



National Inclusive Transport Advocacy Network

To Department of Infrastructure, Transport, Regional Development and Communications

Via email DisabilityTransport@infrastructure.gov.au

Submission on the Reform of the Disability Standards for Accessible Public Transport: Consultation Regulation Impact Statement

Who is NITAN?

The National Inclusive Transport Advocacy Network (NITAN) represents a national voice of people with disability advocating for accessible and inclusive public transport systems across Australia. <http://www.nitan.org.au/>

Background

NITAN was established and is auspiced by the Australian Federation of Disability Organisations (AFDO). However, NITAN operates independently; it is an unfunded group of people who share a specific interest in public transport matters.

Members

NITAN was established with a core working group of members from the following organisations:

- All Aboard Network
- Australian Federation of Disability Organisations
- Council for Intellectual Disability
- Disability Justice Australia.
- Disability Resources Centre
- First Peoples Disability Network
- Inclusion Moves
- National Ethnic Disability Alliance
- People with Disability Australia
- Physical Disability Council of NSW
- Victorian Legal Aid

NITAN has since grown to also be supported by other state based advocacy organisations and individuals with expertise in legal, transport and disability rights. Our focus is unashamedly on disabled people having access to the same transport options as the wider community, spanning the full spectrum from active transport to public transport and the ability to self drive.

Purpose

We aim to be a voice of people with disability on transport matters, however we recognise the disability community is made up of a diverse range of people with a differing range of needs and priorities. We understand to be effective we need to engage with experts in their field. We are open to ideas on how this can occur and look forward to shaping our voice with the disabled communities' assistance.

Our Objectives

1. Community Inclusion

Promote the ethos that full, equal community integration of people with a disability is not possible without a completely accessible 'whole of journey' public transport system Australia wide and advocate this position to all governments, industry and community stakeholders.

2. Influence

Ensure that the voices of people with disability are heard in the design and shaping of public transport systems across Australia, and in their day to day operations.

Support others with requisite experience and qualifications as they advocate on public transport issues encompassing a "nothing about us without us" approach.

3. Alliances

Build a strong network of allies and rally the many voices of people with disability to speak as one national voice.

What does NITAN do?

NITAN aligns itself fully with the goals of the National Disability Strategy.

We provide a national voice and connection for people with disability and associated organisations that advocate for accessible and inclusive transport.

We work to educate people with disability on their transport rights. We also raise awareness of public transport issues facing people with disability.

We make sure that state and territory based transport advocacy groups can feed into a national advocacy network that is independent and non-partisan.

Introduction

NITAN appreciates the opportunity to provide a disabled persons' led voice to this Regulatory Impact Statement. NITAN will make comments throughout this submission and make recommendations on each of the 16 areas of initial reform.

However, by way of introduction there are a number of key issues we feel must be documented and explored that don't fit within the technical sphere, but more so the spirit of legislative review. NITAN is a firm believer that the best public policy ensures the public is engaged and contributes. These points are made with due respect and an understanding that the goal of inclusive transport should never be overtaken by the bureaucratic process.

We understand the significant work that has gone into the Disability Standards for Accessible Public Transport (DSAPT) modernisation process. Our chair Geoff Trappett OAM has contributed over 150 hours to the modernisation taskforce process through its various working groups and focus groups. It is for this reason we must raise the issue of resources. Resources are an issue for both transport providers and the disabled community alike.

Transport providers will say they are not resourced to provide disabled access to meet the requirements of legislation nearing 20 years of age. The disabled community and those organisations that are trusted to represent us also struggle with resourcing. Systemic advocacy budgets, where they exist at all, are expected to stretch further and further. Repetition is the norm. We often find ourselves educating one government department on inclusive engagement practices only to start all over again with the next.

We strongly support the request from AFDO and other leading disability peaks to fully fund and resource advocacy organisations so that we can adequately bring the voices of the disabled community into these vital consultations. There must be work done to progress and resource trusted organisations that can consolidate our findings and help us engage nationally to achieve new transport standards that will implement significant changes to public transport into the future.

A bureaucratic regulatory impact statement focused engagement mechanism has shown itself time and time again to not gain good engagement in an ever increasingly distrustful disabled community. Trust between government and the disabled community is at an all time low, for reasons not necessarily DSAPT related, but this fact means that engagement done on any issue must be independent and disabled person led, it must be transparent and it must be shown to result in tangible outcomes. Sadly, time and time again issues have been raised through the 5 yearly reviews of the DSAPT that the disabled community has seen very little movement on.

The disabled community needs the broader community to buy into the DSAPT modernisation process past the technical standards. A door being wide enough for entry means nothing if the compliance mechanism checking whether it can be opened doesn't exist. Issues of compliance frameworks, legal certainty, victim led complaints mechanisms and reporting mechanisms are the nuts and bolts that hold together our DSAPT. Without full, frank and transparent discussion on these we once again could see our opportunity for real change squandered.

NITAN holds the same grave concerns as reflected by the All Aboard Network with respect to Australian Standards. Not only their place within DSAPT but how we ensure disabled people are able to engage in a RIS process when the very information they need is outside of their means to purchase.

This RIS is important but it is just the opening sprint of a marathon. A marathon that must be completed transparently and inclusively. The disabled community simply can't accept another 20 years of systemic neglect in the transport space.

Initial Areas of Reform

Staff training and communication

NITAN recommends the regulatory option.

NITAN stresses that this training must not only be disabled person led but codesigned with disabled people. Each jurisdiction should work to ensure that where organisations are chosen to deliver training that purport to represent a disabled community, this is also community accepted. There should be caution in the delivery of such training from those organisations who fit the model of a 'service provider'. Whilst fit for purpose for their service delivery, the NDIS has seen the relationship of such with disabled people move to a transactional customer model. Hence not all disabled people will feel represented by such organisations.

Staff training must be seen as more than 'awareness' training. The disabled community has seen various awareness raising initiatives, be it a week or a project focused on the soft aspects of disability, 'that they be seen, that they are equal'. All true, however true training in this space should look to embed a culture of inclusion. It should do this by setting out clear expectations of staff to know the relevant legislative environment in an operationalised sense. Training should be tailored to the job task at hand. It should be just as relevant to the architect designing a conveyance as it is to the customer service operator providing service to the end customer.

NITAN also notes in this space that no amount of training can overcome the systemic barriers that poor build environment design creates. Training shouldn't be the first aid provided to a situation that has a much larger disease as its origin.

Mobility aid safety

NITAN recommends the non regulatory option however strongly recommends further research be done in this area.

NITAN would like to make clear in this space that clarity of responsibility is key. Only codesigned safety systems can provide this. It could be said that a provision for this matter has existed within the current DSAPT and a lack of clarity and lack of innovation has truly been the root issue.

Any mobility aid safety system should be to the greatest amount practicable, self operated by the passenger. This is true inclusion. NITAN holds concerns that overly complex and operationally onerous safety systems could be implemented to 'tick a compliance box' which will have a negative effect on the desire to travel.

Innovation is key in this space, both in terms of the research to be done and in implementation.

Priority seating

NITAN recommends regulatory - sub option 1

NITAN sees a calculation that includes the standing proportion of capacity being taken into account as critical. Without this it is conceivable that the removal of seating could result in a perverse outcome for many traveling public cohorts.

Whilst it is understood by all that transport providers are ultimately responsible for operations, policies and procedures, NITAN notes that the interplay between ensuring priority seating is built and ensuring it is available is key. Staff should be given the relevant policy and operational tools to enforce vacation of seats where appropriate. Awareness campaigns may only play a small part of this.

Allocated spaces in transit

NITAN recommends regulatory - sub option 1

Like priority seating, allocated spaces as a built environment item are only as good as the policies and procedures designed by transport providers to ensure their use is unhindered. Many NITAN members report that the current practice seen throughout many rail operators of push bikes only being allowed off peak as an example, simply means that during this time they will be placed in the allocated spaces. This means large periods of the daily timetable are made off limits to those with disability. The same goes for many services including an airport in their route, with baggage being the offending item. Work must be done in this area to provide surety of travel for disabled customers.

Intrusions into the space of the allocated spaces must be absolutely removed to provide surety of access to the disabled travelling public. NITAN has concerns that to make certain provisions for incursion into the space is removing clarity from the DSAPT. It is acknowledged that sometimes these are unavoidable but in this case remedies such as unjustifiable hardship should be strengthened, clarified and then used rather than piecemeal allowances.

Digital information screens

NITAN recommends the regulatory option

The DSAPT must be seen as to be keeping pace with technology advances. It is a balancing act to ensure prescriptive standards don't hinder innovation but on the same hand surety of information service delivery is key in providing surety for the disabled travelling public.

Lifts

NITAN recommends the regulatory option

NITAN sees this issue as one of much more than technical specifications. Although important, the issues of lift uptime, maintenance, and equivalence when lifts are out of service are of crucial importance to disabled passengers.

Members routinely see lifts out of service for months at a time when parts are being sought. There is simply no equivalence in this situation when other avenues for access (stairs etc) exist for the remainder of the travelling public.

NITAN strongly recommends service uptime regulatory guidelines are developed and implemented to ensure that there is a strong regulatory mechanism encouraging transport providers to see the seriousness of this critical infrastructure.

Website accessibility

NITAN recommends the regulatory option - sub option 3

NITAN sees no reason why industry can't keep pace with an accepted industry standard. It is acknowledged that there will be a cost burden to this. However, there will be a commensurate cost burden for not taking this approach. Opportunity cost is a driver that must be further explored in many areas of the DSAPT and website accessibility is no different.

Communication during service disruption

NITAN recommends the regulatory option

It is NITAN's belief that anything other than the regulatory option in this case will not have a measurable effect on the accessibility of communication. The variables at play mean that the complexities of developing a communication matrix must be codesigned with customers and potential customers, matching the operational possibilities within given conveyances.

Gangways

NITAN recommends the regulatory option

The disabled traveller is looking for surety of travel. A well thoughtout definition of a gangway, its alignment with an access path and assurance that it will be accessible during a known percentage of the tidal flow pattern gives this. The provision of TGSI's to a set standard also provides this surety and safety for the blind and low vision communities.

Assistance animal toileting facilities

NITAN recommends the regulatory option

It should be acknowledged that an assistance dog for someone of low vision or blind is of no more an optional aid than a wheelchair is for that of a person with a physical disability. Once we come to this logical conclusion then the provision of services for such an aid is unavoidable. Again, this comes to the surety of travel. Not knowing whether any provision is available at your chosen destination leads to a situation of erring on the side of caution and not traveling.

Work should be done to ensure a proper and workable definition of a transport node is developed that balances the burden of the transport provider with the opportunity cost of losing a passenger to the transport network. Having said this, in time all transport nodes should include such critical infrastructure. If, not then again as previously mentioned, many times mechanisms like unjustifiable hardship should be clarified to ensure they can and will be used to give surety to not only the traveling public on their travel needs, but the transport provider of their legal standing.

Emergency egress

NITAN recommends the regulatory option

The right of a disabled person to safe emergency egress options is self-evident and NITAN hopes accepted by all. However, the ownership of responsibility for such is sometimes not so evident. Significant work and resources need to be devoted to bringing local government along on the DSAPT journey. This is of no greater importance than in respect to emergency egress. With many transport sites being on or adjacent to local council owned land transport providers can't be the only bodies who engage in the DSAPT. Work must be done on education of both providers and education of the disabled community on lines of demarcation. State and local government members have a role to play in this space and it is crucial all 3 levels of government come together to ensure that disabled people are not the ones to fall through the cracks of bureaucracy.

Fit for purpose accessway

NITAN recommends the regulatory option - principle path of travel - sub option 2 - access paths to be kept clear - sub option 1

It is NITAN's view that ramps and walkways must be the principal path of travel and have primacy in pedestrian capacity over stairs. However, what this paper doesn't address is the complexity of whether ramps and walkways should, wherever possible, have primacy over lifts. Whilst it's acknowledged as not always appropriate it is undeniable that ramps do ensure surety of travel when taking into account earlier thoughts on lift outages and downtime.

Access paths should be kept clear at all times regardless of the time of operation of the transport node as in some cases the transport node will be used as a path of travel for non transport means.

Wayfinding

NITAN recommends the regulatory option

NITAN strongly encourages further ways to strengthen wayfinding in the DSAPT. Wayfinding crosses typical disability cohort boundaries. Often thought of as a blind and low vision community issue, it's well known that those on the autism spectrum, those with intellectual disability and indeed those with physical disability seek out the typical design features of good wayfinding including TGSI's as they too see them as defining what will be an accessible path of travel.

Wayfinding as a system must be codesigned with the local community in order to be effective as the obvious path of travel to a building designer and that of a disabled person are not always similar.

Tactile ground surface indicators

NITAN recommends the regulatory option

Whilst it is acknowledged that warning or safety context use of TGSI's must always take preference research and use of directional TGSI's has progressed tremendously during the course of the current DSAPT. Wayfinding as an overarching system of self location must include this as a key feature in the future DSAPT.

Passenger loading areas

NITAN recommends the regulatory option - sub option 3

Both a definition of and specifications of a passenger loading area must be developed and inserted in the future DSAPT. To remain silent on such a critical issue will lead to years more of exclusion for disabled people and confusion for transport providers and local government.

Sub option 3 is a scalable solution to this issue that will, when implemented, correctly ensure safe arrival and departure of the disabled community. It is noted however that like many potential inclusions in future DSAPTs and indeed the current good communication and cooperation between transport providers and local governments will be critical to success in this area.

Multiple formats of information

NITAN recommends the regulatory option

It should be acknowledged and accepted that no one mechanism for communication will suit all disability cohorts. Much the same as one would not suit all of the wider public. For this reason, communication plans must be codesigned with the disabled community to ensure community acceptance.

A balance must be struck between innovation and technological solutions and an acknowledgement that the disabled community in general sits behind the pace of the wider community in the take up of technology. All efforts in this area should be seen as 'adding on', with taking away options only done when codesigned and researched fully to ensure that negative implications are minimised.

Conclusion and recommendations

NITAN has through this RIS response overwhelmingly favoured that of the regulatory options in our responses. The reason for this is simple. They, and only they, provide surety of travel for the disabled community. They provide strict targets which are able to be measured. Following on from this **NITAN recommends** accurate monitoring and reporting should follow the implementation of new regulations. If not implemented before, then during the current DSAPT. It is a tragedy that the monitoring of compliance targets has not been implemented despite featuring as a key topic in each 5 yearly review. This is the only way forward towards surety of travel.

The Federal Government and/or COAG should establish a process for the collection of current data and evidence on the extent to which people with disabilities are able to access public transport on an equal basis. Data collected should include organisational data, data from complaints and submissions, research, consultation with staff, customers and the Australian Human Rights Commission. The data collected should be compiled into a report that is made publicly available, on either an annual basis, or at a minimum every two years.

Logically then **NITAN recommends** work should be done on amendments to the DSAPT to require public transport operators and providers to make publicly available action plans to indicate the steps they will take to ensure they will meet the targets as set out in the DSAPT. For too long disabled people have been told 'trust us we are doing the work'. We, as a society, must hold transport providers to account on this.

NITAN recommends funding for independent oversight of reported compliance and action plans of transport providers. This funding should allow for targeted and systematic reviews of this compliance. This funding should also be directed to ensure oversight of engagement mechanisms set up by transport providers in relation to any codesign work completed. Codesign must be seen as more than a buzz word of convenience.

Given the undeniable personal cost and efficiency of a victim based complaint mechanism **NITAN recommends** the Australian Human Rights Commission Act 1986 (Cth) should be amended to include a allowance for organisations to bring a complaint in relation to the DSAPT on behalf of a person to both the AHRC and the federal courts.

NITAN notes the issues of the All Aboard Network and others in relation to fair provision of relevant Australian Standards and therefore the ability to both respond to this RIS and decipher the DSAPT in a meaningful way. As such **NITAN recommends** the DSAPT be updated to either replace references to the Australian Standards with the full text of the applicable standard, or the relevant provisions of the Australian Standards should be appended to the DSAPT in full. Members of the public should not be required to purchase external documents to understand their rights and hold transport operators accountable to the Transport Standards.