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14 January 2018

Mr Alastair McEwan
Disability Discrimination Commissioner
Australian Human Rights Commission
GPO Box 5218
Sydney NSW 2001

RE: Application from the State of Queensland and Queensland Rail for a temporary exemption from the *Disability Discrimination Act 1992 (DDA)* and the *Disability Standards for Accessible Public Transport 2002 (DSAPT)*

Dear Mr McEwan

Physical Disability Australia (PDA) is grateful to have the opportunity to provide a submission on the above-referenced application.

We are a national peak membership-based representative organisation run by people with physical disability for people with physical disability. PDA was founded 21 years ago. We have over 1,000 members from all Australian States and Territories. Our purpose is to:

- Remove barriers by encouraging all levels of government to enable and provide every Australian living with a physical disability with opportunities to realise their full potential;
- Proactively embrace and promote difference and diversity for an inclusive society; and
- Include within all our operations the active promotion of the rights, responsibilities, issues and participation of people with a physical disability.

For some time, PDA has attempted to communicate our concerns about the inaccessibility of the NGR trains (compared to existing vehicles) to the Queensland Government:

- On 27 March 2017 we wrote to the then Minister for Transport (the Hon. Jackie Trad MP) outlining our concerns about a range of design decision about the NGR trains, in particular the lack of a guard compartment in the centre of the train near the assisted boarding point (see Appendix A);
- On 15 May 2017, as a result of a telephone query, an additional copy of the above described letter was sent to the Minister's office (see Appendix B);
- On the same date, we got confirmation that the letter had been received and that an official response to our concerns would be forthcoming (see Appendix C); and
- On 29 September 2017, the PDA Manager contacted the office of his then local MP (the Hon. Steven Miles MP, Minister for the Environment and Heritage Protection and cabinet colleague of the Minister for Transport) and followed the advice of a staff member to send a copy of the letter to the office and that it would be followed-up (see Appendix D)

To this date, the Queensland Government has not responded to PDA's concerns about accessibility issues with the NGR trains and we are disappointed to find that no solutions are being sought to address the problems we have sought on numerous occasions to bring to their attention.

In addition to being greatly disappointed by the Queensland Government's failure to acknowledge our genuine concerns, we are dismayed to find that they (through their proxy, Queensland Rail) have started operating the non-compliant trains in advance of any determination by the Australian Human Rights Commission (AHRC)¹. This shows contempt for the AHRC, the Federal legislation and regulations it administers and the people with disability who rely on the continued delivery of accessible rail services in South East Queensland.

Therefore, PDA opposes granting the Queensland Government a temporary exemption from complying with the relevant statutes of the DDA and DSAPT so that they can operate uncompliant New Generation Rollingstock (NGR) trains in South-East Queensland for up to 3 years.

With regard to the questions you ask submissions to address:

1. *What are the reasons in favour of granting an exemption?*

PDA does not consider there to be any worthwhile reasons in favour of granting an exemption.

The Queensland Government's states in their application that they "require the use of the NGR fleet for the 2018 Gold Coast Commonwealth Games, which will officially commence on 4 April 2018 [and that] the use of NGR trains is integral to the Commonwealth Games timetable". This suggests that the Commonwealth Games timetable and the vehicles they will use to service them are things that they have no control over. Given that the Commonwealth Games were awarded to the Gold Coast on 12 November 2011² and the current Queensland Government became fully aware of the NGR trains' accessibility issues on their ascent to power on 16 February 2015³, PDA contends they have had ample opportunity to bring the trains into compliance with the DDA and DSAPT before their introduction into service.

2. *What will be the impact on individuals and others on the particular exemptions sought under sections 2.6, 2.8(1), 8.2, 15.3, 15.4(1)(a) and 15.4(1)(b) of the DSAPT?*

The impacts on train passengers with physical disabilities who use wheelchairs and mobility scooters are that they will be unable to use the toilet facilities or navigate between the accessible seating areas of the trains. As stated in our unacknowledged and un-responded to correspondence with the Queensland Government, these passengers (and many others who also require assisted boarding) will also be adversely affected by the relocation of the guard's compartment to the rear of the train. This design flaw means that guards will no longer be able to assist these passengers to board and disembark from trains.

¹ <https://www.qt.com.au/news/175-staff-hand-wulkuraka-ngr-train-roll-out/3283947/>

² <http://www.goldcoast.qld.gov.au/thegoldcoast/gc2018-journey-24253.html>

³ <https://www.parliament.qld.gov.au/members/current/list/MemberDetails?ID=2980517905>

While Queensland Rail have stated that additional platform staff will assume responsibility for this task⁴, PDA is not confident this will guarantee these passengers not be left behind (or injure themselves) because they are unable to disembark from trains. We see this as being a significant issue particularly in busy times and at stations with multiple and curved platforms.

3. What is your view regarding the applicants' submission that the post-rectified trains will ultimately have accessibility improvements that will exceed the requirements of the DSAPT?

The Queensland Government's and Queensland Rail's submission on this point is misleading and irrelevant. They are seeking permission to operate non-compliant trains *now* and promises of modifications that will render them more accessible than legislation and regulation requires *later* should not sway the AHRC decision-making process.

That being said, PDA is not confident post-rectified trains will have accessibility standards that exceed the requirements of the DSAPT because they do not outline the steps being taken by Queensland Rail to ensure passengers who require assisted boarding will be able to board and disembark from NGR trains at every platform they otherwise have access to.

4. In the event any of the exemptions sought are granted, should any conditions be imposed on the granting of an exemption in this matter?

As should be clear from the rest of this submission and its Appendices, PDA is less concerned about NGR trains' toilets and more concerned about the design's re-location of the guard's compartment and the effect this will have on the ability of passengers who require assisted boarding to board and disembark from these trains at the platforms and times of their choosing.

If the Queensland Government and Queensland Rail are granted any exemptions from the DDA and DSAPT, they should be required to develop comprehensive plans, procedures, infrastructure and training to ensure passengers who require assisted boarding to board and disembark from NGR trains can do so at all otherwise accessible platforms at all times such trains are operating... and that they communicate these effectively to the community.

We hope this submission assists the AHRC in this matter.

Yours Sincerely,



Liz Reid
President and Director (NT)
Physical Disability Australia



Simon Burchill
Manager
Physical Disability Australia

⁴ <https://www.queenslandrail.com.au/aboutus/mediacentre/new-trains-to-first-service-the-airport-and-gold-coast>

Appendix A – Letter to Queensland Minister for Transport – 27 March 2017

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Monday 27 March 2017

The Hon. Jacklyn Trad MP
Deputy Premier and Minister for Transport, Infrastructure and Planning
PO Box 15009
City East QLD 4002

**RE: Disability Access in Queensland Rail's New Generation
Rollingstock Trains**

Dear Minister

Physical Disability Australia (PDA) is a national peak membership-based representative organisation run by people with physical disability for people with physical disability. PDA was founded 21 years ago. We have over 1,000 members from all Australian States and Territories (with 215 in Queensland). Our purpose is to:

- Remove barriers by encouraging all levels of government to enable every Australian living with a physical disability and provide them with opportunities to realise their full potential.;
- Proactively embrace and promote difference and diversity for an inclusive society; and
- Include within all our operations the active promotion of the rights, responsibilities, issues and participation of people with a physical disability.

We have recently become aware that there are a number of problematic design features with the New Generation Rollingstock (NGR) trains being acquired for the South-East Queensland rail network. These include:

- The passageway linking the wheelchair / mobility scooter parking areas and the toilet being too narrow to allow most manual and powered wheelchairs to traverse;
- The space within the toilet compartment being less than that stipulated in the *Disability Standards for Accessible Public Transport 2003* (Cth); and most alarmingly;
- The lack of accommodation for the guard in the centre of the train to assist passengers with disability to board and disembark from the wheelchair / mobility scooter parking areas located in carriages 3 and 4 (as publicised on the Department of Transport and Main Roads website: www.tmr.qld.gov.au/Projects/Name/N/New-Generation-Rollingstock/About-the-NGR-trains).

While these are all serious oversights that should never have been approved by whomever reviewed the NGR blueprints, it is the lack of centrally positioned guard accommodation that concerns PDA members the most.

Putting limited station accessibility to one side, PDA generally believes that the South-East Queensland rail network provides some of Australia's easiest journeys for passengers with disabilities. This is because having:

- raised central areas on train platforms;
- lifts with large easy-to-press buttons;
- paper tickets and easily-affordable travel Access Passes for those unable to use the Translink *Go Card* system; and (most importantly)
- friendly guards to set-up ramps and shepherd other passengers away from parking spaces in the centre of the train...

... makes Queensland Rail a pleasure to use for passengers with disability

Not having centrally-located guards available to assist passengers with disabilities makes the rail networks in Sydney and Melbourne, in comparison, a pain to use.

In Sydney, the plethora of rollingstock configurations used means the guard could be located in a variety positions along the train. This has necessitated a transfer of responsibility for assisting passengers with disability away from guards to platform attendants. As such, using trains in Sydney is a complicated business for passengers with wheelchairs and mobility scooters. The platform attendants need to be aware of what model train is approaching, which carriages have available parking spaces and which station the passenger wishes to disembark at (so they can call ahead and alert their colleagues to set up the ramps when the train arrives).

Not only is this arrangement a hassle for passengers with disability, it adds significantly to the employment costs of the *Sydney Trains* network as they need to deploy platform attendants on every platform of each wheelchair and mobility scooter accessible station.

In Melbourne, the privatised rail operator (*Metro Trains*) has done away with all train guards and most platform attendants. This means passengers with disabilities need to wait at the very front of the platform so that the driver can step out of his or her compartment and set-up ramps for wheelchair and mobility scooter users.

This arrangement is also a hassle for passengers with disability as it can be awkward to make ones way to the front end of a crowded platform, there is more-often-than-not no shelter on the ends of the platform, and there is the very real chance of being left behind if the 2 or 3 parking spaces at the front of the train are already occupied.

PDA are aware that there are a number of possible ways to resolve the problems created by not ensuring there was guard accommodation in the centre of NGR trains:

- The wheelchair / mobility scooter parking spaces of **all trains** could be moved to the rear of the train adjacent to the rear-facing driver's compartment so that a guard deployed there could assist passengers with disability to board and disembark the trains;
- Similar to *Sydney Trains*, *Queensland Rail* could deploy platform attendants on each platform of every wheelchair / mobility scooter accessible station so that they could assume responsibility for assisting assist passengers with disability to board and disembark the trains; or

- The specification of the NGR trains could be altered so that the current preferable arrangement where train guards continue to provide their friendly and effective services to passengers with disability at the centre of the trains can continue.

Clearly, the third possible solution above best meets the needs of passengers with disability, PDA requests in the strongest terms that you negotiate a redesign of the NGR central carriages with *Qtectic* to ensure there is:

- an adequately-wide passageway between the wheelchair / mobility scooter parking spaces and the toilet compartment;
- adequate space within the toilet compartments for them to meet relevant legislative standards; and most importantly;
- a guard's compartment installed in the centre of the train so that these employees can properly assist passengers with disability to board and disembark from trains as per current arrangements.

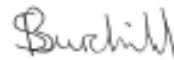
As mentioned earlier, PDA acknowledges that *Queensland Rail* provides some of the most pleasant travel experiences available to passengers with disability and, like you, we would be dismayed if this were no longer the case.

We therefore look forward to announcements that these problems are understood and that appropriate solutions are assured.

Yours Sincerely,



Liz Reid
President and Director (NT)
Physical Disability Australia



Simon Burchill
Manager
Physical Disability Australia

Appendix B – Email to Minister for Transport’s office – 15 May 2017

From: Simon Burchill
Sent: Monday, 15 May 2017 10:55 AM
To: deputy.premier@ministerial.qld.gov.au
Subject: Letter to Minister for Transport Regarding NGR Trains

To Whom It May Concern:

Please find attached a copy of a (paper) letter I sent to the Deputy Premier in late March.

As I have not yet received a response, I was wondering if somebody could please chase this up?

We are particularly concerned about the guard position being relocated to the rear of the train some number of carriages from the wheelchair and mobility allocated spaces in the centre of the train.

We hope the Deputy Premier appreciates the serious impact this design choice will have on public transport accessibility for customers with disabilities.

Thanks in advance,

Simon Burchill
Manager
Physical Disability Australia
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Appendix C – Response from Minister for Transport office – 15 May 2017

From: Deputy Premier

Date: Monday, 15 May 2017 at 11:30 am

To: Simon Burchill

Subject: RE: Letter to Minister for Transport Regarding NGR Trains

Dear Mr Burchill,

Thank you for your email to the Honourable Jackie Trad MP, Deputy Premier, Minister for Transport and Minister for Infrastructure and Planning.

Your correspondence is currently being considered and a response will be provided in due course.

I apologise for any delay.

Kind regards



**Queensland
Government**

Office of the Hon. Jackie Trad MP

Deputy Premier, Minister for Transport
and Minister for Infrastructure and Planning

P 07 3719 7100 E deputy.premier@ministerial.qld.gov.au

1 William Street Brisbane QLD 4000
PO Box 15009 City East QLD 4002

Appendix D – Email to the Hon Steven Miles MP – 29 September 2017

From: Simon Burchill

Sent: Thursday, 28 September 2017 12:51 PM

To: [REDACTED]

Cc: [REDACTED]; [REDACTED]

Subject: FW: Letter to Minister for Transport Regarding NGR Trains

Dear Mr Miles

As well as being the Manager of Physical Disability Australia, I and my partner (who has a disability and uses a powered wheelchair for mobility) are constituents of your electorate.

We are exceedingly concerned about disability access on the New Generation Rolling-stock (NGR) trains being acquired by Queensland Rail for the South East Queensland rail network (see attached letter).

I wrote to your colleague, Hon. Jackie Trad, Deputy Premier and Minister for Transport in March and have made follow attempts to contact her in May (see below) and this week, to no avail.

PDA members, and all Queenslanders who rely on wheelchairs and mobility scooters to negotiate the environment need some assurance that they will be able to board and disembark from NGR trains at all wheelchair accessible train stations including those currently deemed semi-accessible on the QR website (denoted by purple icons on the map at <https://www.queenslandrail.com.au/forcustomers/stationsmaps/maps>).

According to a recent *Brisbane Times* article, (<https://www.brisbanetimes.com.au/politics/queensland/queensland-to-finally-accept-the-first-of-its-new-trains-20170922-p4yw1p.html>), there has been no move to relocate the guards compartment to the centre of the train and that platform staff will be responsible for assisting passengers with mobility aids to board and disembark from NGR trains.

This is a poor solution as many wheelchair accessible platforms are unattended.

Can your government reassure Queenslanders with mobility impairments that:

- all accessible platforms (those with blue **and** purple icons) will be attended by staff to assist them with accessing NGR trains during all hours the trains are in operation?
- Or, that appropriate changes are being made to the configuration of NGR trains so that guards can continue to assist passengers with mobility impairments.

My partner and I understand that the decision to purchase the NGR trains was made by a previous government, but this should not prevent the current government meeting its obligations under Australia's Disability Standards for Accessible Public Transport regulations!

I would appreciate any assistance you can provide in bringing this urgent matter to the relevant Minister's attention and in getting from them an appropriate response.

Yours Sincerely,

Simon Burchill
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