



TS 00045.1:1.0

Standard

Application of Disability Standards

Part 1: Strategic framework

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1.0	28/06/2023	First issue.

Preface

This document is a first issue. This standard is the first part in the TS 00045 series of standards relating to the application of the disability standards to Transport assets and the operation of public transport services. This standard sets the framework for the management of disability compliance across all transport modes.

Public transport operators and the conveyances that they use are subject to the requirements of the *Disability Discrimination Act 1992* (DDA) and the related disability standards. These include the *Disability Standards for Accessible Public Transport 2002* (DSAPT) and the *Disability (Access to Premises – Buildings) Standards 2010* (Premises Standards).

Asset owners of public transport premises, infrastructure and conveyances, such as Transport for NSW (TfNSW) and the Transport Asset Holding Entity (TAHE), hold accountability for eliminating discrimination, as far as possible, against people with disabilities in the capacity of:

- operator under the DSAPT
- building manager under the Premises Standards.

Service providers that supply or maintain the public transport infrastructure owned by TfNSW and TAHE also hold accountability for eliminating discrimination, as far as possible, against people with disabilities in the capacity of a provider under the DSAPT.

A guide will be prepared that sets out recommended asset configurations to meet disability standard requirements.

A data tool will be prepared to facilitate disability compliance inspections and audits and support the information capture, management, reporting and attestation process.

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1 Scope

This standard specifies an enterprise-wide approach to identifying, planning, delivering, and assuring works intended to improve accessibility.

This standard contains the following:

- TfNSW's position on which of the Disability Standards apply at either side the boundary between premises and infrastructure
- assurance requirements for assessing, managing and attesting compliance to the DDA and Disability Standards
- prioritisation of the considerations for managing risk and maximising user benefits when planned accessibility improvement works are constrained by outside factors
- information management, reporting and handover requirements.

2 Application

This standard applies to the premises, infrastructure and conveyances across all transport modes owned by TAHE and TfNSW.

The roles to which this standard applies include the following:

- asset custodians of premises, infrastructure and conveyances
- asset stewards of premises, infrastructure and conveyances
- TAOs and service providers performing work in relation to premises, infrastructure and conveyances
- operators of public transport services under the DSAPT
- building certifiers, building developers and building managers under the Premises Standards
- data custodians.

This standard is intended to be read in conjunction with the DDA, DSAPT, *Disability Standards for Accessible Public Transport Guidelines 2004 (No 3)*, *Guidelines: Equivalent Access under the Disability Standards for Accessible Public Transport 2002 (Cth)*, Premises Standards, *Guidelines on application of the Premises Standards* and the NCC.

3 Referenced documents

The following documents are cited in the text. For dated references, only the cited edition applies. For undated references, the latest edition of the referenced document applies.

Transport for NSW standards

TS 00004.1 *Nonconformances to Transport Standards Part 1 – Nonconformance Process*

TS 01504 (T MU AM 00003 ST) *Assurance and Governance Plan Requirements*

Legislation

Commonwealth of Australia Constitution Act (The Constitution)

Disability (Access to Premises – Buildings) Standard 2010 (Cth)

Disability Discrimination Act 1992 (Cth)

Disability Standards for Accessible Public Transport 2002 (Cth)

Disability Standards for Accessible Public Transport Guidelines 2004 (No 3)

Environmental Planning and Assessment Act 1979 (NSW)

Government Information Public Access Act 2009 (NSW)

Heritage Act 1977 (NSW)

Other referenced documents

The Australian Building Codes Board, 2022, *National Construction Code*, volume one

Australian Human Rights Commission, 2013, *Guidelines on application of the Premises Standards*

Australian Human Rights Commission, 2020, *Guidelines: Equivalent Access under the Disability Standards for Accessible Public Transport 2002* (Cth)

4 Terms, definitions and abbreviations

The following terms, definitions and abbreviations apply in this document.

accessible means having features to enable use by people with a disability.

accessibility provision an asset, service or combination thereof which satisfies the requirements of the DDA and Disability Standards. In the context of the Premises Standards, a deemed-to-satisfy solution is an accessibility provision

AHRC Australian Human Rights Commission

AM Advisory Panel the Asset Management Advisory Panel provides independent asset management, technical advice and assurance to the Transport Executives who are responsible for decision making

ARA Australasian Railway Association

assessment method means a method that can be used for determining that a performance solution or deemed-to-satisfy solution complies with the performance requirements

asset means an item, thing or entity that has potential or actual value to an organisation

asset custodian the TfNSW Division accountable for the end-to-end lifecycle management and performance of assets (including asset condition, risk and reporting) on behalf of the asset owner to achieve agreed customer and community outcomes

asset steward the entity responsible for the management and performance of assets (including asset condition, risk and reporting) on behalf of the asset custodian for the required lifecycle stage and duration of the partner relationship (for example, contracted operator and maintainers)

asset steward – delivery the entity responsible for procurement of asset from investment decision to commissioning, delivering the benefits, translating requirement from the client and managing delivery outcomes, and selecting the most appropriate supplier/s to meet project objective

asset steward – operate or maintain the entity responsible for day-to-day operations and maintenance of the asset once commissioned. May be a part of the asset custodian division or a separate entity. Operator and maintainer of the assets might be separate entities

ATAC Accessible Transport Advisory Committee

BCA Building Code of Australia Volume 1

compliance certificate means a kind of certificate under Section 6.4(e) of the *Environmental Planning and Assessment Act 1979*

conveyance has the same meaning as the definition in the DSAPT

Crown certifier is a TAO under TS 06197.3 *TAO Engineering Services*

DDA *Disability Discrimination Act 1992* (Cth)

DDA compliance certificate is issued by a DDA compliance services provider

DDA compliance services provider is a TAO under TS 06197.3 *TAO Engineering Services*

deemed-to-satisfy provision as defined in the NCC

deemed-to-satisfy solution as defined in the NCC

direct assistance is help given by an operator or provider:

- to make public transport accessible to a person with a disability when premises, infrastructure or conveyances do not fully comply with these Standards; or
- to provide non-discriminatory access on request.

disability as defined in the DDA

Disability Standards are the DSAPT, the Premises Standards and any other legislative instrument or standards formulated pursuant to Section 31 of the DDA

DSAPT *Disability Standards for Accessible Public Transport 2002*

equivalent access is a process, often involving the provision of direct assistance, under which an operator or provider is permitted to vary the equipment or facilities that give access to a public transport service, so long as an equivalent standard of amenity, availability, comfort, convenience, dignity, price, and safety is maintained. Equivalent access does not include a segregated or parallel service

infrastructure as defined in the DSAPT

manoeuvring areas is a space in which a wheelchair or similar mobility aid is able to turn

NCC National Construction Code

operator is a person or organisation (including the staff of the organisation) that provides a public transport service to the public or to sections of the public. A public transport service may have more than one operator

performance requirement, as defined in the Premises Standards and the NCC, means a requirement which states the level of performance which a performance solution or deemed-to-satisfy solution are required to meet

performance solution, as defined in the NCC, means a method of complying with the performance requirements other than by a deemed-to-satisfy solution

premises as defined in the DDA

Premises Standards means *Disability (Access to Premises — Buildings) Standards 2010*

provider is a person or organisation that is responsible for the supply or maintenance of public transport conveyances, premises, and infrastructure. A provider need not be an operator

public transport service as defined in the DSAPT

Standards Lead accountable for management of the standard across its life cycle. Standards Lead are generally within SER's structure. Where Standards management is a small part of an overall function or highly specialised within one division, the Standards Lead role may be outside of SER – for example: security management, safety, accounting

Standards Program Management Office (PMO) Provides support for the development and publication of standards provided by the Standards Process Development and Publishing team within the Asset Management Branch of the Safety, Environment and Regulation Division

TAO Technically Assured Organisation

TfNSW Transport for NSW

verification method means a test, inspection, calculation or other method that determines whether a performance solution complies with the relevant performance requirements

5 Strategic framework

TfNSW’s approach to eliminating discrimination as far as possible as required under disability legislation is to do the following:

- consider the regulatory requirements as the minimum acceptable standard for accessibility, such that higher levels of access are pursued where practicable
- seek to maximise improvements in accessibility and customer outcomes, while taking into account competing factors such as value for money
- minimise reliance on alternative means of compliance.

Figure 1 depicts the relationship between the statutory requirements, the artefacts in the TS 00045 series, delivery of works to improve accessibility, and the management and reporting of compliance in accordance with the statutory requirements.

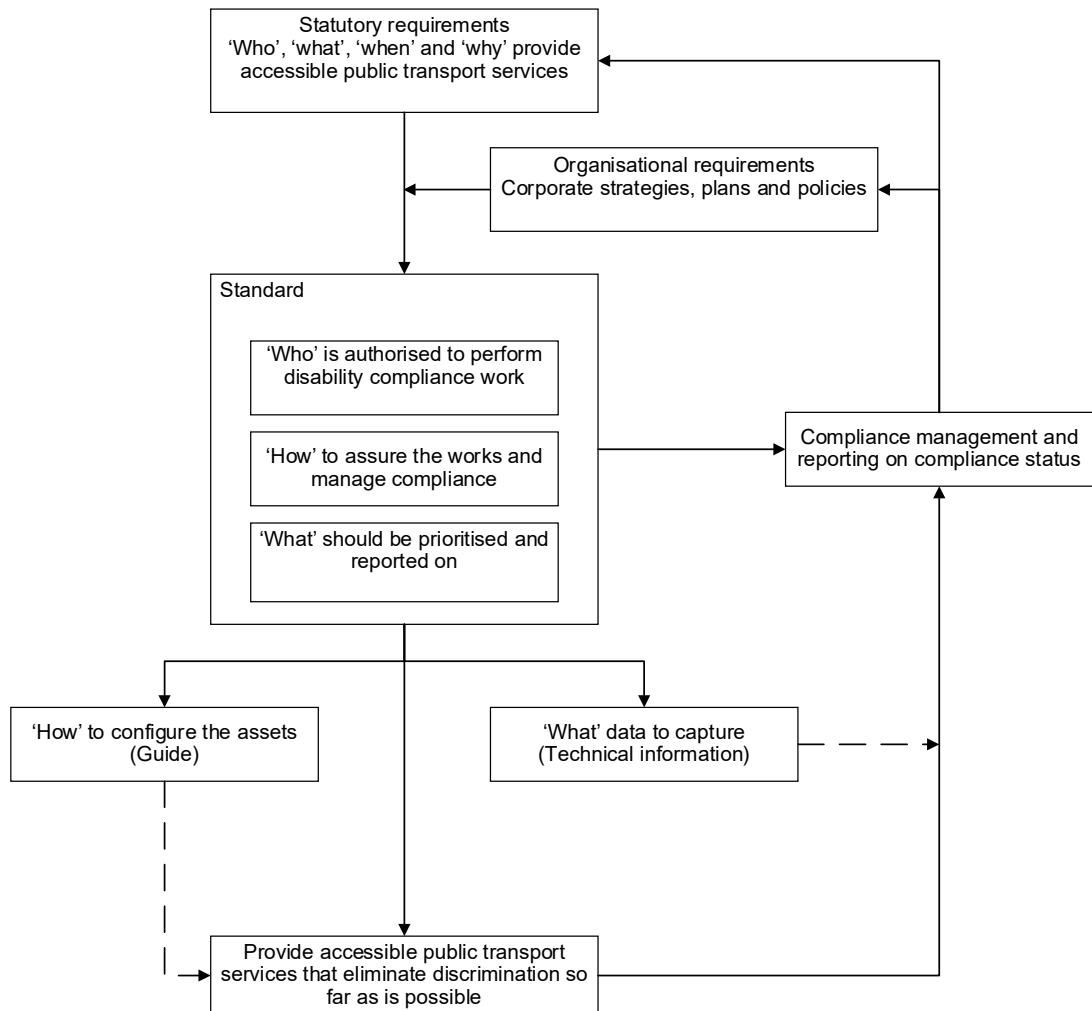


Figure 1 – Relationship between the statutory requirements

6 Legislative arrangements

6.1 Standards requirements

TfNSW standards for premises, infrastructure and conveyances cite the DDA, DSAPT and Premises Standards as regulatory instruments. TfNSW standards may also include the following:

- requirements beyond the statutory requirements
- preferred deemed-to-satisfy solution
- preferred method of equivalent access
- guidance on improving accessibility in situations of unjustifiable hardship.

It is incumbent upon service providers to inform themselves of the statutory requirements, and of any additional TfNSW requirements. Where an ambiguity or inconsistency between statutory requirements and TfNSW requirements is identified, the matter shall be referred to standards@transport.nsw.gov.au. Notwithstanding the advice given in response to the referral, legislative requirements always take precedence over requirements.

Where the requirements of a TfNSW requirement cannot be achieved, this may be raised as part of the concession process. Refer to TS 00003.1 for details of the concession process.

Any concession relating to accessibility provisions subject to the DDA, DSAPT or Premises Standards does not negate the obligation to comply with regulatory requirements. TfNSW does not have the authority to grant concessions to statutory requirements.

There may be instances where a TfNSW standard contains requirements that replicate a statutory requirement. Where this occurs and a service provider cannot strictly achieve that requirement, alternate means shall be adopted as permitted under the legislation. Examples include the provision of equivalent access under DSAPT or a performance solution under the Premises Standards.

Figure 2 provides a graphical representation of the methods for achieving compliance with the DSAPT:

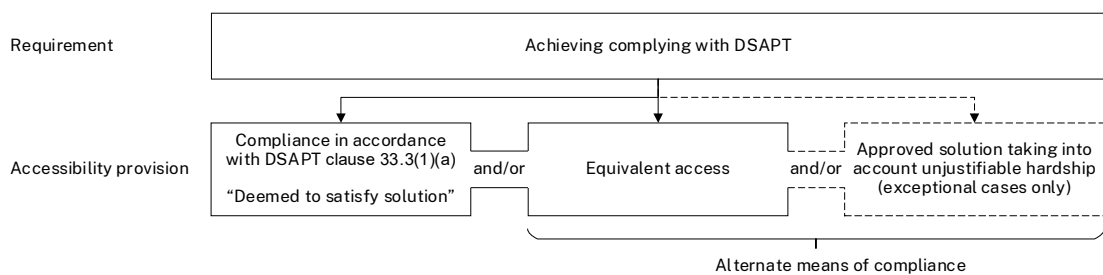


Figure 2 – Methods of achieving compliance with the DSAPT

Refer to the NCC for a similar graphical representation of the methods for achieving compliance with the Premises Standards.

Service providers shall report to standards@transport.nsw.gov.au any instances where a TfNSW standard replicates a statutory requirement.

Figure 3 depicts the different treatments of requirements depending on the source.

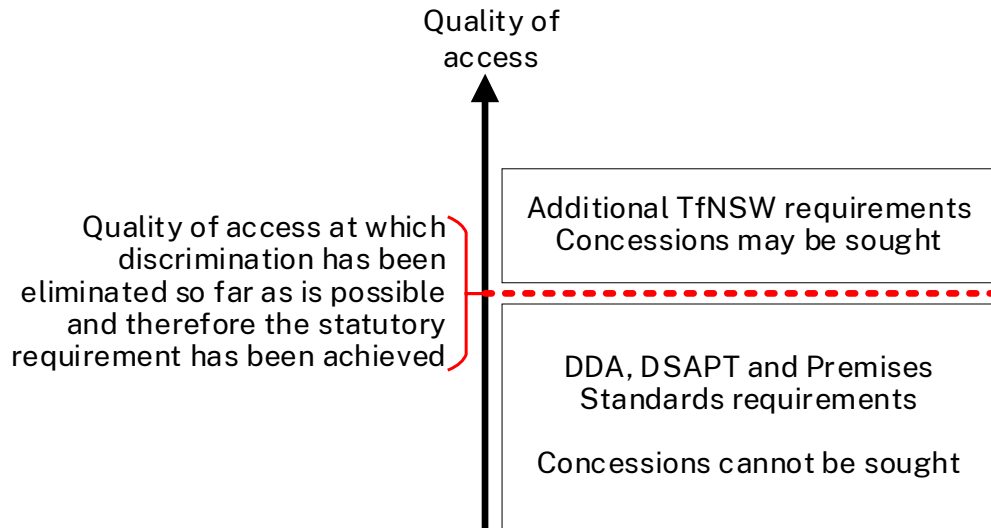


Figure 3 – Requirements for which concessions may or may not be sought

6.2 Delineation of premises and infrastructure

6.2.1 General

The DDA provides for the creation of Disability Standards. Disability Standards relevant to transport assets include the DSAPT and Premises Standards.

An area of potential ambiguity is the specific delineation between premises and infrastructure, which represents the point of transition between application of the DSAPT and application of the Premises Standards.

A general principle of application is to consider the extent of the immediate boarding point and non-building aspects of transport services which will be covered by the infrastructure accessibility provisions of DSAPT, and any premises for which the Premises Standards apply.

Where there is a gap between the coverage of the DSAPT and Premises Standards, the broader requirements of section 23 and section 24 of the DDA remain applicable. Refer to Figure 4 for an example.

The figures in this section set out the demarcation between the application of the DDA, DSAPT, and Premises Standards.

6.2.2 Bus stops and interchanges

Bus stops and interchanges are subject to the requirements of the DDA, DSAPT and Premises Standards. Figure 4 depicts the typical delineation between regulatory requirements.

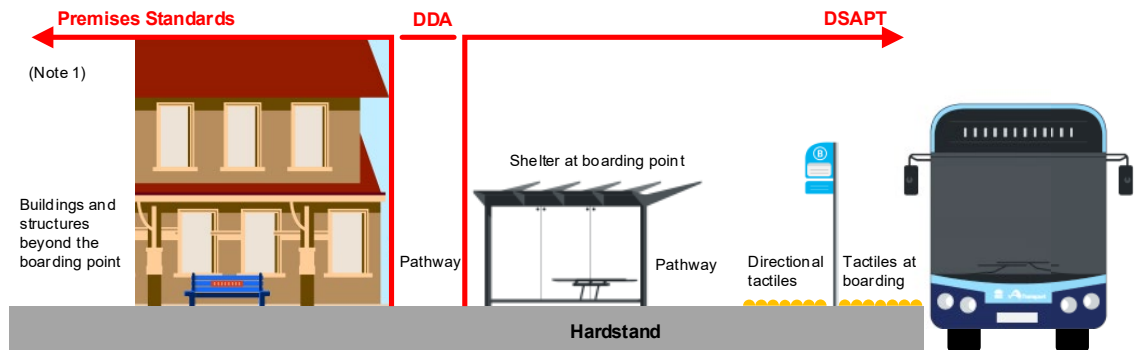


Figure 4 – Delineation of regulatory requirements for bus stops and interchanges

Note 1: The Premises Standards applies except for street furniture, resting points, allocated space, furniture and fittings and passenger information which are still covered under DSAPT. Boarding ramps are covered under DSAPT.

The situation specific delineation shall be assessed on a case by case basis by the service provider.

6.2.3 Light rail stops

Light rail stops are subject to the requirements of the DSAPT and Premises Standards. Figure 5 depicts the typical delineation between regulatory requirements.

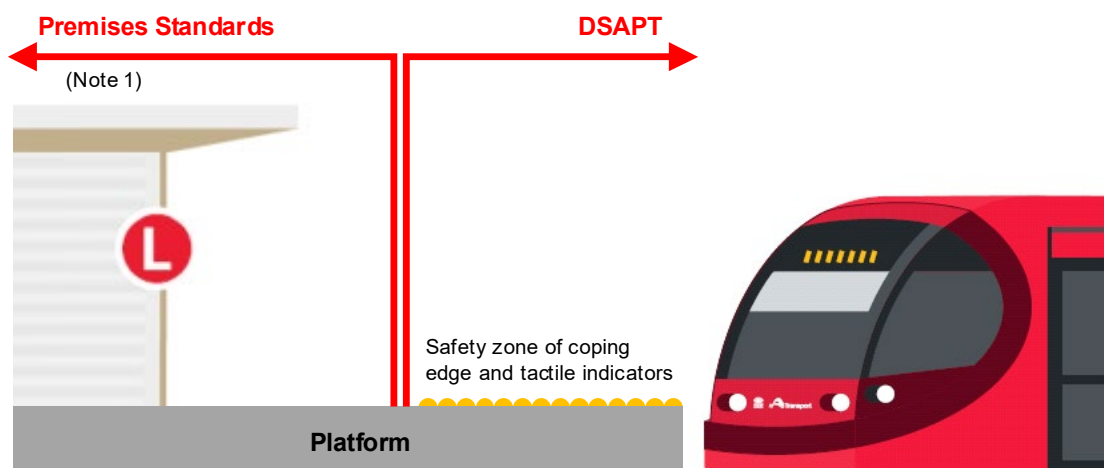


Figure 5 – Delineation of regulatory requirements for light rail stops

Note 1: The Premises Standards applies except for street furniture, resting points, allocated space, furniture and fittings and passenger information which are still covered under DSAPT. Boarding ramps are covered under DSAPT.

The situation specific delineation shall be assessed on a case by case basis by the service provider.

6.2.4 Heavy rail platforms

Heavy rail platforms are subject to the requirements of the DSAPT and Premises Standards. Figure 6 depicts the typical delineation between regulatory requirements.

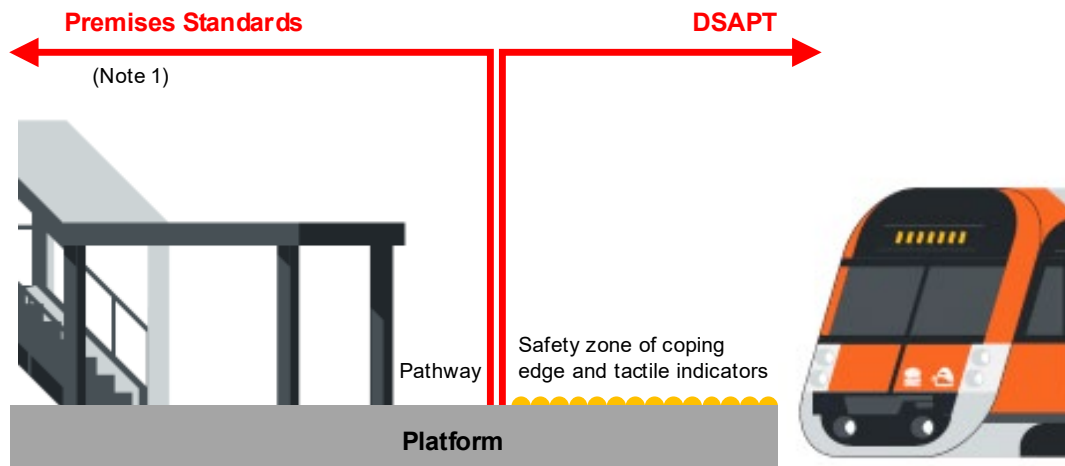


Figure 6 – Delineation of regulatory requirements for heavy rail platforms

Note 1: The Premises Standards applies except for street furniture, resting points, allocated space, furniture and fittings and passenger information which are still covered under DSAPT. Boarding ramps are covered under DSAPT.

The situation specific delineation shall be assessed on a case by case basis by the service provider.

6.2.5 Metro platforms

Metro platforms are subject to the requirements of the DSAPT and Premises Standards. Figure 7 depicts the typical delineation between regulatory requirements.

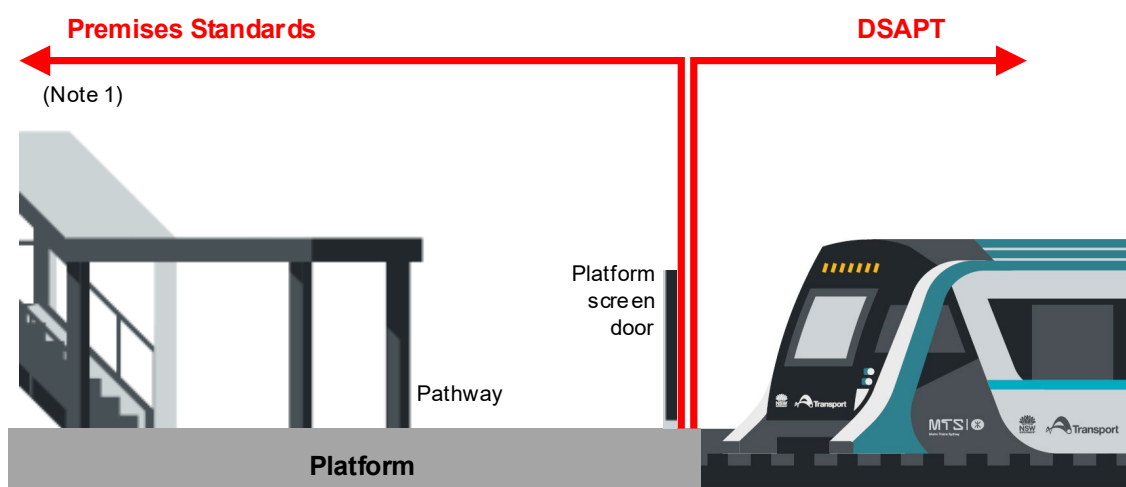


Figure 7 – Delineation of regulatory requirements for metro platforms

Note 1: The Premises Standards applies except for street furniture, resting points, allocated space, furniture and fittings and passenger information which are still covered under DSAPT. Boarding ramps are covered under DSAPT.

The situation specific delineation shall be assessed on a case by case basis by the service provider.

6.2.6 Wharves

Wharves are subject to the requirements of the DSAPT and Premises Standards. Figure 8 depicts the typical delineation between regulatory requirements.

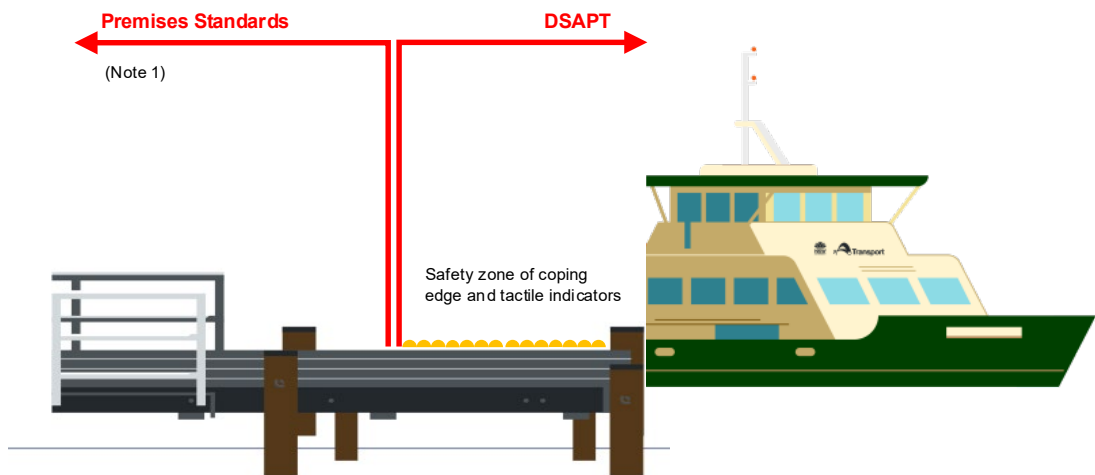


Figure 8 – Delineation of regulatory requirements for wharves

Note 1: The Premises Standards applies except for street furniture, resting points, allocated space, furniture and fittings and passenger information which are still covered under DSAPT. Boarding ramps are covered under DSAPT.

The situation specific delineation shall be assessed on a case by case basis by the service provider.

6.3 Interactions with other legislation

There can be occasions where statutory requirements imposed by the Disability Standards conflict with the statutory requirements of other legislation. An example is the potential conflict between requirements of the *Heritage Act 1977* (NSW) and the Disability Standards.

Where such a conflict occurs, an assessment shall be undertaken by the asset steward – delivery with the aim of entirely resolving the conflict. Where the conflict cannot be entirely resolved, reference shall be made to Section 109 of the Australian Constitution, which provides that:

“When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid”.

Refer to the *Guidelines on Application of the Premises Standards* for further details on the application of the Premises Standards. Where permitted under the legislative instrument, performance solutions may be used, for example in the case of providing access to a heritage building where a deemed-to-satisfy solution may not be viable.

While the destruction or removal of significant heritage value from premises, infrastructure or conveyances does not in and of itself automatically constitute unjustifiable hardship, there may be some circumstances where an unjustifiable hardship defence can be demonstrated. The service provider shall perform the analysis and due diligence to assure TfNSW that the proposed solution for improving accessibility eliminates discrimination as far as possible.

Compliance to the DDA and the Disability Standards does not permit exemption from any other statutory requirements, for example fire and safety regulatory requirements.

6.4 Obligations inherited by contractual arrangements

Statutory obligations to comply with the DDA and relevant Disability Standards are inherited by parties to contracts for the provision of public transport services.

Where infrastructure or premises are owned by the NSW Government and a third-party operator has been contracted to provide public transport services, the NSW Government and third-party operator are jointly responsible for ensuring statutory compliance.

The converse also holds true, where infrastructure or premises are owned by a third party and TfNSW has been contracted to provide public transport services, with both parties being jointly responsible for ensuring statutory compliance.

7 Authorisation requirements

Where a service provider performs work in accordance with this standard, and without limiting the scope of any other authorisations required to perform the work, the service provider shall be a TAO that holds the appropriate authorisations:

- Crown Certification for building work
- DDA compliance services for infrastructure and conveyances.

Figure 9 depicts the specific lifecycle stages to which the scope of authorisation under Crown Certification and DDA compliance services apply:

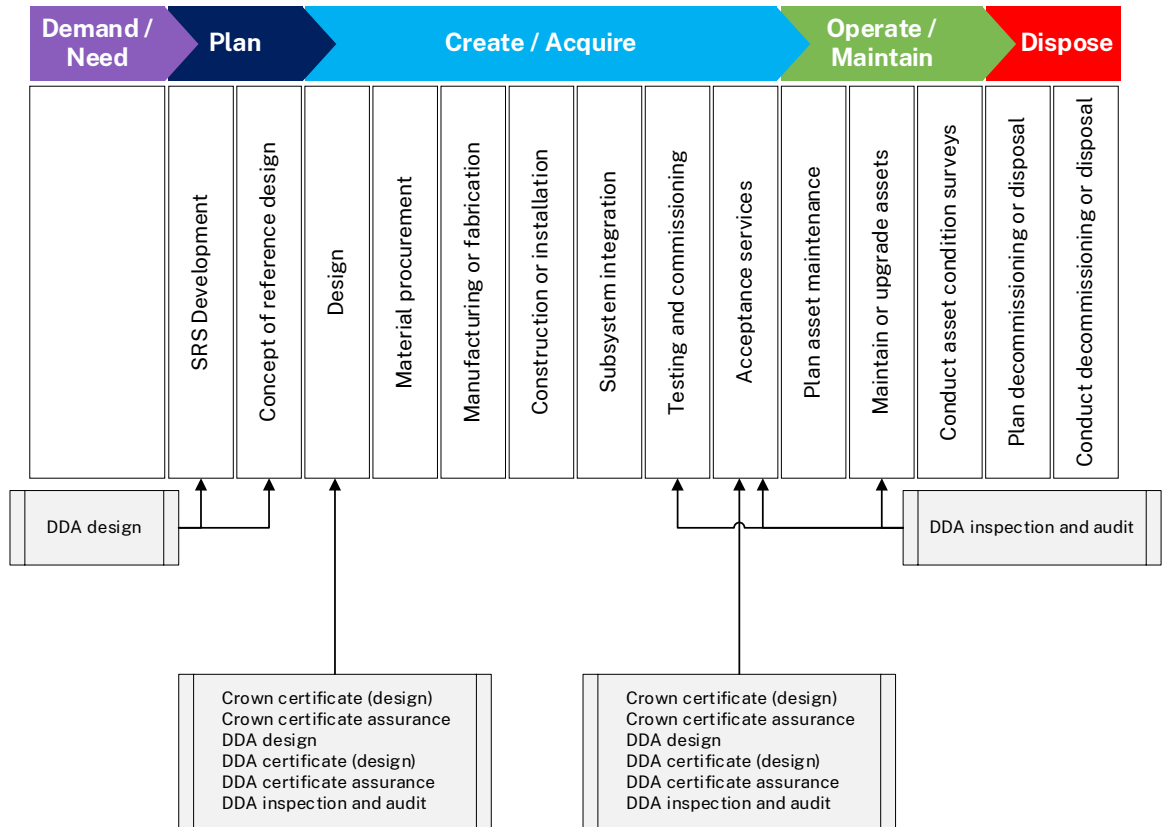


Figure 9 – Application of DDA compliance services scope across the asset lifecycle

The TAO matrix notes shall identify the scope of authorisation for DDA compliance services in terms of premises, infrastructure and/or conveyances.

Where a service provider performs work related to the Premises Standards, the service provider shall be a TAO that holds authorisation for Crown Certification (including Premises Standards).

Figure 10 depicts identifies the authorisations for Crown Certification and DDA compliance services that are required under the relevant legislation or Disability Standard.

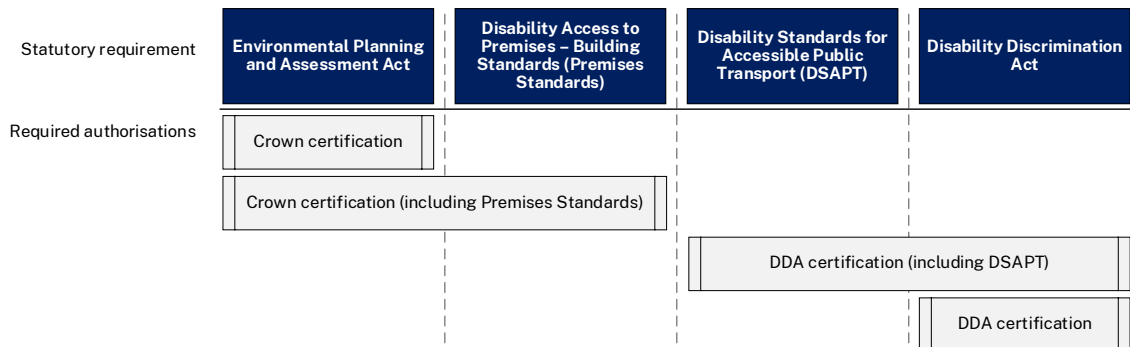


Figure 10 – Relationship between Crown Certification and DDA compliance services

Construction of works that are subject to the Premises Standards shall not commence until certified by a TAO that is authorised to perform Crown Certification (design) where the scope of certification includes the Premises Standards in the notes.

Completed works that are subject to the Premises Standards shall be certified by a TAO that is authorised to perform Crown Certification (completion) where the scope of certification includes the Premises Standards in the notes.

8 Assured compliance with Disability Standards

8.1 Assurance artefacts

Asset owners have statutory accountabilities for assuring and reporting on their compliance status with respect to the DDA and Disability Standards. Asset custodians also require assurance and reporting to discharge their accountabilities under the TfNSW Asset Management Framework. The minimum scope of data and evidence to fulfil these assurance and reporting functions is set out in Table 2 and shall be sourced from the various asset management roles.

Table 1 – Governance of alternative means of compliance by governance level

Asset management role	Minimum scope of data and evidence requirements
Asset steward – delivery	Project works for which the role is the asset steward
Asset steward – operate or maintain	Inspections and audits performed during the operational life of the asset or period of public transport service provision
Asset custodian	Decisions made that impact upon the compliance status or level of accessibility being provided by the Transport assets

The assurance evidence will differ depending on which of the Disability Standards is in the scope of compliance being reported on. See Section 8.3.2 for assurance artefacts related to the DSAPT and Section 8.4.2 for assurance artefacts related to the Premises Standards.

8.2 Disability compliance governance

This section specifies the process to obtain agreement from TfNSW for compliance upgrade works where an alternate means of compliance to the statutory requirements is proposed. For the avoidance of doubt, TfNSW does not have the authority to depart from the statutory requirement and shall not accept works that are non-compliant to the statutory requirement.

TfNSW shall apply a scaled approach to governance when reviewing proposals on alternate means of compliance to assure itself that it is receiving accessible public transport services (whether asset based or operational) that are compliant with the DDA and relevant Disability Standards. Confirmation of final approval as part of the governance process shall be one of the mandatory assurance evidence items required for work involving alternate means of compliance progressing beyond the approved design baseline.

Table 2 defines the governance arrangements for each level.

Table 2 – Governance of alternative means of compliance by governance level

Level	Risk impact to accessibility	Consultation	Technical review	Process review	Final approver
1	Any submissions of unjustifiable hardship or multiple accessibility provisions that are entirely dependent on alternate means of compliance	As determined by CST Social and Economic Policy	AM Advisory Panel	Standards PMO	Asset custodian
2	Multiple accessibility provisions that are generally dependent on alternate means of compliance	As determined by CST Social and Economic Policy	Standards Lead	Standards PMO	Asset custodian
3	Minimal reliance on alternate means of compliance	As determined by CST Social and Economic Policy	Technical SME	Standards PMO	Standards lead

For submissions at governance level 1, the consideration of unjustifiable hardship assists TfNSW in assessing the risk impact to accessibility of a proposal. However, the threshold to demonstrate unjustifiable hardship is extremely high and it is ultimately up to the determination of a court if it is challenged in legal proceedings. No assumptions can be drawn from any approvals that such a defence could be successfully relied upon in legal proceedings.

The governance level of the submission shall take into account the risk impact on accessibility. The governance level shall be nominated by the service provider, endorsed by the asset steward – delivery and confirmed by the technical reviewer detailed in Table 2.

Proposed submissions shall be consulted with the relevant stakeholders and the consultation committee detailed in Table 2 before being submitted for technical review.

Submissions shall be made to standards@transport.nsw.gov.au.

The submissions shall include the following, as a minimum:

- confirmation by the service provider that the proposal is compliant with all relevant statutory requirements
- endorsement by the asset steward - delivery
- assurance evidence and data set out in Section 8.3.2 and Section 8.4.2.

8.3 Achieving compliance with the DSAPT

8.3.1 Approach to developing scope of works

In the context of the DSAPT and for brevity, the method of compliance detailed in clause 33.3(1)(a) of the DSAPT involves direct application of the specifications in the DSAPT and is referred in this standard TS 00045.1 as a deemed-to-satisfy solution.

The initial identification and development of the scope of all works subject to the DSAPT shall be on the basis of fully deemed-to-satisfy solutions or alternative solutions that demonstrably offer a superior level of access. Alternative means of compliance and any unjustifiable hardship defence shall only be assessed once deemed-to-satisfy solutions are determined to be demonstrably impracticable or cost prohibitive.

8.3.2 Evidence requirements

Compliance with the DSAPT shall be demonstrated in one of the following ways, in descending order of preference:

- full achievement of requirements set out in the DSAPT and referenced standards through deemed-to-satisfy solutions or solutions that offer a demonstrably superior level of accessibility to the deemed-to-satisfy solutions
- full achievement of requirements set out in the DSAPT and referenced standards through a combination of deemed-to-satisfy solutions and equivalent access solutions
- full achievement of requirements set out in the DSAPT and referenced standards through a combination of deemed-to-satisfy solutions and equivalent access solutions that rely on direct assistance.

Where the compliance status is intended to be improved by a project being delivered, the evidence of compliance shall be provided to the asset custodian by the service provider responsible for the project.

Demonstration of compliance with the DSAPT shall be through the provision of assurance evidence including:

- assessment report demonstrating the achievement, or equivalence of achievement, of the full set of requirements detailed in the DSAPT and referenced standards
- consultation records with passengers with disabilities or organisations representing people with disabilities
- Crown and DDA certificates issued by service providers authorised under the TAO Scheme
- compliance method report that details the means by which compliance to the DDA and DSAPT was achieved, for example solely through equivalent access or in combination with direct access

- assessment reports that demonstrate achievement of DSAPT requirements
- analysis that demonstrates additional risk will not be introduced
- inspection and audit data that demonstrates achievement of the requirements
- drawings that demonstrate achievement of the statutory requirements
- photographic records.

Where equivalent access is proposed, the consultation records shall include endorsement of the proposal from passengers with disabilities or organisations representing people with disabilities relevant to the solution.

8.3.3 Equivalent access

Equivalent access shall be assessed in accordance with the *Guidelines: Equivalent Access under the Disability Standards for Accessible Public Transport 2002* (Cth).

Where direct assistance is proposed to be a means by which equivalent access is achieved, the service provider shall seek to maximise the quality of access beyond the minimum level required to eliminate discrimination. The asset steward – delivery shall provide evidence of acceptance from the service provider responsible for providing the direct assistance. The service provider may be an asset steward – operate or maintain, or a private operator.

A compliance method report prepared under Section 8.3.2 shall include analysis of the level of access provided by the equivalent access and direct access solutions, with comparison against the level of access required under the DDA and the DSAPT. The compliant method report shall confirm whether the level of access is consistent with the amount needed to eliminate discrimination so far as is possible, or whether a superior level of access is being provided.

8.3.4 Unjustifiable hardship

It is not unlawful to fail to comply with a requirement of the DSAPT if, and to the extent that, compliance would impose unjustifiable hardship. However, compliance is required to the maximum extent not involving unjustifiable hardship.

Where unjustifiable hardship is being claimed, a submission shall be assessed in accordance with the governance process set out in Section 8.2.

A submission of unjustifiable hardship shall include detailed analysis, whole of life cost and impact assessment, options assessment, risk analysis, consultation and justification for each item described in clauses 33.7 (3) and 33.7 (4) of the DSAPT. The submission and supporting evidence shall be prepared by a TAO that holds authorisation for DDA compliance services.

8.4 Achieving compliance with Premises Standards

8.4.1 Approach to developing scope of works

The initial identification and development of the scope of all works subject to the Premises Standards shall be on the basis of fully deemed-to-satisfy solutions or alternative solutions that demonstrably offer a superior level of access. Alternative means of compliance and any unjustifiable hardship defence shall only be assessed once deemed-to-satisfy solutions are determined to be demonstrably impractical or cost prohibitive.

8.4.2 Evidence requirements

Compliance with the Premises Standards shall be demonstrated in one of the following ways, in descending order of preference:

- deemed-to-satisfy solutions that fully address the performance requirements of the Premises Standards
- a combination of deemed-to-satisfy solutions and performance solutions that fully address the performance requirements of the Premises Standards
- performance solutions that fully address the performance requirements of the Premises Standards.

Where the compliance status is intended to be improved by a project being delivered, the evidence of compliance shall be provided to the asset custodian by the service provider responsible for the project.

Demonstration of compliance with the DSAPT shall be through the provision of assurance evidence including:

- Crown and DDA certificates issued by service providers authorised under the TAO Scheme
- compliance method report that details the means by which compliance to the DDA and Premises Standards was achieved, for example solely through deemed-to-satisfy solutions or a combination of deemed-to-satisfy solutions and performance solutions
- performance solution reports that demonstrate achievement of Premises Standards performance requirements
- consultation records with passengers with disabilities or organisations representing people with disabilities
- analysis that demonstrates additional risk will not be introduced
- inspection and audit data that demonstrates achievement of the requirements
- drawings that demonstrate achievement of the statutory requirements
- photographic records.

8.4.3 Deemed-to-satisfy solutions

Compliance with the Premises Standards by means of deemed-to-satisfy solutions shall be prioritised wherever practicable.

8.4.4 Performance solutions

In the context of the Disability Standards, the application of performance solutions is only permitted for situations to which the Premises Standards apply.

Where a performance solution is proposed to be a means of complying to the Premises Standards, the asset steward – delivery shall provide evidence of acceptance from the asset custodian. The asset custodian may seek concurrence from the asset steward – operate or maintain by notice of no technical objection.

8.4.4.1 Expert judgement

The NCC recognises expert judgement as a valid assessment method for demonstrating compliance with performance requirements. Expert judgement shall only be used to demonstrate compliance with performance requirements relevant to the Premises Standards when all other assessment methods are demonstrably non-viable.

8.4.4.2 Acceptance criteria

Acceptance criteria will generally include analysis related to the following:

- persons with a disability, including by breakdown of disability type (if applicable)
- general customers or other user groups, including description of characteristics, including how it affects them
- safety
- location(s) affected and their function with respect to the premises, infrastructure or conveyance
- time of day affected
- duration of impact
- impact on patronage
- sensitivity to environmental conditions, for example inclement weather or periods of extreme heat
- paths of travel for evacuation purposes
- impact on staffing levels, including at relevant times affected by the proposal (for example, normal operations or after hours or peak 15 minute periods and so on)

- service levels being maintained or diminished, including interference with day to day operation or maintenance
- dignity afforded to persons with a disability
- limitations imposed on the use of mobility devices and assistance animals.

TfNSW may include additional acceptance criteria at its discretion.

8.4.5 Unjustifiable hardship

It is not unlawful to fail to comply with a requirement of the Premises Standards if, and to the extent that, compliance would impose unjustifiable hardship. However, compliance is required to the maximum extent not involving unjustifiable hardship.

Where unjustifiable hardship is being claimed, a submission shall be assessed in accordance with the governance process set out in Section 8.2.

A submission of unjustifiable hardship shall include detailed analysis, whole of life cost and impact assessment, options assessment, risk analysis, consultation and justification for each item described in Section 4.1 of the Premises Standards.

8.5 Management of legacy non-conformances

A legacy non-conformance is a non-conformance to the DDA or a Disability Standard which:

1. was not identified at the completion of the asset's construction or
2. has not been included in the scope of a current project to perform accessibility improvement works or
3. has not been included in the scope of a planned project to perform accessibility improvement works.

Legacy non-conformances do not include instances where an asset fully complied with the DDA or a Disability Standard at the time of its construction or installation (but the requirements had evolved over time) unless the DDA or Disability Standard specifically requires retrospective application.

Where a service provider, asset steward or asset custodian identifies a legacy non-conformance, then the non-conformance shall be processed in accordance with TS 00004.1.

As part of the non-conformance and related management plan, accessibility improvement work shall be identified and planned for delivery.

The asset custodian, or its delegated asset steward – operate or maintain should scope out and estimate the cost of the accessibility improvement works needed to rectify legacy non-conformances pursuant to Section 8.5 item 1.

The service provider shall recommend to the asset custodian the scope and estimated cost of the accessibility improvement works needed to rectify legacy non-conformances pursuant to Section 8.5 item 2 and Section 8.5 item 3.

8.6 Management of temporary exemptions

The AHRC may grant a temporary exemption from the requirements of the DDA or a Disability Standard. Where assets are subject to a current AHRC exemption, and there is an opportunity to perform a compliance upgrade, then the works shall be performed so far as is reasonably practicable. The works shall be planned and delivered as if the AHRC exemption did not exist.

9 Prioritisation of accessibility improvement works

Asset custodians and asset stewards involved in the planning of accessibility improvement works shall seek to maximise the total customer benefit within the relevant constraints of the situation. Examples of constraints may include budget allocated for accessibility improvement works, labour availability and site access.

The approach to maximising total customer benefit shall take into account:

- needs and expectations of persons with a disability
- magnitude of the benefit for persons with a disability
- projected number of persons with a disability who would benefit
- applicability of specific accessibility provisions to persons with different types of disabilities, where persons with one or more types of disabilities would benefit to a larger or lesser degree (Note 1)
- beneficial impact to all customers, including the full diversity of people with a disability as well as people with other characteristics
- alignment with, enablement of, and contribution towards future projects and programs
- treatment of issues that are the subject of complaints pursuant to the DDA
- prior commitments from government.

Note 1: The requirements set out in the DDA and Disability Standards are intended to address discrimination against all forms of disability, such that any specific accessibility provision may provide larger or lesser benefit to persons with different types of disabilities. The intent of the requirement to take into account the applicability of different accessibility provisions is to enable assessment of accessibility provisions that improve accessibility for persons who have similar disabilities. The intent is not to discriminate against persons with one or more different types of disabilities.

Accessibility improvement works that are intended to contribute towards achieving 100% compliance shall be prioritised over accessibility improvement works that extend already compliant assets and services beyond 100% compliance. Figure 11 depicts three scenarios where a project could be delivered based on the quality of access before the project and the quality of access after the project, relative to the quality of access needed to achieve the statutory requirement.

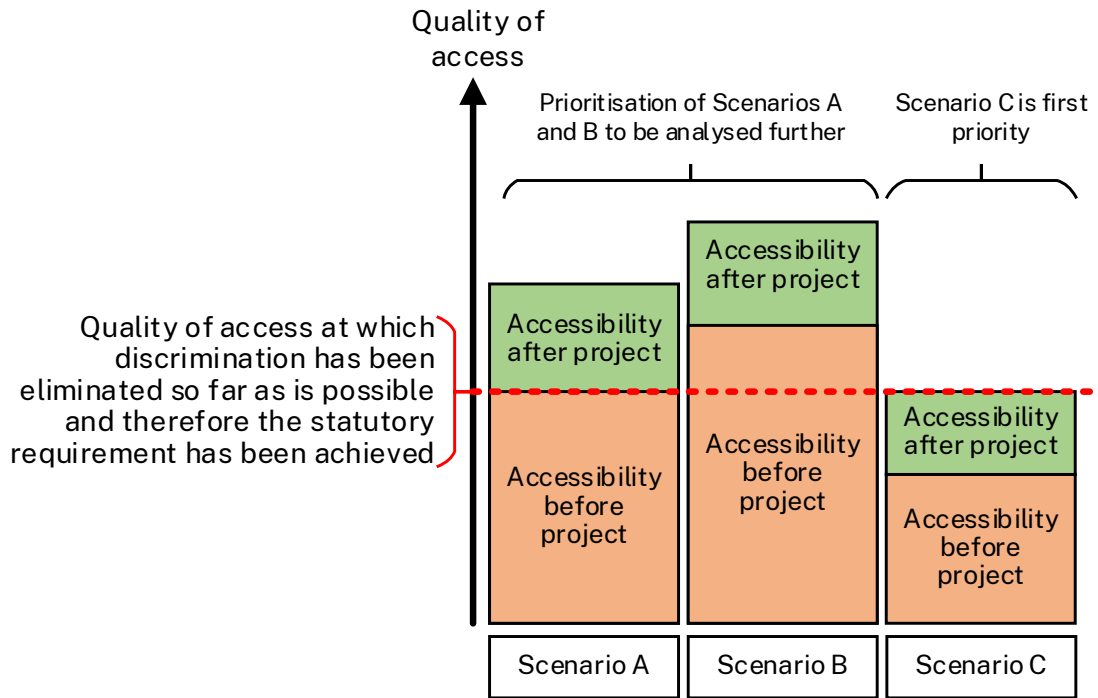


Figure 11 – Prioritisation of works based on scenarios of accessibility before and after the project

10 Information management and reporting

10.1 Information management

TfNSW shall implement a system with the capability to record, manage and report on disability compliance status. Asset records shall contain data relating to its compliance status as detailed in Table 3.

Table 3 – Compliance status data attributes

Disability compliance status	Detail
Yes	100% of accessibility provisions related to the asset are compliant to statutory requirements, either by deemed-to-satisfy solutions or approved alternative means of compliance
No	<100% of accessibility provisions related to the asset are compliant to statutory requirements
Not applicable	Asset is not subject to disability compliance requirements

10.2 Configuration baseline requirements

The type and depth of information to be provided at each configuration baseline will vary depending on the level of assurance required and the risks being controlled.

10.2.1 Strategic baseline

The assurance, governance and risk implications of applying this standard (TS 00045.1) shall be taken into account in TS 01504 (T MU AM 00003 ST) and the risk register for the project.

Assurance evidence shall be provided to the receiving party as part of the submission to seek asset custodian approval of this configuration management baseline. The assurance evidence shall be a draft compliance method report with analysis that demonstrates the proposed compliance method(s) as being the most viable. The analysis detailed in the draft compliance method report shall contain the following:

- For work subject to the DSAPT, the analysis shall justify the intended mix of deemed-to-satisfy solutions, equivalent access solutions, application of direct assistance and reliance on unjustifiable hardship as a compliance defence.
- For work subject to the Premises Standards, the analysis shall justify the intended mix of deemed-to-satisfy solutions, performance solutions and reliance on unjustifiable hardship as a compliance defence.

10.2.2 Preliminary design baseline

The following assurance evidence shall be provided to the receiving party as part of the submission to seek asset custodian approval of this configuration management baseline:

- draft assessment reports demonstrating the extent to which State legislative requirements are made invalid under Section 109 of the Australian Constitution
- draft performance solution reports
- draft assessment reports demonstrating compliance by means of unjustifiable hardship
- consultation records with passengers with disabilities or organisations representing people with disabilities in relation to proposals for equivalent access under the DSAPT.
- where an alternate means of compliance is proposed, records demonstrating the disability compliance governance process set out in Section 8.2 is in progress or has obtained final approval.

10.2.3 Approved design baseline

The following assurance evidence shall be provided to the receiving party as part of the submission to seek asset custodian approval of this configuration management baseline:

- Final compliance method report with analysis that demonstrates the proposed compliance method(s) as being the most viable as follows:
 - For work subject to the DSAPT, the analysis shall justify the intended mix of deemed-to-satisfy solutions, equivalent access solutions, application of direct assistance and reliance on unjustifiable hardship as a compliance defence.
 - For work subject to the Premises Standards, the analysis shall justify the intended mix of deemed-to-satisfy solutions, performance solutions and reliance on unjustifiable hardship as a compliance defence.
 - Comment register detailing the consultation undertaken, feedback received, responses provided and closure of the comments.
- Construction drawings that contain sufficient information to enable verification of compliance to the DDA and Disability Standards.
- DDA certificate (design).
- Crown certificate (design), if related to premises.
- Assessment reports demonstrating the extent to which State legislative requirements are made invalid under Section 109 of the Australian Constitution.
- Performance solution reports.
- Assessment reports demonstrating compliance by means of unjustifiable hardship.
- Consultation records with passengers with disabilities or organisations representing people with disabilities in relation to proposals for equivalent access under the DSAPT.
- Where an alternate means of compliance is proposed, records demonstrating the disability compliance governance process set out in Section 8.2 has obtained final approval.

10.2.4 Handover baseline

The following assurance evidence shall be provided to the receiving party as part of the submission to seek asset custodian approval of this configuration management baseline:

- all assurance information required under previous configuration management baselines (if not already provided)
- work as executed drawings that contain sufficient information to enable verification of compliance to the DDA and Disability Standards
- DDA certificate (completion)

- Crown certificate (completion), if related to premises
- DDA inspection and audit reports
- DDA inspection and audit data.

10.2.5 Operate / maintain phase

The following assurance evidence shall be provided to the receiving party as part of the submission to seek asset custodian approval of this configuration management baseline:

- DDA inspection and audit reports
- DDA inspection and audit data.

Where work is performed during the operate or maintain phase of the lifecycle which changes the compliance status of an accessibility provision, this shall be treated as a project for the purpose of configuration baseline requirements.

10.3 Information sharing

Disability data shall be available to stakeholders performing the following functions:

- asset custodian
- asset steward – delivery
- asset steward – operate or maintain
- network planner or analyst
- business case developer
- Australian Human Rights Commission
- Member of Parliament.

Data relating to disability compliance shall be made available as required under the provisions of the *Government Information Public Access Act 2009* (NSW).

Data relating to reporting of compliance levels and exemptions granted by the AHRC shall be made available to members of the public.

Compliance reporting procedures shall be documented in a guide to supplement this standard.

All complaints that allege a failure in the provision of access, including equivalent access, under the DDA shall be reported to the AHRC. Where a complaint relates to rail assets, the complaint shall also be reported to the ARA.