



2012 Review of the DDA Disability Standards for Accessible Public Transport

Prepared for the Commonwealth Department of Infrastructure and
Transport, and Attorney- General's Department

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Prepared by the Physical Disability Council of NSW

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Who is the Physical Disability Council of NSW?

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (ie self advocate).
- To educate and inform stakeholders (ie about the needs of people with a physical disability) so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

The Physical Disability Council appreciates the opportunity to consider, and make comment to the Commonwealth Department of Infrastructure and Transport and Attorney General's Department as part of the Disability Standards for Accessible Public Transport 2012 review. As part of this submission PDCN has provided comment on the following issues and concerns:

- Action Plan Reporting
- Australian Bureau of Statistics Surveys
- Technical Experts Group
- Modal Sub-Committees to Develop Specific Guidelines
- Mobility Labelling Scheme
- Establish a Best Practice Clearinghouse
- Provision of Funds for Projects in Regional and Rural Regions
- Provide Greater Support for Representative Complaints

Action Plan Reporting

Without an effective compliance mechanism the Physical Disability Council of NSW (PDCN) would recommend that it becomes mandatory for all transport providers and operators to prepare and implement Action Plans to effectively enhance transparency and accountability.

Currently service providers forward Action Plans voluntarily by the Australian Human Rights Commission (AHRC) or as part of an application for temporary exemption. To avoid a conflict of interest PDCN suggests that the Commonwealth Ombudsman be responsible for collating, and monitoring the implementation of Action Plans. This would include obtaining Action Plans from both public and private transport providers regardless of the size of the commercial enterprise. To monitor the implementation the Commonwealth Ombudsman Office would need the authority to impose fines for non-compliance. By implementing a consistent approach, Action Plans could be more readily compared using similar benchmarks and key performance indicators, enabling all stakeholders to determine compliance without necessarily proceeding with legal action through the court system.

Whilst many stakeholders awaited anxiously for the release of the findings of the 2007 DSAPT review, PDCN is concerned that the 2012 DSAPT review will lack transparency and independence with the same government department reviewing many of the programs and services it funds.

An Action Plan needs to address organisational responsibilities incorporating different legal requirements into one Plan, but this needs to be compliant with section 61 of the Disability Discrimination Act (DDA) by applying the following;

- Incorporates the rights-based focus of the DDA
- Eliminates discrimination in mainstream services rather than establishing separate or parallel 'special' services
- Ensures equal access for people with disabilities rather than simply improving or enhancing access
- Addresses all barriers, including physical, information, communication and attitudinal barriers, and
- Addresses the rights of all people with disabilities, with reference to the broad definition of 'disability' in the DDA.

Action Plans that contain different terminology, time scales and key performance criteria result in confusion among stakeholders. Such as used in NSW with NSW Transport and the NSW Transport Disability Action Plan. This plan identifies 131 train stations (42.7 per cent) in the Sydney network as being 'Easy Access' wheelchair accessible stations, but only 68 (22 per cent) of the 131 Easy Access stations. An additional 10 (3.3 per cent) provide wheelchair access, tactile indicators, audio and visual information, hearing augmentation at ticket offices, but public toilets and/or parking that are not accessible for people with disability¹. This is even more complicated with the following other terms used by NSW Transport:

¹ NSW Government- Transport for NSW Disability Action Plan 2012- 17

- Easy Access upgrades
- Wheelchair accessible stations
- Fully accessible train stations
- Step- free street to platform access
- Wheelchair access/ assisted access
- Accessible with assistance from a friend or carers.

Frequently PDCN has received phone inquiries where callers are confused about the phrase also used by NSW Transport 'accessible with assistance from a friend or carer'. Accessibility subsequently depends on the individual needs of the person with a disability, and the topography of the train station.

Based on the NSW Transport Cityrail network map the number of train stations that either provide no access or limited access with the assistance of a carer or friend is particularly disturbing when considering the train lines located in the outer metropolitan parts of Sydney, with the worst being the Blue Mountains line with a total of 22 train stations and 14 of these providing no access, and a further 3 train stations where assistance is required from another person. It is concerning when train stations with a shortened platform alignment or with gradients of 1:5 such as Bundanoon on the Southern Highlands line are still being reported as accessible, but without any means of assisted access such as a lift and/ or elevator.

Australian Bureau of Statistics Surveys

PDCN recognises the difficulties associated with determining the efficiency and effectiveness of the DSAPT without sufficient information about the number and qualities of potential service users. As part of the first review of the DSAPT, determining this would have been even more complex without an accurate database of accessible infrastructure, conveyances and premises. Subsequently 2007 review of the DSAP identified the urgent need to obtain an accurate source of demographics and it is suggested that including questions on transport patronage as part the Australian Bureaux of Statistics Disability, Ageing and Carers survey.

In principle PDCN would prefer utilising a survey that was not disability specific and that targeted the whole population, but recognises that using a survey available through a number of different state government transport authorities may introduce inconsistency in survey design and collation. This may inadvertently exclude people with disability from completing a survey if access is not provided. Seeking assistance through the ABS would have the following additional advantages with expenses would be kept to a minimum, that quality management accredited systems are already used by the ABS and that survey findings would be publically available.

PDCN believes that data available through the ABS Disability, Ageing and Carers survey could compliment surveys obtained through different state transport authorities. PDCN would encourage state transport authorities to include questions on physical and financial transport

accessibility as part of surveys to ensuring that the standard of service meets community needs and expectations.

Technical Experts Group

PDCN acknowledges the difficulty of using the current Access Standards for conveyances and infrastructure used for the purposes of transportation and supports the introduction of Technical Experts Group, for the purposes of basing the revised Transport Standards on the Access Standards. Difficulties associated with interpretation, the appropriateness of some prescriptive regulations, the inability to use a number of the Access Standards in a number of conveyances, such as trains and aeroplanes highlight some of the difficulties associated with using the Access Standards universally across all the different modes of transport.

The 2007 DSAPT review suggests either of the following two options for the implementation of this recommendation:

- Option 1 - Australian Government purchase the right to include Australian Standards text in the Transport Standards.
- Option 2 - Work with Standards Australia to develop technical standards specific to public transport

To select either option 1 or 2, PDCN would consider the following; the cost of implementation, whether a Regulatory Impact Study is required, the time required before implementation, the ability to seek stakeholder input, the quality of the completed standards, and their availability to the public. When considering concerns about the lack of public access to the revised Standards, it needs to be recognised that with improved standards there will be less of a reason for stakeholders to consider making a complaint.

PDCN would like to stress the lack of availability of accessible, affordable parking for people with physical disability as an ongoing concern. This issue was previously identified by the Australian Local Government Association and the NSW Local Government and Shire Association in the 2007 DSAPT review, but considered as irrelevant by the government. PDCN has become increasingly concerned about the reduction in public street parking and subsequent increase in private off- street parking facilities and that infrastructure located in these facilities does not necessarily comply with the DDA. Infrastructure within off- street parking facilities will often include any of the following but will differ between parking facilities:

- Different types of payment options including customer counters, vending machines requiring either tickets or coins, or otherwise automatic or manually operated booths
- The availability, number, and design of accessible parking spaces and
- Topographical differences in accessible paths of travel, ramps, landings, stairs, elevators and lifts if required

PDCN believes that it is currently unclear whether infrastructure located in off-street parking is part of the DDA Transport Standards or the DDA Access to Premises Standards, and

subsequently needs to be clarified, as it was considered as irrelevant in past transport reviews and currently not considered within AS/NZS 2890.6 2009 – Parking facilities – Off-street parking for people with disabilities.²

Modal Sub-Committees to Develop Specific Guidelines

The following negative feedback received from a survey conducted by PDCN could be explained as a consequence of the difficulty of using an inappropriate regulatory standard to a train.

*New trains on the Newcastle Maitland line are less accessible than previous trains.
Why would they buy new trains with steps into the carriage? 3*

Problems associated with needing to apply similar regulatory standards to a number of different transport conveyances, reinforces the need to establish separate sub-committees for the purposes of developing guidelines for each of the following different modes of transport:

- Aircraft
- Buses and coaches (including school 12 seater buses and community transport vehicles),
- Ferries
- Litrail
- Taxis (including regular taxis and wheelchair accessible vehicles)
- Trains.

PDCN suggests the inclusion of school buses and community transport vehicles to the preparation of new regulatory standards for buses, so that these have already been adopted when implementation of a completely accessible community transport fleet commences in 2017, and for school buses commencing in 2029.

PDCN recommends that each Modal Sub-committee needs to be represented by the following membership:

- Selection of Disability Peaks
- Design and technical expertise
- Peak industry bodies
- Legal representation

² Standards Australia/ Standards New Zealand (2009) AS/ NZS 2890.6 – Parking facilities – Off-street parking for people with disabilities

³ Physical Disability Council of NSW – Transport Survey Respondent 28

Research conducted by PDCN identified the most significant improvements to accessible public transport as including: Cityrail services, Sydney buses and wheelchair accessible taxis, and improvements to the following infrastructure: bus stops, customer service, information on the internet and the availability of accessible toilet facilities. PDCN has become increasingly concerned that government authorities are assuming that all members of the general public have internet access, and subsequently discontinuing printed versions. Whilst a considerable number of respondents identified improved information on the internet, a number of respondents indicated that the internet was irrelevant to them. Respondents to this survey were still concerned about the lack of improvements to service delivery for the following modes of transport: rural and regional trains, coaches and for regular taxis.

Feedback from the PDCN Transport Survey also highlighted concerns about the following injustices:

- Limited or withdrawal of services, particularly rural train services
- Poor infrastructure
- Reduced accessibility on a number of conveyances
- Poor customer service and negative attitudes, including issues concerning emergency protocols on train and the inadequate training for drivers of wheelchair accessible vehicles.

The impact of limited transportation is particularly relevant to people with a physical disability living in regional and rural NSW. This impact is reinforced by the limited transport options, social isolation and poverty. For people living in regional locations access to trains services is often problematic because old inaccessible stock is still being used.

Accessibility to train stations in regional locations is limited with between 19% - 45% on different Cityrail lines in regional locations. This is where a person with disability can board and disembark from the train independently, no matter whether a carer is available or not. The following quotation highlights problems associated with the poor provision of transport in regional and rural NSW:

This survey doesn't really fit with our local area. There is virtually no public transport in the 2480 postcode. The old train network that I would have used to get to Byron, Murwillumbah and Gold Coast is no in use. There are only limited and infrequent buses around the area. From Nimbin there is no public transport to the local airports or to the coast. This is unacceptable. This region is in dire need of further public transport infrastructure, more regular buses and mini-buses that can move people around the area. As a key tourist area, it is crazy that there is no public transport for visitors. It is also very difficult for locals to access services, education and recreation facilities. 4

⁴ Physical Disability Council of NSW – Transport Survey Respondent 17

Mobility Labelling Scheme

To avoid any misunderstanding PDCN recommends that a representative from the Attorney Generals' Department define what characterises a 'mobility aid' and in what circumstances this is relevant, via the Accessible Public Transport Jurisdictional Committee (APTJC)

This definition needs to comply with Article 20 – Personal Mobility of the UN Convention on the Rights of Persons with Disabilities.⁵ It needs to be recognised that a mobility aid is not only for the purposes of facilitating the movement of people with physical disabilities, but may include an assistance dog. It is suggested that the definition may include the purpose of a mobility aid, and a description of the minimum and maximum height, width, breadth, its weight, footprint and maximum speed on a footpath and road surface.

PDCN suggests that the manufacturer or distributor of the mobility aid to be responsible for identifying whether the mobility aid complies with the maximum weight and speed, and for labelling the mobility aid with an appropriate, recognised symbol.

Establish a Best Practice Clearinghouse

PDCN supports the formation of a best practice clearinghouse that promotes knowledge sharing and research on a national and international scale, and suggests that this be established within a university with an Engineering Faculty.

Provision of Funds for Projects in Regional and Rural Regions cap

It is estimated that there are approximately 7200 regular bus routes in greater metropolitan Sydney, and possibly another 1,000 routes in rural and regional areas of NSW. Within these routes there are over 37,200 individual bus stops in Sydney alone, and estimates of another 10,000 bus stops outside of Sydney.⁶ Based on this information, the topography of many rural locations and that the provision of bus stops is a new expenditure that councils located in rural NSW are not accustomed to providing, it is not surprising that the findings of the 2007 DSAPT review were that the provision of bus stop infrastructure was badly lagging behind, and subsequently councils located in rural NSW needed additional funding. Consequently PDCN recommends that funds be made available through the Regional Development Fund through the Commonwealth Department of Infrastructure and Transport.

PDCN would also recommend that where there is only one mode of public transport in rural locations, that councils and shires channel funding to ensure that one mode is as accessible as possible.

Provide Greater Support for Representative Complaints

⁵ United Nations – (2006) Convention on the Rights of Persons with Disabilities

⁶ NSW Local Government and Shire Association (2008) Submission to the Review of the Disability Standards for Accessible Public Transport 2002

PDCN understands that reform to federal anti- discrimination legislation is currently being considered and supports feedback provided by the Public Interest Clearing House provided as part of a public hearing:

*'[The] Draft Bill should allow representative actions to be brought on behalf of multiple [applicants] affected by a particular course of conduct, as is currently possible in the Victorian jurisdiction under section 113 of the [Equal Opportunity Act 2010 (Vic)]. This would give advocacy groups and human rights organisations standing in their own right and allow them to use their expertise and resources to pursue matters involving systemic disadvantage, rather than requiring individuals to mount their own legal challenges to discriminatory practices.'*⁷

To increase access to legal aid, and the legal options available to people with disability it is recommended that legislative reform include the provision of representative complaints.

Phased Application of Dedicated School Bus Services

In response to the reviewed application and timeline, PDCN is supportive.

Review of community transport exemption

In response to the reviewed application and timeline, PDCN is supportive.

⁷ Australian Government- Attorney General's Department Exposure Draft Legislation – Human Rights and Anti- Discrimination Bill 2012