



## Disability Standards for Accessible Public Transport Review 2012: Comments on Draft Report

14 July 2014

Department of Infrastructure and Regional Development  
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Canberra ACT 2601

[DisabilitiesTransportAccessSecretariat@infrastructure.gov.au](mailto:DisabilitiesTransportAccessSecretariat@infrastructure.gov.au)

Dear Madam/Sir,

We value the opportunity to present this submission on the Draft Report of the Disability Standards for Accessible Public Transport Review 2012. Spinal Injuries Australia is a leading organisation for people with a spinal cord injury, post-polio, and transverse myelitis.

Please contact me if you have any queries.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Mayo".

John Mayo  
General Manager – Community Development

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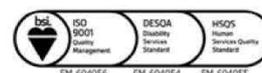
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## Recommendation 1 — National reporting on compliance

**That the Australian Government, jointly with state and territory governments, establish a national framework for reporting on compliance by 30 June 2016.**

This recommendation has qualified support. If any of the three reporting methods recommended, or some other options, are implemented they must be flexible enough to incorporate compliance via Equivalent Access or Direct Assistance and noncompliance due to Unjustifiable Hardship. Using bus stop slabs in hilly terrain as an example, the method will need to determine when a noncompliant solution still has equal function to a compliant solution, and when driver assistance can overcome compliance shortcomings. It will also need to determine at what point levelling of the slab introduces hazards worse than the slab's existing slopes, making slope amelioration unjustifiable.

A further example would be the dramatically different on-board circulation space available in conveyances of different modalities. How will the performance requirements of Part 3.2, and other Parts relevant to movement in conveyances, be assessed in the different envelopes of buses, light rail cars, narrow gauge and standard gauge rail carriages? How will the effect of Direct Assistance be incorporated into the assessment? This must be agreed before the framework can be implemented.

It is recommended that industry and the disability sector also be included in the development of a national framework. The framework will directly impact staff and users and decisions made without their input may create antagonism towards the framework by one or both parties.

## Recommendation 2 — Modernise the Transport Standards

**That the Australian Government, jointly with state and territory governments, commence a process for updating and modernising the Transport Standards. This work should be undertaken in close consultation with local government, industry and the disability sector, and include research on the technical issues raised in this review, the development of options, and assessment of the impact of any proposed changes to the standards, with this work to be completed by 30 June 2016.**

This recommendation has qualified support, with the caveat that no diminution of provisions occurs. Also, rewording of Recommendation 2 is required to better match its associated explanatory text. The text makes clear that local government, industry and the disability sector are to be directly involved in all aspects of the modernisation process.

Recommendation 2's apparent exclusion of local government from direct, rather than only consultative, involvement in the process is a major oversight. The burden of bus stop compliance, a significant part of the DSAPT, falls on local government. The expertise of local government officers, and the views of Councils, need to be incorporated into both the technical committee and main consultative committee that undertakes the modernisation

process. Equally, both industry and the disability sector should be directly involved, rather than merely being consulted, however closely.

Redrafting of the DSAPT Guidelines is strongly recommended, as the silence of the Guidelines on significant matters has led to variant interpretations of the DSAPT between jurisdictions. The Guidelines have been less than helpful in offering guidance in the areas of Equivalent Access, the OHS implications of Direct Assistance and Unjustifiable Hardship.

### Recommendation 3 — The complaints process

**That the Australian Government considers the concerns raised about the complaints process.**

This recommendation is supported, as the complaints driven and adversarial environment of the Federal Magistrates Court is not conducive to justice. For instance, the *Haraksin v Murrays* decision in the Federal Court was a disappointing decision that missed the spirit of the DSAPT and the intent of the Parliament. Equally, the two wheelchair limit policy of one airline has survived two Federal Court challenges, despite another national airline not having the policy and North American and European jurisdictions forbidding such policies. The point remains, wheelchair users continue to experience discrimination.

It would be beneficial if the matter of co-regulation, with the necessary caveats for broad representation of the development groups, received greater prominence in the complaints process recommendation. The current complaints initiated approach places people with disabilities in the invidious position of challenging powerful, well-resourced entities in the court. Putting industry into a position where it investigates its members noncompliance with the industry specific Code of Practice as per the Public Interest Advocacy Centre (PIAC) recommendation, with the option of appeal to the Australian Human Rights Commission in the case of dissatisfaction, would relieve people with disabilities of the burden of fighting battles while having few if any resources.

### Recommendation 4 — Whole-of-journey accessibility

**That the Australian Government, jointly with state, territory and local governments, develop accessibility guidelines for a whole-of-journey approach to public transport planning by 31 December 2015.**

This recommendation is supported in part. The concept of a 'catchment' or 'hinterland' around each public transport node, e.g. rail station, bus stop, ferry terminal, etc. requires exploration, in addition to better connection within nodes as proposed. It is recommended that industry and the disability sector also be directly involved in the whole-of-journey planning process. The guidelines will directly impact industry and users who have disabilities and decisions made without their input may create antagonism towards the guidelines by one or both parties.

## Recommendation 5 — National motorised mobility aid labelling scheme

**That the Australian Government in collaboration with state and territory governments to develop and implement a national motorised mobility aid labelling scheme.**

This recommendation is supported in part. The membership of the development group needs to expand to include members of all affected sectors. Further, it must be stressed that the labelling is informative only and has no regulatory purpose. Regulation of mobility aids is not supported.

It must be clear in the development group's terms of reference that mobility aid dimensions are not regulated by DSAPT, rather, DSAPT regulates the accessibility of public transport. DSAPT does not determine whether a mobility aid is 'compliant' or not, and if 'not compliant' then able to be refused entry by staff. Rather, it must be clear that the labelling indicates that a mobility aid, competently driven, has the ability to meet the performance criteria that are underlying assumptions of the DSAPT as detailed in Part 40.1 of the DSAPT Guidelines.

### 40.1 Criteria for mobility aids in Disability Standards

The following criteria reflect assumptions underlying the Disability Standards. They are useful as a guide for designers of mobility aids. Intending passengers should also consider these criteria when purchasing a mobility aid for use on public transport.

The criteria themselves are inadequate to determine a mobility aid's functionality in a public transport environment. This could lead to disappointment on the part of the aid's purchaser and potential conflict with operator's staff when the aid fails to perform to expectation. For example, scooters and wheelchairs that meet the criteria of 40.1 identically have vastly different turning circles. While 180 degree turning ability is dealt with:

**Manoeuvrability:** The mobility aid would need to be capable of turning through 180 degrees within an area of 2070 mm by 1540 mm.

Turning through 90 degrees, such as is required to pass through the wheel arches of a bus immediately after entering the front door vestibule from the boarding ramp, is not dealt with. Larger scooters which meet the criteria struggle to make this 90 degree turn. The labelling scheme will therefore need to have considered all the manoeuvrability requirements of mobility aids in order to inform people of the aid's suitability at point of sale.

A labelling scheme that at point of sale clearly indicates that a mobility aid meets the performance criteria completely, in part, or not at all, rather than discovering this by trial and error through failure to board or manoeuvre on-board certain conveyances, is supported without reservation. Other criteria relevant to the different spatial envelopes of taxis, buses, trains, ferries etc. will also need to be considered by the development group. This would further inform users that while their aid will readily board a train it might not turn through the wheel arches of a bus, as per the example above.

It is recommended that industry and the disability sector also be included in the development of a national motorised mobility aid labelling scheme. The scheme will directly impact retailers of mobility aids, public transport staff and users of public transport who have disabilities. Decisions made without their input may create antagonism towards the labelling scheme by one or all parties.

## Recommendation 6 — National wheelchair accessible taxi compliance milestones

**That the Australian Government, jointly with industry, state and territory governments, develop consistent national compliance milestones and response times for wheelchair accessible taxis by 30 June 2016.**

This recommendation is supported in part. State jurisdictional and service assessment entanglements may need to be cut through by a Commonwealth *force majeure*. This could involve DSAPT and / or DDA amendments. Compliance with Commonwealth legislation would better align State jurisdiction making the process less onerous.

It is recommended that the disability sector also be included in the development of national compliance milestones and response time frames. These are timeframes for users with disabilities and decisions made without their input may create antagonism towards the framework by the disability sector.

## Recommendation 7 — Review of Disability Access Facilitation Plan

**That the Department of Infrastructure and Regional Development, in close consultation with the Aviation Access Forum, undertake a review of the Disability Access Facilitation Plan initiative by 30 June 2015, with the aim of improving the overall effectiveness and accessibility of the plans.**

This recommendation is supported in part. We are concerned about the quality of the Disability Access Facilitation Plan's (DAFPs). The DAFPs should be uniform and more comprehensive. They should post information to a uniform, comprehensive template to permit ready location of valuable information, and the plans need to capture the experience of the customer from arrival in the precinct to the aircraft seat and vice versa. Categories of information provided, e.g. parking, drop off, location of entrance, location of toilets, and so on, must be consistent between airports. Most DAFPs appear well intended, but few deliver practical results. Further, their existence seems a secret given people with disability seem unaware of them.

Further, guidance offered in the online material is often specific to disability type. When providing access to people with disability, diversity of options is the key. For example, Brisbane Airport Corporation commissioned a description of access at Brisbane airport in text format for people with vision impairment. This long, detailed description of the access

facilities and the location of features at the airport is no doubt very useful to non visual customers. It is so detailed though, that without a map most people who orient visually would find it incomprehensible. People who have cognitive disabilities such as dyslexia or who are Auslan sign language communicators will derive little benefit from this or any text only description. A simple schematic map would be the ideal compliment to the text description.

The Aviation Access Forum (AAF) does have representatives of the disability sector as members. For the duration of this project however, there should be representation from the diverse range of the disability sector. This will increase the AAF's credibility with the disability sector and avoid the Brisbane airport scenario where advice is narrowly focussed on one disability type.

## Proposed Recommendations

### Social Considerations

While the review comments on the financial cost of implementing the DSAPT, it should also more strongly emphasize the social cost of not implementing the DSAPT. The DSAPT has no function other than to fulfil the Objects of the Disability Discrimination Act 1992 and in particular, Object 3(c).

#### Section 3 Objects

The objects of this Act are:

- (a) to eliminate, as far as possible, discrimination against persons on the ground of disability in the areas of:
  - (i) work, accommodation, education, access to premises, clubs and sport; and
  - (ii) the provision of goods, facilities, services and land; and
  - (iii) existing laws; and
  - (iv) the administration of Commonwealth laws and programs; and
- (b) to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and
- (c) to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.

The success of the National Disability Insurance Scheme and National Disability Strategy 2010-2020 rests in no small measure on the successful implementation of the DSAPT. These Strategies are the cornerstone of Commonwealth and State government efforts to successfully integrate people with disabilities into the life of the nation.

Little effort has been made in the draft Review to link the DSAPT to the NDIS. This is a major oversight as the success, and financial viability, of the scheme will rely on the provision of accessible public transport facilities.

If the 'isolated, accessible infrastructure islands marooned within inaccessible public landscapes' that are mentioned in the draft Review constitute an infrastructure problem, then isolated Strategies and Policies are a social problem. As such, a recommendation should be

linked to the NDIS and other strategies that aim to advance the Objects of the DDA. Public transport and its infrastructure are not entities complete within themselves. They are rather, part of a journey that has many connected links. If one link breaks then the journey fails. These links may be physical, economic or social, but a failure of one is a failure of all.

Brisbane City Council's Access and Inclusion Plan can be taken as an example of a Plan that acknowledges the whole journey, beginning at home and reaching public facilities, places of employment, recreational and social opportunities and so on. Footpaths, infrastructure, conveyances, information, facilities, staff training, and such are all links in this journey. The A&I Plan views the diversity of services and facilities that make up a journey as part of a whole, and the DSAPT Review should promote the DSAPT as part of a Commonwealth Plan / Strategy that seeks the same outcome.

## Financial Considerations

Recommendations on how to adequately fund the various operators and providers are required.

The 1998 Regulation Impact Statement has estimated the cost of DSAPT implementation. The document is not readily available but hardcopy can be sourced at: <http://trove.nla.gov.au/work/9030807?selectedversion=NBD14123173>. The cost has also been published by the Department of Infrastructure in the 2007 DSAPT Review:

The financial cost of incrementally implementing the Transport Standards (over a 20-year period) was estimated to be somewhere in the order of \$3750 million (1998 prices). A significant part of the cost 'stems from the purchase of extra buses' in order to replace lost capacity due to allocated 'wheelchair spaces' and the 'estimated cost of modification' of bus and rail infrastructure to comply with the Transport Standards (Attorney-General's Department, 1999).<sup>1</sup>

The 2014 DSAPT Review has found that the cost of DSAPT upgrades is, in the opinion of stakeholders, onerous and is becoming more so.

Implementing requirements under the Transport Standards requires significant capital investment. A number of governments, providers and operators, while supporting the aims and objectives of the Transport Standards, have indicated that meeting future compliance milestones may be problematic unless significant resourcing is found.<sup>2</sup>

Unfortunately this finding of stakeholder opinion, and a recommendation to address it, has not been incorporated into the seven Review recommendations. This is a major oversight, as without adequate funding the DSAPT is unlikely to be effectively implemented over the 2012-2017 compliance period.

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<sup>1</sup> Review of the Disability Standards for Accessible Public Transport, 2007, P 32.

<sup>2</sup> Review of the Disability Standards for Accessible Public Transport 2002, Draft Report, May 2014, p. 100.

## **Coach Travel**

Coaches will frequently be the only affordable means of travelling to and between regional centres. The coach operators conduct their business in a fiscally tight environment, and have thus mostly done little to meet the DSAPT Schedule for Compliance. This intractable situation puts many people who have disabilities and who live in, visit or seek work in regional areas at a significant disadvantage.

It is recommended that for coach operators the viability of a means tested incentive scheme for conveyance and infrastructure upgrade, which may involve subsidy, be explored.