

Transport Legislation (Disability Parking Permit Scheme) Amendment Bill 2019

Explanatory Notes

Short title

The short title of the Bill is the *Transport Legislation (Disability Parking Permit Scheme) Amendment Bill 2019*

Policy objectives and the reasons for them

The policy objective of the Bill is to expand the Queensland Disability Parking Permit Scheme criteria to include those persons with vision impairments. These amendments will make the scheme fairer and more inclusive by enabling persons with this specific type of sensory impairment access to disability parking zones.

In 2010, a national review was conducted of disability parking schemes across all states and territories. This review resulted in the introduction of a nationally recognised disability parking permit and minimum standards for disability parking concessions.

National eligibility criteria for permits were also created, which is known as the Australian Disability Parking Scheme. This is a mobility scheme and assessment for permits that focuses on an applicant's functional ability to walk.

Therefore, people with intellectual, psychiatric, cognitive and sensory impairments alone do not meet the eligibility criteria.

Eligibility in Queensland remains exclusively focused on the applicant's ability to walk, which discriminates against those with a visual (sensory) impairment who are travelling as a passenger in a vehicle. It is far safer and more convenient for a visually impaired person to have access to a disability parking space, which are typically placed near entrances of buildings.

It should be noted that a vision-impaired person is eligible to apply for a disability parking permit in NSW, Tasmania, the Northern Territory and the ACT.

Achievement of policy objectives

The policy objectives of the Bill are achieved through amendments to the Traffic Regulation 1962 and Transport Operations (Road Use Management) Act 1995.

These amendments are necessary to achieve the policy objectives by expanding the criteria for those eligible to apply for a disability parking permit to those persons with a total loss of vision, permanent severe visual impairment or a temporary severe visual impairment that must be of at least 6 months' duration, as certified by a doctor.

Amendments to the Traffic Regulation 1962

This Bill amends the Traffic Regulation 1962 by expanding the eligibility criteria for a disability parking permit to individuals who have either had a total loss of vision, a permanent severe visual impairment or a temporary severe visual impairment.

The amendment also defines a temporary severe visual impairment as one that must be of at least 6 months' duration, as certified by a doctor.

Amendments to the Transport Operations (Road Use Management) Act 1995

This Bill amends the Transport Operations (Road Use Management) Act 1995 by:

- Expanding the grounds for amending, suspending or cancelling approvals for a disability parking permit to a holder that no longer has total loss of vision or severe visual impairment and;
- Expanding the eligibility criteria for persons who can apply for a disability parking permit to a person who has total loss of vision or a severe visual impairment.

Alternative ways of achieving policy objectives

There are no practical alternative ways of achieving the policy objectives.

Estimated cost for government implementation

It is not anticipated that this Bill will draw on any additional funds from the government's consolidated revenue.

Consistency with fundamental legislative principles

The Bill is consistent with the fundamental legislative principles as defined in section 4 of the Legislative Standards Act 1992.

One of the key elements of the principles is a requirement that legislation must have sufficient regard to rights and liberties of individuals. The provisions in this Bill gives additional rights to those persons with a visual impairment by enabling them to apply for a disability parking permit, removing the previous restriction which only recognises an individual's ability to walk.

The amendments do not restrict or compromise any existing rights for individuals who are currently eligible to access the scheme.

Consultation

Consultation around the principles contained in this Bill have been undertaken with families of persons, persons who have a visual impairment and Guide Dogs Queensland, an organisation which provides vital support to help people who are blind or have low vision to experience the freedom and independence they deserve.

Guide Dogs Queensland (GDQ) provides personalised training and support programs to help Queenslanders who are blind and vision impaired and are supportive of the provisions outlined in this Bill.

It is GDQ's position that the application of the Australian Disability Parking Scheme (ADPS) in Queensland to only the minimum standards does not meet the community's needs or expectations, nor provides a broad enough scope of inclusion, with the notable exclusion of people in the community who are blind and vision impaired, even though they experience widely recognised mobility impairments due to their lack of vision.

New South Wales, the Australian Capital Territory, the Northern Territory and Tasmania already recognise the impact of blindness and vision impairment on mobility and allow for disabled parking permits to be issued to the blind and vision impaired members of their communities. This allowance builds confidence and independence in these constituents and provides for much safer travel due to parking availability in close proximity to navigation points at locations like shopping centres and community facilities, greatly reducing the risk of injury.

The more inclusive scope of ADPS eligibility in these jurisdictions highlights a serious inequity for blind and vision impaired Queenslanders, as well as anyone who moves to Queensland, as they cannot access the same support the parking scheme offers in those locations. This also works against the intentions of the ADPS, which was designed to simplify and standardise the access that permit holders would have when moving between states.

In a recent GDQ survey of blind and vision impaired clients (February 2019), 93% of respondents believed their mobility and ability to walk is impaired due to their blindness or low vision. This sentiment is largely shared within the community, with over 2300 Queensland residents signing an e-petition before the Queensland Parliament (tabled by David Batt MP 12/2/19), and a further 2000 people showing their support through an online campaign run by GDQ on Facebook in September 2018. The main comments received by

GDQ during the online campaign was a disbelief that blind and vision impaired Queenslanders did not already have access to disability parking bays in Queensland.

The reason for inclusion is simply that the State's definition of "ability to walk" is too narrow and excludes a class of people who meet the essential criteria and intent of the scheme and whose lives could be significantly improved by including them.

A person's ability to walk is determined by more than just their functional movement. It comes down to their mobility, or their ability to move freely. For a person to "move freely", they must be able to walk in a way that is free from harm. Sight is critical to mobility and the ability to walk safely, as well as for orientation and obstacle avoidance. It is the primary sense that is used by people when making a decision to walk, to navigate their journey and to stay safe along the way. When a person loses their sight, their ability to judge or evaluate risk within an environment is largely removed, impairing their ability to move freely and vastly increasing the likelihood of harm.

GDQ works with Queenslanders who are blind and vision impaired to help return their mobility, through training focussed on the use of essential mobility devices and in most cases, the use of hearing to assist in making a safe judgement. Within a carpark environment however, while mobility devices enable functional movement, the use of hearing to assist in making judgement on when and where to move is often severely compromised by traffic noise (both moving and idle and from all directions), and from trolley and pedestrian movement within the tight space or confined area. The result of this is the need for people who are blind and vision impaired to either be accompanied by a carer or partner (a sighted guide), thus removing independence, or to make a "best guess" on when it is safe to cross busy traffic areas when travelling independently.

To compound this issue, the lack of pedestrian walkways, pedestrian safe zones and tactile markings to allow safe pedestrian movement within most carpark environments often results in pedestrians and vehicles sharing the same space.

The impact of this environment on the confidence of blind and vision impaired persons is profound. In a recent survey of GDQ clients (February 2019), 92% of respondents reported that they do not feel safe in carparks, with 58.5% responding that they "do not feel safe at all" and either avoid carparks altogether or won't move through carparks unassisted. 83.5% of respondents cited car movements that they cannot detect as the main issue in carparks, with acoustics of the traffic environment and impatient drivers the other main causes of stress at 58.5% each, and a lack of tactile ground surfaces to lead from carparks to exit points or building entries close behind on 53.5%.

These claims are supported in the survey with over 64% of respondents reporting to have been hit or experienced a near collision in the past five years while moving through a carpark. Over 54% of these respondents have been hit or had a near miss with a vehicle more than three times, 31% experiencing these hits or near misses over five times, and 16% over 10 times in the past five years alone. Cars were by far the biggest culprit of these hits or near misses on 68.5%, followed by bicycles and mobility scooters on 24.5% and 16% respectively.

While 72% of respondents said they required a sighted guide (a person assisting their travel) to feel safe enough to move through a carpark, this in itself raised a number of issues:

- Travelling two abreast – sighted guides provide a vital support to blind and vision impaired persons, but must do so two abreast to allow for safe movement. This is however especially difficult and dangerous when alongside carpark traffic lanes and

when walking behind parked cars, due to the need for at least one person to walk in the lane of traffic.

- Distraction – if the sighted guide is distracted even for a moment, there can be disastrous consequences. Many clients have reported being unintentionally guided into a traffic environment, into an obstacle or hazard, or even being left to wait alongside traffic while the sighted guide is momentarily distracted.
- Travelling with children – children can often be unpredictable and the responsibility and stress for the sighted guide is amplified with needing to care for the safe movements of both the children and blind or vision impaired person in their care.
- Travelling with groceries/shopping – guiding someone safely while also trying to manage grocery bags or a trolley is very difficult in a traffic environment, requiring a wide travel path and exposing people to unnecessary risk and stress.
- Dropping-off – it is a common practice that blind and vision impaired persons are dropped off near the front entrance, requiring them to wait (sometimes for extensive periods) for their sighted guide to return after finding a parking bay for the vehicle. This not only exposes the blind and vision impaired person to risk (through robbery, abuse, danger from hazards, etc), but is also often humiliating for the person, left to stand alone and wait with nothing to do until their sighted guide returns.

Respondents to the survey also noted a number of other concerns that traveling through a carpark environment creates, such as:

- Hazards like uneven ground, carpark wheel stops, abandoned trolleys, gutters and stairs.
- Width of regular carpark spaces making it near impossible for car doors to be opened wide enough to allow a Guide Dog to get out, and especially too narrow for a person to be safely guided (two abreast), resulting in the use of mobility devices that can scratch or dent adjacent cars, injuries from colliding with side mirrors, or people forced to feel their way to the end of a vehicle between cars and then step out into the traffic environment.
- Burning of Guide Dogs' paws during summer on the hot bitumen while trying to navigate out of a carpark.

The benefits of providing access to disability parking under the state's application of the ADPS for blind and vision impaired Queenslanders are many, including (but not limited to):

- Solutions or part-solutions to all the aforementioned issues of navigating safely through carparks and reducing risk (and liability concerns).
- Reducing stress and anxiety for the blind and vision impaired community and their carers/sighted guides, while promoting independence and confidence.
- Providing equity and fairness between both state/territory rules to provide a more nationally consistent approach, and also between other disabilities that have recognised mobility issues that affect a person's ability to walk.

- Meeting community expectations for the level of access to disability parking bays that the state should be providing.
- Providing a known entrance point to buildings. This helps build familiarity and confidence in people to safely navigate their path from that point. This can also be reinforced in orientation and mobility training.

Including a person who is blind or vision impaired in the State's definition of "a person whose ability to walk is impaired (a person with a disability)", as per that outlined in S111 of the Transport Operations (Road Use Management) Act 1995 (Chapter 5 Road use), may greatly assist in providing the access needed to the ADPS in Queensland.

GDQ has said it welcomes the approach of the Queensland Government to build a better Queensland and notes the development and implementation of the State disability plan 'All Abilities Queensland: opportunities for all', that promotes opportunities for all Queenslanders and commits to building a fairer, more inclusive Queensland.

It is GDQ's view that providing access to disability parking for the blind and vision impaired members of our community will go a long way towards achieving this in a recognisable way and will help to achieve the ultimate goal of the government's plan, notably that "People with disability are welcomed, valued and respected members of their communities, and community activities, sports, arts, tourism and recreation are accessible and inclusive of all Queenslanders with disability."

Consistency with legislation of other jurisdictions

The changes proposed in this Bill are similar to legislation and/or guidelines currently in place in New South Wales, Tasmania, the Northern Territory and the ACT.

Notes on Provisions

Part 1

Clause 1: Short title

This amendment describes the short title of the Bill.

Part 2

Clause 2: Regulation amended

This part indicates the regulation to be amended; the *Traffic Regulation 1962*

Clause 3: Insertion of new subparagraphs iv and v to Section 60(1)(a) and insertion of new subsection 2A to Section 60

This amendment expands the eligibility criteria for a disability parking permit to individuals who have either had a total loss of vision, a permanent severe visual impairment or a temporary severe visual impairment

The amendment also defines a temporary severe visual impairment as one that must be of at least 6 months' duration, as certified by a doctor.

Clause 4: Insertion of subparagraph iv to Section 61(2)

This amendment includes individuals who have total loss of vision or a permanent severe visual impairment in circumstances where subsection (1)(c) does not apply if the application is made by a person mentioned in the amended section 60(1)(a).

Clause 5: Insertion of amended Section 60(1)(a) in Section 62(2)

This amendment inserts the amended section 60(1)(a) into the application criteria under which the chief executive may grant an application for a disability parking permit.

Clause 6: Insertion of subparagraph iv to Section 64(1), insertion of subparagraph v to Section 64(2) and change of criteria to Section 64(2)(a)

This amendment does the following:

- Adds the additional criteria of a total loss of vision, a permanent severe visual impairment or a temporary severe visual impairment for a person mentioned in the amended section 60(1)(a), or an organisation, when stating that a disability parking permit is issued for a period of 5 years.
- Adds the additional criteria of an individual who has a temporary severe visual impairment as outlined in the amended section 60(1)(a) when a disability parking permit is issued for the shorter of a period equal to the duration of the medical condition or disability or period of one year.
- Changes the criteria of "medical condition or disability" to "medical condition, disability or impairment".

Part 3

Clause 7: Amends the Transport Operations (Road Use Management) Act 1995

This part states that the Transport Operations (Road Use Management) Act 1995 is to be amended.

Clause 8: Insertion of additional criteria to Section 18(1)(f)

This amendment adds the additional criteria of "or the holder no longer has total loss of vision or a severe visual impairment" after the criteria which states that "the holder's ability to walk is no longer impaired".

Clause 9: Insertion of subparagraph ii to Section 111(1)(a)

This amendment revises the criteria under which the chief executive may issue a disability parking permit to include a person who has total loss of vision or a severe visual impairment.