

23 April 2021

Disability Transport
Land Transport Policy
Surface and Transport Policy
Department of Infrastructure, Transport, Regional Development and
Communications
By email: DisabilityTransport@infrastructure.gov.au

Dear Sir/Madam

RE: REFORM OF THE DISABILITY STANDARDS FOR ACCESSIBLE PUBLIC TRANSPORT - CONSULTATION REGULATION IMPACT STATEMENT

The Australian Taxi Industry Association (ATIA) is the national peak representative body for the taxi travel services¹ industry and more broadly, the *point-to-point transport* sector² in Australia. Its membership comprises the following State/Territory industry representative bodies –

- New South Wales Taxi Industry Association;
- Taxi Council of Queensland;
- Limousine Association of Queensland;
- Taxi Council of South Australia;
- Tasmanian Taxi Council;

as well as regional branches of ATIA for the –

- Australian Capital Territory; and
- Northern Territory.

In sum, the ATIA represents the majority of stakeholder groups within the point-to-point passenger transport sector across Australia. Put another way, ATIA either directly or indirectly represents over 70,000 small, medium and large public transport businesses.

The ATIA and its members accordingly have an obvious and direct interest in the remaking of the Disability Standards for Accessible Public Transport 2002 (DSAPT). We offer the following observations and comments as feedback to the Consultation Regulation Impact Statement discussing possible DSAPT reforms released on 12 February 2021 (the RIS).

¹ The ATIA considers the ambit of “*taxi travel services*” to include - on-demand and pre-booked, anywhere-to-anywhere, public passenger transport in light vehicles whether hired from a rank, by on-street hailing, or by sourcing electronically (e.g. via a dispatch network / platform).

² New service offerings from the Sharing or Gig Economy resulted in a restructuring of the traditional taxi and limousine / hire car (with driver) sector in 2015 to 2017 and its renaming in NSW and SA as the Point-to-Point Transport sector, in VIC and NT as the Commercial Passenger Vehicle sector, in QLD as the Personalised Transport sector, and in WA, Tas and ACT as the On-demand Transport sector. This paper adopts the term *point-to-point transport* sector.

1. The discussion of Mobility Aid Safety in Chapter 5 presents as failing to consider the issue holistically or comprehensively. Of concern, there is –
 - 1.1. no satisfactory discussion of the diversity of mobility aids’ structural integrity, the potential for failures of such aids in crash events, and the associated hazards that eventuating failures may present for vehicle occupants, without limitation to just passengers with disability;
 - 1.2. no satisfactory discussion of mobility aids’ safe “anchorage points”, their possible non-existence or their certification or their ready identification, within the context of the express safety requirement in the DSAPT Guidelines at 1.22(2)(d)³; and
 - 1.3. a seeming preoccupation with passive restraining systems in buses, light rail and trams and flawed assumption that safety is not so integral to the public transport service being provided that the supply of passive restraining systems for all passengers may not be discriminatory for persons with disability (e.g. in the case where person with disability requires an active restraining system to travel safely, and as safely as people without disability, on the respective conveyance).
2. The discussion of Allocated Spaces in Chapter 7 presents as preoccupied with conveyances other than wheelchair accessible taxis (WATs). Nonetheless, we note that the taxi segment of the point-to-point transport sector remains firmly committed to utilising vehicles for WAT services that are capable of accommodating cuboid (3 dimensional) access and allocated spaces not less than 800mm x 1300mm x 1500mm (except where subject to unavoidable, minimal intrusion).
3. The discussion of Passenger Loading Areas in Chapter 18 presents as potentially seriously flawed for the purposes of public consultation and promoting informed feedback.
 - 3.1. The chapter heading and introduction (i.e. s18.1) present as connoting wider application than public transport infrastructure and precincts and so applications beyond the scope of DSAPT. While there is some clarification of constraints later in the paper,⁴ they hardly present as satisfactory for ensuring all readers have a common understanding of the ambit of “passenger loading zones”. As an example of conflation in the RIS’ discussion, there is no clear distinguishment of “kiss-and-ride areas“ only falling within the ambit of DSAPT (and the RIS) when within public transport infrastructure and precincts vis-a-vis “taxi ranks” which are public transport precincts in themselves and so always within the ambit of DSAPT, irrespective of whether co-located with other public transport infrastructure.
 - 3.2. The term “ride share services” (or “ride share”) is used throughout the chapter without being appropriately defined. The term has a wide range of meanings in public use and so the absence of a definition presents as an obvious deficiency for the RIS. The deficiency is compounded by the RIS’ inconsistencies,

³ “passengers will ensure that their wheelchairs and similar mobility aids comply with relevant safety requirements such as criteria for belt anchorage points”

⁴ E.G. at paragraphs 5,6 & 7 on page 127; last paragraph on page 129, first paragraph on page 130

misspelling of the same term in Chapter 11⁵ and provision of definitions for other terms that are unclear or ambiguous⁶. The ATIA recommends the Decision RIS resolve the “ride share” definitional deficiency by adopting the taxonomy set out in the SAE International’s free standard, *J3163 Taxonomy and Definitions for Terms Related to Shared Mobility and Enabling Technologies (Sept 2018)*.

- 3.3. The term “personal vehicles” used in the RIS’ s18.1 presents as inappropriate and confusing in the context. It appears that the RIS was probably meaning “private transport vehicles” or “private transportation”, both of which have meanings quite distinct from “personal vehicles”.
- 3.4. The assertion that, “... mobility aid users are often dropped-off on kerbs at busy intersections” in the RIS’ s18.1 appears to confuse experiences at locations outside of public transport infrastructure and precincts with experiences inside public transport precincts. That is, it appears to be referring to a problem that is largely, if not entirely, outside the scope of DSAPT⁷.
- 3.5. The RIS’ conflation of “public loading areas ... ride share and taxi areas” presents as erroneous and a flawed base upon which to argue for “the same set of requirements” to apply. Public loading areas are not exclusively used by private transport vehicles, they are areas that may equally used by private transport vehicles and public transport vehicles. The requirements for “ride share” areas, if or where created, potentially may have common requirements with public loading areas. However, taxi areas will likely require additional accessibility requirements to public loading areas (e.g. WATs in Australia typically employ rear loading hoists). Accordingly, ATIA recommends that taxi ranks (i.e. areas zoned for the exclusive use of taxis for pick-up and drop-off of passengers) should be considered separately and distinctly in a future Consultation RIS.
- 3.6. The RIS’ statement in s18.3, “As private vehicles and ride share vehicles are not covered ...” by DSAPT presents as seriously erroneous and misleading. Firstly, “ride share vehicles” when available for hire by the public are providing a public transport service for the purposes of DSAPT and so are neither exempt nor not covered. Secondly, privately owned vehicles can and do provide public transport services and so private vehicles may in many circumstances be conveyances explicitly covered by DSAPT. Thirdly, the conclusion that drop off / pick up points used by private vehicles and ride share vehicles do not need to be accessible under DSAPT presents as erroneously ignoring (or forgetting) the RIS’ contextual constraint of public transport infrastructure and precincts. The drop off / pick up points used by “private vehicles and ride share vehicles” (and any other private transport and public transport vehicles) located in public transport infrastructure and precincts must in fact comply with DSAPT⁸. Lastly, the assertion that the drop off / pick up points must be accessible because they “can be used by taxis” presents as flawed logic. As an anywhere to anywhere flexible public transport service, it follows that taxis will drop off / pick up passengers at a wide and diverse array of locations that inescapably differ markedly in their degree of accessibility.

⁵ I.E. “rideshare” at paragraph 2 on page 80

⁶ E.G. definition of “dial-a-ride services” supplied in footnote 1 on page 9

⁷ E.G. Private transportation dropping-off passengers, with or without disability, at locations not controlled by public transport operators or infrastructure owners, presents as outside the scope of DSAPT.

⁸ and if not DSAPT, then the DDA.

- 3.7. The RIS' conflation in s18.3 in the "Passenger loading areas definition" sections of "private vehicles, taxis and ride share vehicles" presents as unfit for its intended purpose and potentially misleading. The RIS appears to mean "private transport and public transport vehicles" and ATIA recommends that the Decision RIS adopts that terminology.
- 3.8. The RIS' statement in s18.3 in the "Passenger loading areas definition" sections that "taxi ranks can be provided in addition to drop off / pick up points" and "If a taxi rank is provided at a public transport facility ..." presents as unnecessarily weak and unlikely to fully promote DSAPT's stated purpose, namely "to enable public transport operators and providers to remove discrimination from public transport services⁹". ATIA recommends that the owners of public transport infrastructure and precincts should be required to prioritise provision of accessible taxi ranks. The RIS' treatment of passenger loading areas presents as a suboptimal approach for promoting DSAPT's support of the Disability Discrimination Act's (DDA) purpose, namely of seeking "to eliminate discrimination, 'as far as possible', against people with disabilities", if accessible public transport services provided by taxis are expected to compete with disproportionately larger numbers of inaccessible private transport vehicles for scarce drop off / pick up space at public transport infrastructure and precincts.
- 3.9. The RIS' discussion in s18.4 in relation to costings presents as flawed and misleading.
- 3.9.1. In ATIA's view, the RIS' assumption that the owners or controllers of land and infrastructure that comprise taxi ranks are exempt from, or otherwise not covered by, DSAPT's requirements regarding access paths, waiting areas or boarding points and kerbs is not correct and it materially misleads consideration of costs. As far as ATIA is aware, there are a large proportion of taxi ranks that are not fully accessible or compliant with DSAPT. It follows then that even maintaining the status quo for DSAPT would, and rightfully should, result in significant financial costs being incurred. It also follows that if all taxi ranks were finally made accessible, and not just taxi ranks located in conjunction with other public transport infrastructure and precincts¹⁰, the benefits to people with disability would also be significant.
- 3.9.2. The RIS appears to assume the costs of making existing infrastructure accessible is negligible (e.g. not to be costed) or on a par with making new infrastructure accessible. In either case, the assumption is unlikely to hold in practice because the cost savings achievable by incorporating accessibility into projects at the design phase are typically materially superior vis-a-vis the costs of retrofitting accessibility.
- 3.9.3. The RIS provides no estimates of the number or proportion of taxi ranks generally, plus passenger drop off / pick up areas in public transport infrastructure and precincts specifically, that are not satisfactorily accessible. If the quantum of inaccessible areas is substantial, then the

⁹ I.E. s1.2(2) of DSAPT

¹⁰ because taxi ranks are intrinsically public transport infrastructure and precincts in themselves.

RIS speculations of costs being minimal are likely to be invalid and unreliable (irrespective of the scenario).

4. In regard to the Questions for providers and operators of public transport, ATIA advises –
 - 4.1. The failure of the owners and/or controllers of taxi rank land and infrastructure to make them fully accessible by 2021 presents as an argument against the status quo, at least in respect to how DSAPT is currently perceived and enforced. Appropriate, effective and efficient regulatory intervention presents as warranted given the experience to date.
 - 4.2. For the regulatory option, ATIA considers sub-option 3 to be preferred to sub-option 1, which in turn would be preferred to sub-option 2.
 - 4.3. Neither ATIA nor our members, as public transport providers in the point-to-point transport sector, design or build “passenger loading facilities”.
 - 4.4. “If passenger loading can only be provided on one side of a public transport premises or infrastructure” it presumably presents as a potential inconvenience for passengers, although there would be many circumstances where the inconvenience may be minimal or even negligible (e.g. airports, ferries, central train stations etc).
 - 4.5. “Circumstances where passenger loading can only be provided on one side” would include where the physical attributes of the location constrain other alternatives (e.g. at airports, ferries, central train stations etc). However, it likely that in many other cases, infrastructure owners or controllers made such decisions with their own financial benefit primarily in mind.
 - 4.6. ATIA is unsure about whether there may be an “optimum layout” of a taxi rank or passenger loading zone given the diversity of site constraints that must inevitably be taken into consideration. However, the aspirational attributes presented in the RIS as 3(a-j) on pages 127, 128 and 130 comprise a reasonable basis for qualitative assessment of the accessibility of a zone’s design.
 - 4.7. It seems unreasonable to expect AS/NZS 2890.6:2009, as a standard for “parking facilities off-street parking for people with disabilities”, or AS 2890.5:2020, as a standard for “parking facilities on-street parking”, to be fit for a purpose clearly outside their combined scope, namely “the design of accessible taxi ranks and passenger loading bays”. It follows that an improvement may be possible by expanding the scope of existing parking standards to encompass drop off / pick up applications or the development of a whole new standard. An even better improvement would be to reference a fit for purpose standard that is free.
 - 4.8. The costs associated with ensuring all taxi ranks and relevant passenger loading zones comply with DSAPT is presumably considerable and this doubtless accounts for the continued existence of large numbers of non-compliant zones almost 20 years after the making of DSAPT. The costs comprise remediating existing sites in respect of access paths, waiting areas and boarding points and kerbs, possibly relocating some zones too difficult or inconvenient to remediate, and ongoing maintenance.

Conclusion

The ATIA and our members consider the updating of DSAPT to be a welcome development but long overdue. The comments in this submission reflect our strong support for the purposes to which both DSAPT and DDA aspire and our wish to make a constructive contribution in the remaking of DSAPT. We are absolutely convinced that the point-to-point transport sector can, and must, play an active role in building a more accessible public transport system for Australia.

Finally, should you require any further information or clarification in regard to any matter raised in this letter, please do not hesitate to contact me directly on (07) 3339 3196.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Blair Davies', with a stylized flourish at the end.

Blair Davies
Chief Executive Officer
Australian Taxi Industry Association