

Mr Mike Mrdak
Secretary
Department of Infrastructure and Regional Development
GPO Box 594
CANBERRA ACT 2601

Dear Mr Mrdak

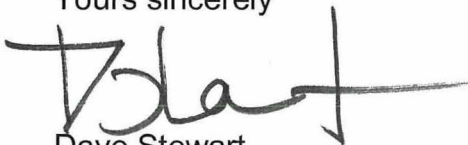
I am pleased to provide you with Transport for NSW's comments in response to the *Review of the Disability Standards for Accessible Transport 2002 Draft Report*.

With the exception of Recommendation 1, Transport for NSW is supportive of the recommendations in the Draft Report. Transport for NSW is pleased that its recommendation to modernise the Transport Standards has been adopted in the Draft Report. There is substantial scope to make the Transport Standards more realistic for transport operators by removing standards that are not capable of being complied with and to take into account technological innovations since the Standards were introduced in 2002.

Transport for NSW's response also raises the ongoing funding challenges in meeting the 80 and 90 percent compliance targets by December 2017. It is important that this issue, along with the level of funding and resources that the Australian Government will contribute to the implementation of the Draft Report recommendations are addressed in the Final Report.

For further information and ongoing advice in relation to this submission, please contact Ms Gail Le Bransky, Principal Manager, Accessible and Inclusive Transport. Her direct line is [REDACTED]

Yours sincerely



Dave Stewart
Secretary

15 JUL 2014

Submission in Response to the Draft Report of the Review of the Disability Standards for Accessible Public Transport 2002

Introduction

Transport for NSW (TfNSW) congratulates the Commonwealth Department of Infrastructure and Regional Development (DIARD) on the completion of the *2012 Review of the Disability Standards for Accessible Public Transport 2002* (DSAPT Review) and the timely release of the Draft Report.

TfNSW welcomes the opportunity to respond to the Draft Report. This submission is made in addition to its earlier submission in response to the DSAPT Review *Issues Paper* forwarded to the DIARD in **December 2013**.

DIARD's Draft Report raises many questions about the *Disability Standards for Accessible Public Transport 2002* (Transport Standards) that TfNSW hopes the Commonwealth will address in its final report, notably:

- The level of funding and resources the Australian Government will contribute to implementation of the Draft Report recommendations.
- The role of the Australian government in providing additional funding to support implementation of the Transport Standards, particularly by local government.
- How proposed changes to modernise the Transport Standards will achieve an appropriate balance between the interests of industry stakeholders and those of the disability sector.
- What are the benefits of imposing additional red tape on states and territories and transport operators by introducing a national compliance framework?

TfNSW is concerned that the ongoing funding challenges to meeting the 80 and 90 per cent compliance targets to be met by December 2017 have not been addressed in the Draft Report. TfNSW would welcome a clear commitment from the Australian Government to contribute to the cost of bringing infrastructure into compliance for both state and local governments. If funding is not an option, the final report should give consideration to reviewing the compliance targets for 2017 and 2022.

A number of the recommendations from 2007 DSAPT Review were not implemented. While there may be valid reasons for these recommendations not to go forward, these reasons should be made explicit in the 2012 Draft Report. TfNSW is particularly concerned that Recommendation 7: *Commonwealth, State and Territory governments provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure* has not been addressed in the Draft Report.

This submission raises concerns about a number of the Draft Report recommendations for the DIARD's consideration. While generally supportive, TfNSW notes that implementation of key recommendations in the Draft Report will have significant resource implications for all states and territories, which should be quantified in the final report.

A discussion in response to each of the Draft Report recommendations is set out in the following table.

Response to Recommendations

Draft Recommendations	TfNSW Response
<p>Recommendation 1 — National reporting on compliance</p> <p>That the Australian Government, jointly with state and territory governments, establish a national framework for reporting on compliance by 30 June 2016.</p>	<p>TfNSW does not support establishment of a national framework for reporting on compliance.</p> <p>TfNSW is committed to transparent reporting and ongoing consultation with the disability sector regarding implementation of the Transport Standards. However, the current recommendation imposes significant red tape and costs for states and territories and private sector transport operators.</p> <p>TfNSW's preferred approach is to develop a consistent reporting framework on 'accessibility'. This will enable public transport providers and operators to use common performance and outcome-focused criteria to demonstrate how access to transport services has been improved.</p> <p>At its meeting on 1 May 2014, the Accessible Public Transport Jurisdictional Advisory Committee (APTJAC) recommended amendment of Recommendation 1 by removing the word 'compliance' and replacing it with 'accessibility'. TfNSW endorses the APTJAC recommendation for the following reasons:</p> <p>Costs outweigh the customer benefit</p> <ul style="list-style-type: none"> • In a public transport environment as large and complex as NSW detailed compliance information is costly to obtain and maintain. The cost of collecting benchmark data for a compliance framework is estimated to be \$1 million. Recurrent investment is required to maintain and update compliance data. <p>Red tape burden on private transport operators</p> <ul style="list-style-type: none"> • Introduction of a compliance framework will adversely impact contracted public transport services, requiring additional compliance reporting which may prove onerous to small operators. This approach reduces the overall public value of contracted over direct services.

Draft Recommendations	TfNSW Response
<p>Recommendation 2 — Modernise the Transport Standards</p> <p>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.</p>	<p>TfNSW supports Recommendation 2. Modernisation of the Standards to provide realistic specifications for transport operators is long overdue.</p> <p>In its submission to the 2012 Review of Disability Standards for Accessible Public Transport, TfNSW strongly recommended amendments to remove or amend standards that are not capable of being complied with and, where applicable, develop new standards to take into account technological innovations that supersede the prescriptions contained in the original 2002 Transport Standards.</p>

Draft Recommendations	TfNSW Response
<p>Recommendation 3 — The complaints process</p> <p>That the Australian Government considers the concerns raised about the complaints process.</p>	<p>TfNSW supports in principle Recommendation 3, provided that its implementation does not bring about a shift in the onus of proof that discrimination has occurred, or removes the requirement for conciliation through the Australian Human Rights Commission (AHRC) prior to a matter proceeding to the Federal Court. Implementation of Recommendation 3 should be in consultation with all states and territories to ensure that the interests of all stakeholders are balanced.</p> <p>Submissions to the DDA review expressed concern that the current complaints procedures for breach of the Standards are time-consuming, difficult and costly for individuals. In particular, disability organisations and advocacy groups have called for the legislation to be amended to allow to them to represent individual complainants in the Federal Court or the Federal Circuit Court. At present, individual complainants may be represented by another person in discrimination matters before the Federal Court or the NSW Civil and Administrative Tribunal (NCAT). However, advocacy organisations cannot bring actions on behalf of individual complainants.</p> <p>In NSW, people with disability already have access to the legal system without risk of costs being awarded against them through the <i>Anti-Discrimination Act 1977</i> (NSW). Conciliation through the AHRC is roughly equivalent to the Anti-Discrimination Board (ADB) in terms of time and cost. AHRC figures show that 6 per cent of finalised cases proceed to either the Federal Court or the Federal Circuit Court. Delays and costs can escalate dramatically if an appeal is taken to the Federal Court or the Federal Circuit Court. Also, litigating can be risky in the Federal Court as costs can be awarded against losing litigants, which is particularly problematic for personal litigants.</p> <p>Greater clarity around the legal consequences of non-compliance with the Transport Standards would assist both transport operators and providers and their customers with disability. For example, although section 32 of the DDA makes it unlawful to breach the Disability Standards, non-compliance with the Transport Standards may not of itself provide a sufficient basis for a person to lodge a complaint under section 46P of the <i>Australian Human Rights Commission Act</i>, or to commence proceedings under section 46PO(1) of that Act.</p>

Draft Recommendations	TfNSW Response
<p>Recommendation 4 — Whole-of-journey accessibility</p> <p>That the Australian Government, in collaboration with state, territory and local governments develop accessibility guidelines for a whole-of-journey approach to public transport planning by 31 December 2015.</p>	<p>TfNSW supports Recommendation 4.</p> <p>TfNSW has begun to incorporate precinct redevelopment as part of Easy Access and Major Station upgrade projects. Projects that engage local governments and encourage them to invest in accessible roadside infrastructure, footpaths, bus stops and universally accessible town centres increase the public value of transport upgrades.</p> <p>Guidelines will also help to ensure that investment by local councils is fit for purpose. TfNSW is aware of examples of rural bus and coach stops that have not been built to enable deployment of bus ramps or a coach hoist.</p>
<p>Recommendation 5 — National motorised mobility aid labelling scheme</p> <p>That the Australian Government, in collaboration with state and territory governments, develop and implement a national motorised mobility aid labelling scheme.</p>	<p>TfNSW supports Recommendation 5.</p> <p>Safe, efficient and consistent carriage of all types of mobility aids is a significant issue for transport operators and providers. TfNSW supports work currently being undertaken to develop a national design standard for mobility scooters to underpin labelling of mobility aids as safe for carriage on public transport conveyances.</p>
<p>Recommendation 6 — National wheelchair accessible taxi compliance milestones</p> <p>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.</p>	<p>TfNSW supports Recommendation 6.</p> <p>TfNSW supports review of the current compliance target of equivalence of response time and acknowledges the difficulties faced by the Taxi Regulators' Group in developing an appropriate alternative.</p> <p>In NSW the comparative response time is measured as monthly 'average' response times for bookings made through a network. While the comparative response time between standard taxis and WATs is one tool for measuring service access, the averaging process masks differences in response times for different parts of a licensed area or at different times of day. Response time data has only recently become available for rural and regional NSW, noting that in some locations where the overall demand for taxi services is low, there are no WATs. WAT availability can be highly variable in other country locations.</p> <p>TfNSW notes that should the current measure be replaced with a staged implementation timeframe, similar to that for other modes of transport, an end target of 100 per cent of fleet is not needed to satisfy demand for WAT services.</p>

Draft Recommendations	TfNSW Response
<p>Recommendation 7 — Review of Disability Access Facilitation Plan</p> <p>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.</p>	<p>This is a matter for the Commonwealth Government.</p>