

Our ref: DG27445

18 JUL 2014

Disabilities Transport Access Secretariat
Road Safety and Transport Access Branch
Department of Infrastructure and Transport
GPO Box 594
Canberra ACT 2601

DisabilitiesTransportAccessSecretariat@infrastructure.gov.au

Dear Sir/Madam

Thank you for the opportunity to respond to the draft report on the *2012 Review of the Disability Standards for Accessible Public Transport 2002* (the Transport Standards).

The attached submission from the Queensland Department of Transport and Main Roads (TMR) focuses comments on the proposed seven recommendations contained within the draft report.

If you require further information, I encourage you to contact Ms Suzanne Rose, Executive Director (Service Policy and Investment), TransLink Division on [REDACTED] or by email at [REDACTED]

Yours sincerely



Neil Scales
Director-General
Department of Transport and Main Roads

Enc (1)

**Draft Commonwealth Report
2012 Review of the Disability Standards for
Accessible Public Transport 2002**

Submission

Contents

Introduction	3
Overview.....	3
Purpose of Submission.....	3
Feedback on Recommendations	4
National reporting on compliance	4
Modernise the Transport Standards.....	6
The complaints process.....	7
Whole-of-journey accessibility	7
National motorised mobility aid labelling scheme.....	8
National wheelchair accessible taxi compliance milestones	8
Review of Disability Access Facilitation Plan.....	9
Conclusion	9

Introduction

Background

On 9 May 2014, the Australian Department of Infrastructure and Regional Development released a draft report on the 2012 review of the Transport Standards for public consultation. This draft report was informed by submissions made from various organisations, including governments, in response to an issues paper released in November 2012 by the former Australian Department of Infrastructure and Transport.

The Queensland Department of Transport and Main Roads (TMR) responded to the issues paper in June 2013. This submission contained information on the compliance of the passenger transport network in Queensland with the Transport Standards and outlined achievements that have been made in providing a more accessible public transport network since the previous review in 2007.

Overview

The draft report on the 2012 Review of the Transport Standards looks at the current efficiency and effectiveness of the Transport Standards in removing discrimination as far as possible for people with disability. As discussed in the draft report, many issues have been raised by governments and public transport operators around implementing the Transport Standards. The draft report also identifies concerns raised by the disability sector on the effectiveness of the Transport Standards in creating a more accessible public transport network. Seven recommendations are proposed in the draft report and TMR supports each of these in principle but also raises a number of issues to be considered prior to their implementation.

Recommendation 2 is related to Modernising the Transport Standards and is an important action to alleviate some of the concern presented by the disability sector and public transport providers and operators. The framework of the Transport Standards needs to be re-evaluated. There needs to be more flexibility to cover the different modes of public transport and the different environments in which public transport networks operate across jurisdictions. There is also a requirement to ensure modernised Transport Standards are designed in such a way that it remains relevant moving into the future.

Issues identified by TMR for consideration as part of the modernisation process would have an impact on the development of a national reporting framework on compliance, as per Recommendation 1 of the draft report. As such it would be beneficial to have an understanding of how any modernised Transport Standards would look prior to a reporting framework being finalised.

Developing a national reporting framework would improve data collected on the accessibility of Australia's public transport networks and as such provide a clearer picture as to the effectiveness of the Transport Standards in improving the accessibility of public transport. However, any reporting framework implemented should not be onerous or costly for those parties responsible for reporting on compliance.

TMR notes that Recommendations 5 and 6 respond to concerns initially raised through the 2007 Review of the Transport Standards. A significant amount of work has already been undertaken in implementing these recommendations. Future work on these recommendations should build on the work already completed and lessons learnt so far.

Purpose of Submission

In developing this submission, TMR has focused on the seven recommendations proposed by the Australian Government in the draft report on the 2012 Review of the Transport Standards. Any concerns or issues requiring consideration in implementing the recommendations have been outlined in the submission.

Feedback on Recommendations

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.*

TMR supports the establishment of a national framework for reporting on compliance and improvements in the accessibility of public transport services in principle. In its submission to the *2012 Review of the Disability Standards for Accessible Public Transport 2002 (Transport Standards) Issues Paper*, TMR raised concerns around the lack of consistency with reporting on compliance with the Transport Standards across each jurisdiction. TMR suggested that advice from the Commonwealth outlining an agreed national approach to compliance milestone assessments would be beneficial in enhancing the consistency of measurement and reporting across jurisdictions.

However, TMR has a number of concerns that will need to be addressed prior to its implementation. These issues are outlined in further detail below and include exemptions for operators, providing guidance for compliance reporting, reporting on accessibility versus strict compliance reporting, clarifying data collection responsibilities and collecting data for non-contracted operators. It is also noted that the second recommendation from the review is to modernise the Transport Standards. Should Recommendation 2 be implemented, the development of a reporting framework could be delayed until a revised version of the Transport Standards is complete. This will ensure the reporting framework is relevant to the most current version of the Transport Standards.

Caution needs to be applied in the development of a national framework for reporting on compliance to ensure that the framework developed is not too onerous for public transport providers and operators. Similar to the Australian Government, the Queensland Government is currently undertaking a process to reduce red tape and impositions on the public. TMR would support a reporting requirement to ensure consistency of information collected across jurisdictions on the basis that any framework implemented is not overly onerous, proper consideration is given to the issues as outlined below and that reporting be aligned to commence directly after each five year milestone in the Transport Standards to inform evaluations of the effectiveness and efficiency of the framework in removing discrimination from public transport services.

Exemptions

Exemptions granted to operators by the Australian Human Rights Commission need to be incorporated as part of the reporting framework. This will ensure a comprehensive picture of compliance is provided. Should exemptions not be included an operator will simply appear to be non-compliant whereas they may have an exemption providing an extension of time for compliance to be achieved.

Providing guidance

Rather than a prescriptive compliance reporting process, it may be more beneficial to provide guidance and agree on principles relating to how reporting should ideally be undertaken, such as frequency of reporting and how to determine the level of compliance and accessibility of a conveyance or infrastructure.

TMR is aware that the passenger rail operator in Queensland (Queensland Rail) has reflected this view stating that there is a need to develop consistent national interpretations of requirements in relation to specific situations, constraints and customer priorities in its initial submission to the 2012 Transport Standards Review.

Currently, no guidance is provided in the Transport Standards for determining the overall accessibility of a conveyance as opposed to the compliance of the individual elements required in the Transport Standards. For example, Brisbane Transport successfully made an application to the Australian Human Rights Commission to exempt services from complying with Part 11 of the Transport Standards, relating to hand-

rails and grab-rails. Certain Brisbane Transport buses had all the required hand-rail and grab-rails however they did not comply with the specified minimum diameter and gap from adjacent surfaces. Despite non-compliance with this element, it was argued that the buses still offered an accessible service for most people with disability. TMR are of the view that if the vehicle is compliant with the majority of elements, and these elements include those that will mean the conveyance is accessible for people with disability (e.g. allocated space), it could be considered an accessible service.

Accessibility versus compliance reporting

The framework could focus on performance based reporting on accessibility rather than being an audit of strict compliance against the Transport Standards. This will also address instances where 100 per cent compliance with the Transport Standards is unachievable, such as bus stops on certain types of terrain, ferry terminals in a tidal environment and narrow gauge track railways.

Despite being unable to achieve 100% compliance, a level of accessibility for people with disability may still be possible. Using this focus may encourage providers and operators to utilise funding to create an accessible public transport network, rather than allocating funding elsewhere as the risk of a complaint will still exist if upgrades cannot achieve full compliance with the Transport Standards.

Data collection responsibility

The Transport Standards need to include clearer definitions of who is considered to be an 'Operator' and who is considered to be a 'Provider'. Clarity on these definitions should also provide clarity on where responsibility lies in terms of reporting on compliance.

Should governments be expected to undertake a coordination role for collecting data on the compliance of government-contracted public transport operators it will mean additional resources will be required by government agencies to coordinate input and develop appropriate reporting. This will be particularly true if operators are uncooperative and continued follow up is required in order to obtain the data. There is also the risk that should the reporting framework result in significant additional costs by operators, there is the potential that any cost increase incurred to undertake the task will be passed on to government through contractual arrangements.

There is also a risk that in providing data on compliance it is assumed that operators are able to properly comprehend their accessibility obligations within the complex framework that currently exists. The current framework means operators need to interpret their requirements across three separate documents, the *Disability Discrimination Act 1992* (DDA), Transport Standards and Australian Standards.

While DDA and Transport Standards are freely available, the Australian Standards are not publicly available and must be purchased by each individual operator. The Australian Standards are also updated from time to time whereas there is no mechanism for the Transport Standards to also be updated to reflect this. This provides another element of confusion for operators in determining their obligations. If strict adherence to the Transport Standards is applied, operators are required to comply with previous Australian Standards which may not necessarily present best practice technical requirements.

While the risk of operators being unable to properly comprehend their requirements has been identified, it needs to be noted that validation by government of reporting provided by operators would not be feasible.

There is currently no legislative power, other than what is specified in contracts with operators, to supply this information. Different contractual arrangements across the State may result in differing percentages of the entire fleet being included in any assessment.

In relation to public transport infrastructure, there are approximately 18,000 bus stops across Queensland. To be able to accurately report on compliance levels of just the bus stops on Queensland's public transport network would require a significant investment in resources, which is not possible in the current fiscal environment.

Data collection for non-contracted operators

The draft report indicated that data from non-contracted, fully commercial operators would also be required otherwise the value of the data provided would be diminished. The Queensland Government currently has no oversight of the level of compliance with the Transport Standards of non-contracted passenger transport operators nor does it have any power to mandate compliance. A legislative power will need to be implemented to ensure non-contracted operators participate in national reporting. This reporting will increase visibility on the compliance levels of non-contracted operators and hold them accountable for ensuring the accessibility of their services for people with disability.

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 industry and the disability community, 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.*

TMR supports modernising the Transport Standards to enable better accessibility to the public transport network for people with disability. Changes are required to the Transport Standards to clarify some requirements and provide more guidance on its implementation. It is acknowledged that the Transport Standards have been in place for over 10 years and as yet has only undergone minor amendments.

It is also acknowledged that this body of work will require a significant investment to deliver the intended outcomes. Extensive consultation will be required to determine required changes to the Transport Standards and how these changes will impact on public transport providers and operators. Reporting on current compliance can also play a role in determining required amendments. Where reporting indicates poor performance against the Transport Standards consideration can be given as to why this is the case and amendments to address identified issues can be incorporated into the modernisation process.

Consideration needs to be given in modernising the Transport Standards to the complex regulatory and contractual environment in which the Queensland public transport network operates. As mentioned under Recommendation 1, there is currently no clear understanding of what is meant by 'Operator' and 'Provider' and who is responsible for ensuring compliance and holds the risk for non-compliance within the complex regulatory framework and structure of arrangements for service delivery.

The public transport network in Queensland faces a number of challenges in achieving 100% compliance. Currently, there is no consideration of issues such as narrow gauge track railways, hilly topography and tidal environments. These issues restrict the ability of the Queensland public transport network to comply with certain aspects of the Transport Standards.

Notwithstanding the need to review the Transport Standards holistically, a number of priority areas have been identified by TMR to focus systemic improvements to the Transport Standards. TMR notes that the 2012 Review recognises harmonising the Transport Standards with the more recent *Disability (Access to Premises) Standards 2010* (Premises Standards) and current Australian Standards is required. Amendments should be made to ensure that future updates to either the Premises Standards or Australian Standard can also be reflected in the Transport Standards as relevant.

Rail

The legacy of narrow gauge track railways in Queensland presents significant barriers to fully complying with accessibility requirements under the DDA and Transport Standards. TMR request that consideration of this issue is addressed through the modernization process to give greater certainty and clarity for the delivery of accessible rail services into the future.

Information and technology

In relation to the provision of information, in some circumstances compliance with the Transport Standards is not possible, such as size 18 font timetables at bus stops. The requirement to provide information in accessible formats can impact on the decision to provide customer information in any format if compliance with the Transport Standards is not possible.

It is noted that the draft report of the 2012 Review acknowledges the advancement of technology since the introduction of the Transport Standards. Consideration on how technology is incorporated into the Transport Standards is required. Providing information through technology based solutions in accordance with feedback from the disability sector may provide equivalent access to information for people with disability both before and during travel.

Environmental considerations

Challenging local topography across some areas of Queensland restricts the ability for bus stops to be 100% compliant with the Transport Standards. TMR has produced a public transport infrastructure manual which provides guidance on the requirements of the Transport Standards and ensures consistency of infrastructure across the public transport network in Queensland. However hilly topography has meant some bus stop boarding points are unable to comply with the Transport Standards. Consideration of this issue as part of this recommendation is important to influence future bus stop design and TMR notes that it has been identified for consideration as part of the 2012 Review.

Similar to hilly topography, ferry terminals operating on the tidal environment are unable to achieve 100% compliance due to the slope of boarding ramps at certain tide levels. Consideration of this issue should also be included as part of this recommendation.

Recommendation 3: The complaints process – *That the Australian Government considers the concerns raised about the complaints process.*

TMR supports consideration of concerns raised, however would not support a full review of the complaints process. Care needs to be taken to ensure that if a new complaints system is introduced, it is not overly onerous and costly to enable people to put forth genuine complaints, however it is not so simplistic that trivial complaints are continually lodged with the Australian Human Rights Commission fostering a litigious environment. A system that opens opportunity for trivial complaints will waste the time and resources of operators and/or providers of public transport services and the Australian Government.

It is currently unclear what is included in the scope of 'considering' the concerns raised, including timeframe for consideration, what consultation with jurisdictions will take place and what is intended once consideration is complete.

TMR has a complaints process which provides an avenue for individuals to make any complaints relating to accessibility on the public transport network in Queensland. Issues around accessibility can then be resolved at the State level wherever possible. Should resolution of issues not be possible at this level, complainants are also able to escalate complaints through the Queensland Civil and Administrative Tribunal to attempt a resolution.

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.*

As shown in the Queensland Disability Plan, the TMR Disability Services Plan and Disability Action Plan – Improving Access to 2017, the Queensland Government supports the concept of whole-of-journey accessibility. TMR notes that the state's rail operator (Queensland Rail) has released a draft Accessibility Action Plan 2014 which also highlights transport industry partnerships and an integrated planning approach to improve accessibility. This holistic approach is reflected in:

- Station design - with interconnectivity between public transport modes, for example bus and taxi services.
- Transit Oriented Development projects which connect train stations directly with communities and provide people with disability easier access to essential services and employment opportunities.
- Partnership projects such as the Bus and Train Tunnel, Gold Coast Light Rail and Moreton Bay Rail Link.

TMR supports the concept of whole-of-journey accessibility however implementing it presents many challenges. Several parties would be responsible for certain aspects of the journey and have differing interpretations of the Transport Standards and differing funding priorities.

Extensive consultation with state and territory jurisdictions, providers and operators of public transport will be required in developing the guidelines. Given the large amount of collaboration that would be required in implementing whole-of-journey accessibility, if there is no legislative requirement to comply with the guidelines encouraging relevant stakeholders to contribute may be difficult. Regardless, TMR does not believe the guidelines should be mandated and an initial approach of encouraging collaboration between relevant parties should be tested before a regulatory approach is considered.

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.*

TMR supports this recommendation and acknowledges the significant work that has already occurred in the development of a solution in response to the 2007 Review of the Transport Standards. Successful implementation of this recommendation will provide practical assistance and greater clarity for users and public transport operators as to what devices can be safely carried on public transport conveyances.

Queensland is leading on the Austroads Registration and Licencing Taskforce project to determine a nationally agreed framework for motorised mobility devices regarding the appropriate import, construction and performance of devices; their safe interaction with pedestrians and other road users, and clear identification at point of sale including capability for being transported within public transport conveyances and on infrastructure. This project is recommending that motorised mobility devices imported or offered for sale in Australia after a certain date, must be assessed as meeting minimum requirements to be outlined in a Vehicle Standards Bulletin.

TMR understands that the implementation of a labelling scheme presents a number of challenges, for example the approach to second hand market sales. Subject to regulatory development processes and national agreement, these implementation issues will be raised with the Commonwealth during any future Regulatory Impact Assessment process to be undertaken by the National Transport Commission.

Recommendation 6: National wheelchair accessible taxi compliance milestones - *That the Australian Government, jointly with state and territory governments, develop consistent national compliance milestones and response times for wheelchair accessible taxis by 30 June 2016.*

TMR supports this recommendation and notes the significant work that has already been undertaken in an attempt to find a nationally consistent milestone and that there has been no resolution to date.

A proposal to develop consistent national compliance milestones for achieving equivalent waiting times for accessible taxis has previously been discussed as part of the National Taxi Regulator Group meetings (NTRG). There is agreement across all jurisdictions that there is significant difficulty in reaching a consistent, national position due, in part, to an absence of a national approach to the regulation of the taxi market generally. While there are some similarities, each jurisdiction adopts a different approach and methodology to the measurement of response times for conventional and accessible taxi services. Due to varying regulatory approaches for jurisdiction's taxi industries, it is suggested that individual states and

territories develop and implement measurement methodologies to enable an assessment of responses for accessible taxi services against the response time performance of conventional taxis.

Queensland does not currently monitor response times in regional parts of Queensland. If the requirement to implement consistent response times for wheelchair accessible taxis extended on a state-wide basis that would increase Queensland's regulatory role and have a significant and detrimental impact on taxi operators in rural and remote parts of Queensland who already face ongoing commercial viability issues.

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.*

TMR supports this recommendation. The deregulated aviation industry provides a critical service for connecting people with disability with the broader community. It is important to ensure that people with disability have access to budget airlines to enable them to travel and support their economic activity such as employment.

The aviation industry is largely de-regulated and fully commercial in nature and as such the state government has little visibility over the accessibility of aircraft and airports. Greater visibility over the compliance of the aviation industry with the Transport Standards may be achieved through the implementation of a national reporting framework as per Recommendation 1 and/or working more closely with the industry through the Civil Aviation Safety Authority.

Conclusion

The Transport Standards are in need of change to accommodate rapidly advancing technology into the future and to address concerns that have arisen over years of implementation. Compliance with the current Transport Standards is in some circumstances unachievable given the environment in which the public transport network operates in Queensland. Systemic amendments need to be made to enable adaptability and flexibility of the Transport Standards and shift the focus of the Transport Standards to be on the outcomes it is trying to achieve.

A common theme that appears throughout the draft report on the 2012 Review of the Transport Standards is the call for additional funding from the Australian Government in order for governments and operators to reach the 2017 compliance milestones. Achieving the 2017 compliance targets specified in the Transport Standards presents a number of challenges given the current fiscal environment. Work done in relation to modernising the Transport Standards may alleviate some of the funding concerns if the focus is on accessibility rather than technical compliance.

Eliminating discrimination as far as possible for people with disability is important, however a balance is required to ensure accessibility but also continuity and viability of transport services persists to connect Queensland communities. TMR supports the recommendations presented in the draft report on the 2012 Review of the Transport Standards and acknowledges the significant amount of work to be done in implementing these recommendations to increase the efficiency and effectiveness of the Transport Standards.