in this case. However words and derivatives such as privacy, secrecy and confidentiality are also widely used to prevent scrutiny of the business of groups formed to inform government (and other) agencies. This appears to be the case here.

Unfortunately, in the case of the NGR project, it appears the Queensland Rail Accessibility Reference Group (ARG) is yet another example. Efforts to discover if the ARG was ever shown detailed

drawings with dimensions etc of the whole NGR train or sections of it have proved fruitless so it appears that, unless there is evidence to the contrary, the ARG relied on what it was told.

However this raises a more significant issue in the problem of what might be described as equivalent to the forms of workplace bullying related to power imbalances. In this case, it would appear that the expertise of the community representatives has to be very specialised ie familiar with every aspect of all relevant codes and standards and capable of detailed questioning of an authority, ie the organisation running the process of the reference group, whether in this case, a part of the Queensland Government or a contractor engaged by or on behalf of, the Queensland Government.

In effect, this form of “consultation” appears to reverse the responsibility. Implications of this can be seen in the TMR NGR web update of 4 January 2018.

For example, rather than admitting non-compliance, the prospective NGR user is advised ...

Accessibility

Compliance

Passengers with a disability can access and travel on the NGR trains, however some compliance issues have been identified:

In fact, the trains simply do not comply!! So somehow a user has to first of all be familiar with the non-compliant sections then be responsible for checking or knowing whether they can or cannot use the facility. How (and why) the NGR does not comply could assist the ARG and passengers.

Agreed and funded rectification work

The department and Queensland Rail have carried out an in-depth consultation program with the disability sector to explore design changes and resolve non-compliances, within the limitations of the Queensland Rail narrow gauge network.

As a result of this process, the Queensland Government has committed funding to rectify the NGR trains and provide improved functionality across the NGR trains.

This illustrates the problem facing those in the so-called “in-depth consultation” process used by the Queensland Government. It seems highly unlikely that expert users would agree to rectification without knowing the very specific details of what is actually to be done to make the NGR trains and their use compliant. Words such as “improved” leave much to be resolved.

Work to redesign and rectify the trains is underway with the newly designed trains expected to progressively roll-out out in the next 18 to 24 months.

The department and Queensland Rail will continue to engage with the disability sector throughout this process.

Further to this point, it is clear there is no intention by the Queensland Government to make available detailed designs of what it intends to do let alone what has been provided on the existing NGR trains. This redesign work “is underway” yet there is no evidence of what such work complies. The redesigns and the “original” ie as-built design documents are not being made available.

The offer to “continue to engage with the disability sector” fails to address why the NGR trains were built with not only non-compliance but significant changes to the entire design and operation of the

trains. These matters are so significant as to question whether a rebuild (ie a retrofit similar to the likely mid-life rebuild) of the trains is necessary now.

In other words, there should be no exemption granted by the AHRC. The trains should be allowed to operate as at present, as some would suggest “illegally” while the redesigns (rather than hurriedly carried out as appears to be the current proposal) are properly resolved under the scrutiny of appropriate AHRC conditions to achieve a fully compliant public transport component that does in fact meet the needs of people of all ages and abilities. This would reflect the fact that these trains might be expected to be operational until well into the 2030s and likely beyond into the 2040s.

Any design concessions for the short term would most likely remain for the life of the fleet unless or until reconfigured. This would not only mean a substantially non-compliant generation of trains but also a much greater cost to reconfigure later rather than now. Having some experience in the role of representing interests in such matters, it is not difficult to see the pressure upon the members of the ARG, made much more so when there are many other user interests apparently not involved in the train design and reconfiguration process, an issue to which I shall return.

Discrimination against others not included in the ARG processes

Suffice to say at this point that the concept of removing the non-compliant toilets is not acceptable. In fact this proposal presumably from the Queensland Government may only serve to illustrate the limit of invitations to participate in the ARG and/or the redesign process by excluding the wider community interests.

Removing the non-compliant toilets is NOT a solution! This proposal simply represents discrimination against those with a need who could use these non-compliant toilets! It so happens I am a post-prostatectomy expert and public transport user. I am one of many people for whom an on-board toilet is much more than a ‘convenience’, it is a necessity. The removal of the toilets as proposed is more than an inconvenience, arguably it is also discriminatory and deliberate.

This decision as announced in the TMR NGR web site on 4 January 2018 raises the question whether the decision was agreed by the ARG. Was it opposed by the ARG? Was the ARG agreement coerced? There is no record of such matters being discussed. What interest groups were involved?

To illustrate the problem (and related types of problem that are “invisible” to others), I will use personal experience. In doing so, it should be noted that I am not technically incontinent but rather have something of a reduced time limit which can only be adjusted by reducing liquid intake which in itself is a health hazard. I also have a need to act quickly when the need arises! Having waited for an NGR for well over an hour, I enjoyed use of the NGR toilet on my recent “audit” trip – see later.

One of the many problems for public transport users is the fact that unlike travelling in a car, one simply is at the mercy of frequency as well as time-table connectivity. On a recent trip to the Gold Coast from the Sunshine Coast, I decided to use the train for numerous reasons not least given being retired, time is no longer money but in fact the reverse, another benefit of public transport. Also there are things to do that can usefully be done while not driving!

On the return journey, I needed to use the convenience at Roma Street. I do not recall if the Gold Coast train was one of the “Airport trains” or not but that was not the problem. I had no way of knowing what type of train would be serving the Sunshine Coast ie whether it was or was not fitted with a toilet. All I knew was it was going to Gympie North. My regular station is Landsborough, and I had not “discovered” that most (but not all) the trains to and from Gympie North are the former Brisbane-Rockhampton long distance and relatively luxurious trains with of course, toilets. I just

missed it. I watched it leaving! It was a semi-express hence a much quicker travel time than the next train north, an ordinary suburban Citytrain unit. The trip took a lot longer than necessary only because a toilet on the long distance train to Landsborough and beyond is not normally available.

I also note that rather than refer to “disability” the term “accessibility” is used. My understanding of the relevant legislation etc is not expert but the question as to why the ARG refers to “access” rather than to “disability” is now a major issue given the much more detailed examination in regard to why the NGR design process “derailed” and why “nobody” foresaw the outcome of non-compliance.

As I understand it, the legislation and requirements etc originate with the *Disability Discrimination Act 1992* (DDA) and as a consequence, the *Disability Standards for Accessible Public Transport 2002* (DSAPT). I am familiar with earlier versions of AS1428. The focus has been on disability of which accessibility is a significant category. But what of those whose disability is not “obvious”?

Is it the case that the ARG (or TMR?) focus was on access and as a consequence, disability in other ways and forms was marginalised during the process whether inadvertently or deliberately? It would appear this is the case. Whatever, this cannot be permitted to continue to the reconfiguration of the NGR fleet! Removing the toilets cannot be a solution that complies with the access design principles. As with other non-obvious forms of disability, it is too often these that are not addressed.

The “Airport trains” as a model

Before examining the NGR design in more detail, it is useful to review the previous generation of innovation in the Citytrain fleet, the “Airport trains” ie the new generation of train design introduced coincident with the upgraded Brisbane Airport to provide for travel between the Gold Coast and Brisbane Airport. Suffice to say that at least two major changes were implemented and are arguably exemplary in the “Airport trains”.

The first of these significant changes involved recognition of the need for a much more multi-functional design and layout of the entire train given the variety of potential users and uses. It is well recognised that flexible multi-use designs of spaces reflect a reduction in barriers to specific users. In many cases, this results in reduced conflicts between different users and uses. This may also involve compromises (but not reductions in the standards) which may be seen by some specific users as a reduction in the level-of-service. This is where alternative dispute resolution processes are essential as democratic or dominant views may result in decisions which exclude or impede less dominant interests. It is this issue the DDA and underlying design principles raise such that minority groups and interests (and thus individuals) are not faced with barriers or exclusion by design whether inadvertent or deliberate. Hence “access for all” and “barrier free” are much more than slogans.

One of the obvious solutions illustrated in the “Airport trains” is the provision of much more unencumbered space as well as some specific purpose space. The outcome is achieved with a lot more sideways facing seating which in many if not most cases is automatically raised to increase the multi-purpose space. This results in spaces throughout the train which provide for accessibility vehicles, bikes, suitcases, suit packs, surfboards, children in various vehicles, etc. It also provides space for groups of such users to congregate together without excessively intruding on others eg family groups, cyclists, travellers, etc even crush crowds to sporting or entertainment events are maximised by increasing the space for standees. The following photos are illustrative.

The second of the significant changes involved the provision of a multi-purpose accessible toilet facility which was located near the guard’s unit in the middle of the train. The guard location

resulted from a design policy implemented it seems in the very first electric trains in SEQ. Legend has it these first electric trains were originally intended to be operated in either 3-car or 6-car sets by connecting two 3-car units. To reduce costs, many of the 6-car units were in fact built inseparable. For operational reasons, the location of the guards in the middle of the 6-car trains was because this provided a central location with the best view of the station platform in both directions. This was therefore the best location for passengers needing assistance or guidance to enter or leave the train. Once accessible toilets were included, being nearby the guard makes further sense. Most SEQ stations are now very well marked in regard to guidance to/from and the location of, the assistance area. Stopping points for the drivers of the 3-car and 6-car trains are installed accordingly.

In addition to my personal observations and PTA “audits”, I have sought any significant complaints (or suggestions) as to problems with the access and/or disability functions of the “Airport trains”. While many people in SEQ may not have used the “Airport trains”, I have yet to hear of any negative comments. That does not mean there have been none. What it does raise is why the NGR design is so different to the already successful “Airport train” model. It also raises questions as to who decided what and the extent to which the ARG members were involved or restricted by the ARG process as it has applied to the NGR design and now to the reconfiguration design. It continues in the reconfiguration again raising questions as to why the wider community interests were effectively excluded from essential information about the NGR design and why this ‘secrecy’ continues.

The following photos relate to the “Airport train” and/or retrofits to earlier trains.

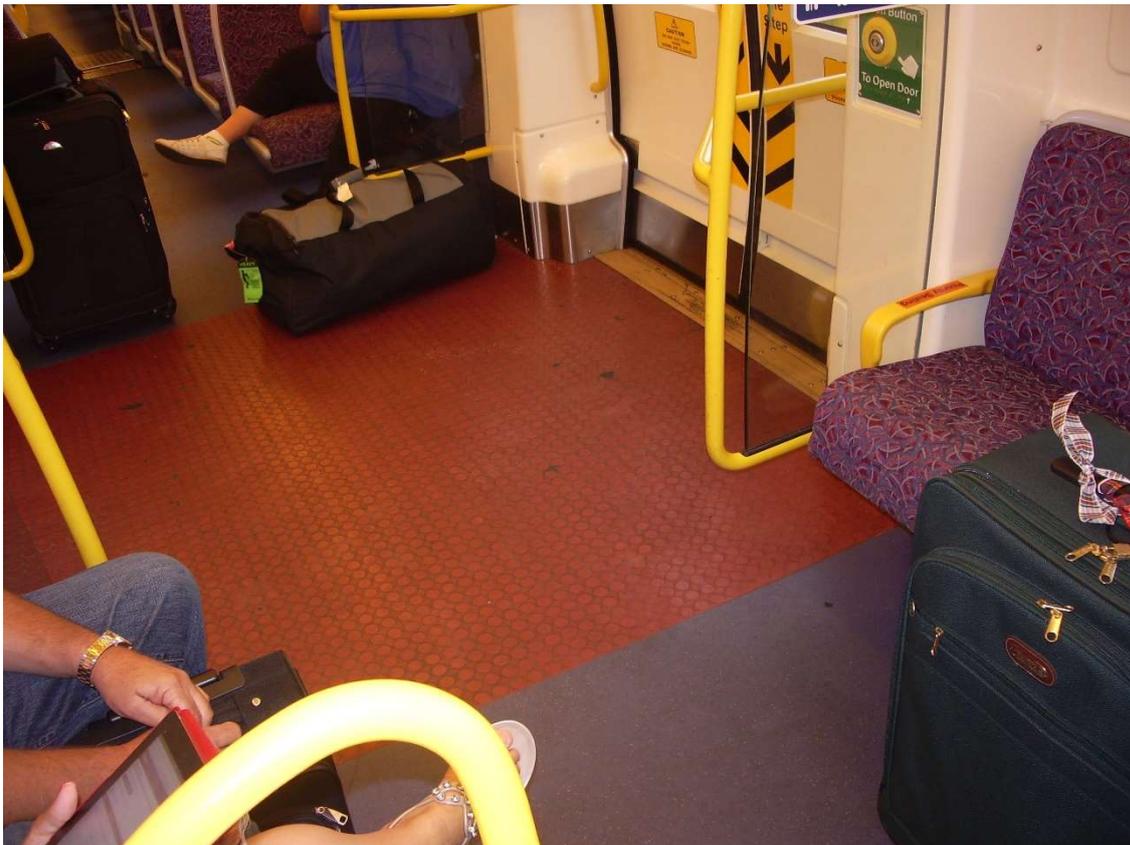


Photo above shows fixed seating and vertical handrails blocking flexible use at the vestibule with inevitable luggage creating a barrier to other passengers as well as delays during loading and unloading at stations.

The use of luggage racks with multiple shelves either side of entry doors is a useful strategy to combine the vertical handrails and removal of at least some of the luggage if there is sufficient height for larger suitcases at floor level under the shelves above for smaller bags.



Examples of recent retrofit to an older Citytrain unit. The photo (left) shows a suitable luggage rack. However fixed seating and vertical holding rail on the far side of the vestibule unnecessarily blocks the flexibility available in the vestibule space.

Earlier versions of Citytrain units had stay-up seating in this area which is usually signed as "Priority Seating" ie including for those with a disability or with children in wheeled devices or for older passengers. The blue sign indicates this intention.

The photo (right) shows a return to standard front (and back) facing seating. This creates a cramped corridor with nowhere for storage of items to avoid the access being blocked.

It is not known if these changes were "approved" or "agreed" by the ARG. These photos also serve as an illustration of the extent to which the design life of the train itself allows at least one major internal retrofit. This is also likely to be the case for the NGR trains.

In the photo (below) of an "Airport train", the wheelchair user was travelling with another person who was able to hang the suit pack on the overhead handrail and use the bag rack unit at the entry door beyond the suit pack. There is obviously a lot of flexible space to cater for the predictable range of users other than commuters.

There is space for a number of bikes and/or access vehicles/devices. Large suitcases, surfboards, etc can also be accommodated in this type of space which also provides encouragement for passengers to move into the body of the carriage rather than block the vestibule. Very large numbers of passengers can also be carried as standees.



Interior of “Airport train” illustrating multi-use space flexibility.

“Other” users and uses

In this submission, reference is made to both multi-use space and to those with needs that are not obvious. Early QR electric suburban trains had virtually no multi-purpose space. One outcome of this was (and remains) severe restrictions on carrying bikes on trains because there is nowhere for the bikes other than the vestibule. Much the same applies to other users expected to use or who expect to be able to use, the trains in SEQ. These have been addressed previously. The benefits of wider community participation in projects such as the NGR include an increased variety of knowledge and experience. The NGR failures to comply with known requirements also illustrate the “barriers” that face other users. A number of cases that illustrate the problem have occurred in SEQ.

One example involved a person who was medically unfit to drive a car but for whom cycling was ideal. This person was unable to obtain exemption to the prohibition on bikes on trains in extended peak hours despite not having an adequate bus service to get to let alone connect with trains. While for some people, bike lockers may solve this problem at one end of the trip, for others it means a bike and locker at both ends of the trip and/or an assumption of integrated bus-rail services.

In Perth, it was and hopefully remains the case that those in this situation can obtain a special exemption that for many overcomes not only an access (but also a financial difficulty) simply because there is some space on the trains and recognition of those whose need is not obvious.

An “audit” of the NGR

An “audit” of the NGR was undertaken on the first Monday the Gold Coast Light Rail (GCLR) service was in operation as this combination provides a relatively “seamless” accessible public transport service from the Brisbane Airport to the Gold Coast beachside suburbs. However only the NGR is the subject of this report unless an example from the GCLR is illustrative. Each of the following sections is headlined for ease of reference.

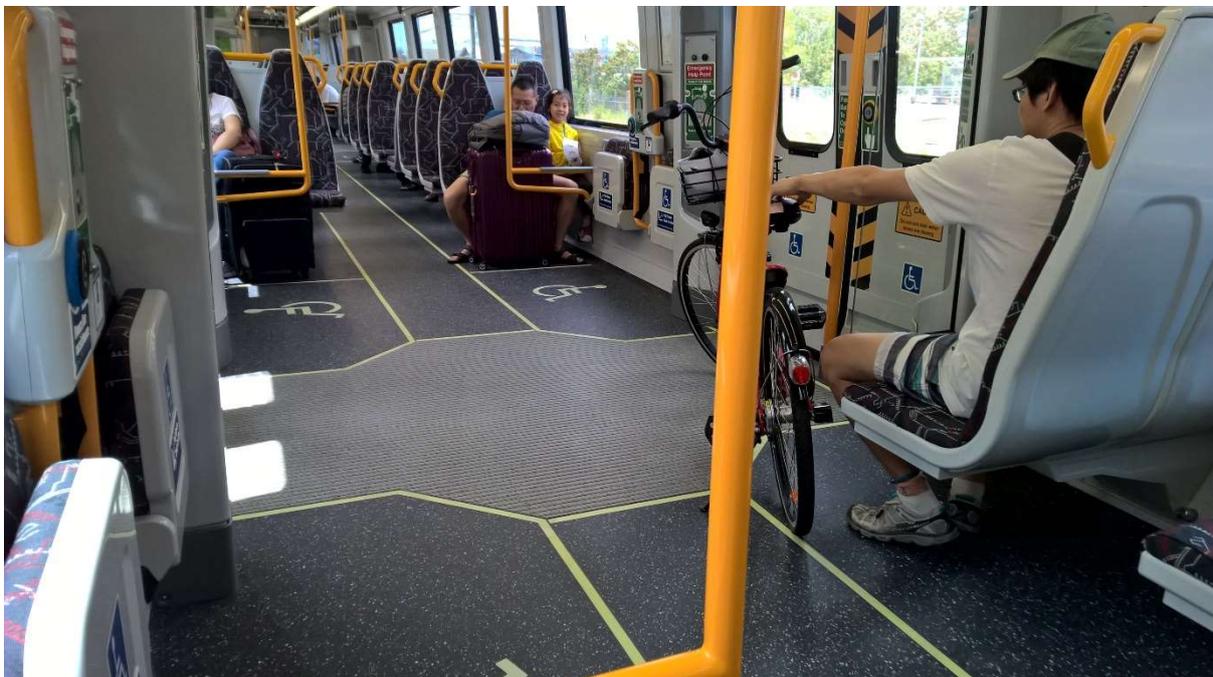
It should be noted that the comments reflect the fact that no layout drawings of the NGR have been sighted to date so the comments reflect and include observations only.

Layout of the NGR generally

Most noticeable initially upon entry was the surprising return of forward (and backwards) facing seating, with some fixed structures in the entry vestibules with some fixed seating, no suitcase racks and “wheelchair” spaces on three sides of the vestibule. This combination inevitably creates and provides a barrier to those who need access space, in part because it also creates a problem for those needing storage of larger objects and devices.

The photo (below) on the NGR shows the lack of vertical handrails is helpful in reducing obstructions in the vestibule but may hinder alighting passengers as it is very likely to encourage passengers to block the corridor until the train is stationary. There are also overhead handles in the centre of the vestibule which are at best problematic eg for those for whom the handles are at or beyond their limit of reach. Storage of large items is also problematic eg the bike and large luggage.

The views of the ARG regarding the design of the entire NGR train layout are not known. Whether other groups or interests were also “engaged” is also unknown.



The photo (above) shows a standard entry on the NGR. Note the passenger in the seat he has shared with a large suitcase requiring his legs to occupy the corridor access space.

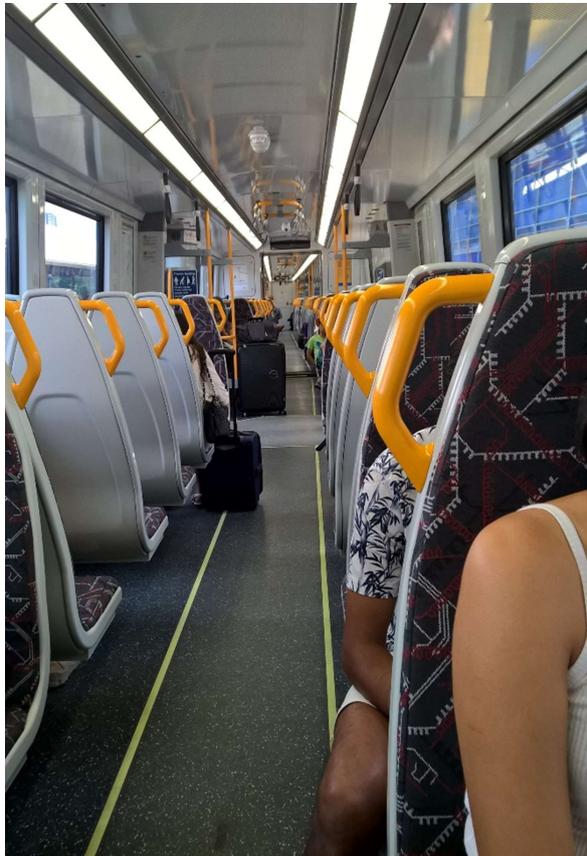
The photo (below) shows an older train retrofitted with some of the new seating and entry hardware again illustrating the problem with storage of objects in this case a large suitcase.



As these photos show, where “wheelchair” space is provided, it proves tempting for others to use it for storage of luggage etc as in this photo on the NGR.

The lack of space or racks for luggage leads to luggage blocking the corridors as in the two photos below taken on the NGR. The lines on the floor appear ineffective.

The overhead handles are only provided for part of the length of the corridor near the vestibules.



The effect of the design of the layout of the seating and entry vestibules in the NGR is to provide a reduced level-of-service for most users even if the spaces are used correctly ie according to what appears to be the design intent. While few trains in SEQ are used at or near capacity other than for sporting or entertainment events, the Gold Coast Line was well known for its highly publicised overcrowded trains mainly due to timetabling restrictions while only a single line route.

Now with both dual lines and proposed extensions further south from Varsity Lakes and the connection to the GCLR at Helensvale, the NGR train layout appears to have ignored the design of the “Airport trains” in order to provide more seating for more commuters thereby inevitably not accommodating the inevitable range of users including more for whom a fully compliant safe and convenient public transport service is essential. The reduction of flexible multi-use space and use of less rather than more fixed seating in the sideways facing areas is illustrative.

One of the fundamental principles of access for all is independence ie from the need to ask for assistance unless that is essential. Hence a design which is minimal in terms of compliance or leads to users not respecting the intent of the design thereby requiring assistance does not meet the principles. Where the design encourages users to not act as intended is problematic at best. This appears to be the case in regard to the general layout of the passenger compartments on the NGR.

However, assistance may be required whether to assist a person to overcome some difficulty or simply to assist overcome some awkward situation. In these types of situation, official assistance is desirable. Prior to the NGR, the guard being centrally located, assisted.

Location of the guard and the toilet

As mentioned previously, the Citytrain network in SEQ operates on the basis of 3-car and 6-car sets or trains. The guard is located in the “dummy” compartments in the middle of the 6-car sets and at the end of the 3-car sets with the guard swapping with the driver at the terminus for the trip. Stations and stopping points at all stations are laid out to suit.

This arrangement was then adopted with the “Airport trains” with the accessible toilet located adjacent the drivers/guards compartment. This has the effect of having the toilet near the driver/guard at the end of one of the units whether in 3-car or 6-car format. The access to the driver/guard compartment is not required to be compliant with access requirements of the DDA.

In the NGR, it appears the Queensland Government proposed to run the trains without a guard or with the guard in the drivers compartment at the rear of the train while eliminating the “dummy” driver/guard compartments by operating the NGR only as a 6-car set. (It is not known if it may be possible to remove intermediate cars to reduce the number of cars.) This created a complete walk-through passenger compartment which has many benefits. It appears the Queensland Government also had to decide whether to have one or two toilets and if so, where they should be located.

The need for toilets to meet the full range of potential user’s needs is well understood by those with experience in the field of access. Therefore, toilets are handed to suit those with particular needs. This has an additional benefit in providing two facilities for those for whom the specific need does not apply. The photo (below left) shows the information plaque outside toilet on the NGR the subject of this “audit”. It clearly indicates it is a LH (left handed) facility as shown in the photos.

Should there also be an RH facility? Where should the toilet facility be located to best meet the needs of passengers? Should the toilets be equidistant to all passengers? Should those who may need to use the facilities only have access to part of the train?



It is unclear if the ARG had any opportunity to advise on the outcomes of these choices.

The lack of any detailed drawings of the NGR train during promotion and publicity of the Queensland Government decision to purchase the NGR trains and subsequent lack of any detailed drawings and any supportive details makes many difficulties for understanding why the Queensland Government selected and approved the design of the toilet facilities. It also makes it difficult to understand the role of the ARG in the final decisions.

Unfortunately on the NGR, it appears not only is there an issue of handedness, it appears internal dimensions may not comply.

It appears the Queensland Government is using the "narrow gauge" as a reason for non-compliance. However this is only a constraint which a compliant design would need to overcome.

The second issue involving the "narrow train" constraint is the fact the current NGR train only provides access to the toilets which complies with the access requirements for one half of the train given the narrow walkway between the toilet facility and the external wall of the train as can be seen in the photo (below right). This path of access is so narrow that it may not even comply with minimum emergency exit requirements for passengers. The photo (below left) shows the connection from the adjacent carriage and the off-set transition from the main corridor width to the corridor shown in the photo (below right).



Another difficulty is the fact that to those who do not need or rely on, facilities that comply, small discrepancies may appear to have minor significance and may be strongly supported by dominant interests to the exclusion or marginalisation of other interests. Experienced design and auditors in access would however be expected to be aware of such significance. In the NGR procurement process, it appears “nobody” undertook a compliance audit as non-compliance would appear to have been obvious.



The photo (left) shows the curved entry door and connecting corridor to the carriages beyond.

The entry and exit vestibule for the train at this location is shown in the foreground. As no detailed layout plans have been made available, it is not possible to address why the toilet location and interior do not comply due to other constraints.

There appears to be an excess of space between the carriage entry doors and the toilet facility. It appears reconfiguration of the toilet facility may be a possibility with widening of the corridor unless this can be shown to not be feasible.

Detailed documentation of constraints, options previously considered and possible alternative compromises should be included as part of the proposed changes to the NGR submitted by the Queensland Government for consideration of the AHRC.

Summary

The proposals for changes to the NGR that are said to already be “underway” as indicated by the TMR NGR web site dated 4 January 2018 should not be approved by the AHRC until there has been full and detailed disclosure of what these proposals involve supported not only by detailed designs of the existing and proposed changes but by detailed options considered and rejected.

Further the proposals should not be approved by the AHRC until approved by the ARG following wider community consultation open to the public and showing both the existing, proposed and other options but also the recommendations of the ARG.

The DDA and DSAPT aim to improve access for all and this aim should not be compromised nor should a precedent for further non-compliance be created except where demonstrated to all concerned ie including the community, expert and community reference groups, etc, that the non-compliance is inevitable and unavoidable but still meets the aim to provide barrier-free access to all.

There is ample evidence the NGR trains and proposed changes to both design and operations do not comply with requirements in numerous ways. There is little if any detailed evidence as to why the various aspects of non-compliance and reduced level-of-service (LOS) were accepted and approved by the Queensland Government. Requests for investigations by the Auditor-General have been refused.

There has been a wall of secrecy created and maintained by the Queensland Government in regard to who made the various decisions, who was responsible and why the non-compliances and reductions in LOS have been incorporated in the NGR trains.

Therefore it is submitted each of the following conditions should apply.

The NGR trains should be allowed in service as is only until a short period after the Commonwealth Games in SEQ.

The NGR trains should then be withdrawn from any service.

The need for proposed changes to the NGR trains should be tested by a process of genuine review and redesign that will take into account (i) a retrofit of those trains manufactured and in Queensland or completed manufacture and (ii) a change to the design for all further trains to be manufactured.

The design review process should involve a full range of community interests (including all those who make submissions to this AHRC process) to inform and agree the proposed changes to the NGR design and operation using an alternative dispute resolution model as agreed and approved by the AHRC for resolving or reducing conflicting interests and reaching agreement.

The NGR trains only be permitted to operate once the agreed changes following the above conditions have been carried out to the satisfaction of the AHRC ie the response to the Queensland Government request for “temporary exemption” and the conditions of the AHRC response to that application.

I am agreeable to providing further information should that be considered useful to the Commission.

15 January 2018