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**Written Submission in response to the joint  
application from State of Queensland and  
Queensland Rail for an exemption under the  
Disability Discrimination Act 1992**

**QDN**

**QUEENSLANDERS WITH DISABILITY NETWORK**  
*NOTHING ABOUT US WITHOUT US*

Submitted To:  
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## Who we are

**Queenslanders with Disability Network Pty Ltd (QDN)** is an organisation of, for, and with people with disability. QDN's motto is "nothing about us without us".

QDN exists to empower people with disability to be fully included as citizens in the social and economic life of the community. To do this, we work to promote and maintain active, vibrant networks that inform our work, and ensure those with limited or no voice are heard and valued.

The strength of QDN is the collective voice of Queenslanders with disability. The authenticity and validity of our experience is due to our differences and diversity as well as what we share in common.

We work together to learn from the collective experiences, values and wisdom of people with disability. Our mission, motto, values and beliefs drive the work of QDN and determine which issues to take up, and where to best direct energy and resources. They also decide which issues and activities we do not do.

Through QDN our voices are organised through a state-wide member's network where we are able to receive information, provide feedback and develop collective views from a consumer perspective to inform systemic policy feedback to Government and peak bodies. QDN also provides information and referral support to people with disability.

## What we believe and value

QDN's work in providing feedback and input into systemic policy issues is based upon the organisation's core values and the place of people with disability in an inclusive Australian society.

QDN believes that:

- all people with disability have a right to a place in the community and have contributions to make to community. This is as empowered, free citizens who are as valued, present, participating and welcomed as members of any dynamic and diverse society.
- the place of people with disability in the community is not just about people with disability having a house in the community. Core to this is that they are welcomed in the community as ordinary citizens, where they are genuinely given opportunities to contribute and actively participate. People with disability need to be in communities where their individuality, their talents and their lived experiences of disability are recognised and acknowledged.
- current exclusionary practices are unacceptable and must be challenged, as:
  - culturally and historically, people with disability are not afforded the same value, opportunities or access to community life.
  - many people with disability in Queensland are excluded from the most basic experiences of ordinary lives.
  - any inclusion in community for people with disability is conditional and vulnerable to withdrawal.
  - these issues affect not only people with disability but the whole community.

- the responsibility is shared: it lies within government (federal, state and local) and the community at large to ensure that people with disability have a place and are resourced to belong in community.

Above all, we believe in, and seek to model, a human rights approach that recognises disability as a social issue. We seek to make positive change in the lives of every individual as the ideal would be a country where Human Rights are accorded to all Australians equally and fairly. Though we are far from reaching this ideal, we are hopeful, even about the most complex challenges and are here for the long term.

## Introduction

QDN members have raised concerns about the joint application for temporary exemptions from the *Disability Standards for Accessible Public Transport 2002 (DSAPT)* and *Disability Discrimination Act 1992 (Cth)* by the State of Queensland (acting through the Department of Transport and Main Roads (TMR)) and Queensland Rail (QR) for the *New Generation Rollingstock (NGR)* which has been submitted to the Australian Human Rights Commission (AHRC).

This submission will outline the issues QDN members have raised with regards to this exemption application. This is particularly important in light of the State Government and QR's decision to introduce the NGR stock into service without being compliant with the DSAPT and Cth and prior to the outcome of a ruling from the AHRC on the Exemption application. QDN acknowledges the need for new trains to be introduced to replace the current aging train stock and the State and QR's desire to have the NGR stock tested and in operation by the 2018 Gold Coast Commonwealth and Paralympic Games. However, this must be done in a manner that ensures legislative compliance and upholds the rights of people with disability to accessible public transport.

QDN also draws attention to Queensland's obligations under the Convention on the Rights of Persons with Disability (CRPD) to which Australia (and Queensland) is a party. Articles 9 (Accessibility) and 19 (Living Independently in the Community) clearly articulate Australia's obligations:

- To ensure persons with disabilities have access, on an equal basis with others, to the physical environment, to transportation... (Article 9 1)
- To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public (Article 9.2a)
- to ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities (Article 9.2b)
- Promote the design, development, production and distribution of accessible information and communications technologies and systems *at an early stage*, so that these technologies and systems *become accessible at minimum cost* (Article 9.2h)

- Take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community (Article 19)
- Ensure that Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs (Article 19c).

## **QDN's Position**

QDN opposes the temporary exemption requested by the State and QR as every person with disability has the right to be able to access our Queensland public transport system to get to their destination whether for employment or recreation, when and where they need to.

QDN believes that since the NGR is a new train, it should have been designed correctly meeting all compliance requirements. In light of these design non-compliances listed in the Application for Temporary Exemption, QDN believes that all rectification work should be completed before the trains commence service. People with disability should not be disadvantaged or suffer discrimination over the duration of any temporary exemption simply because the NGR trains were not designed to current Australian standards. QDN strongly asserts the importance of effective community consultation and stakeholder engagement prior to procurement as a means to avoid potentially costly incidents such as this occurring into the future.

The Disability Discrimination Act (Cth) has been in force since 1992 and the Disability Standards for Accessible Public Transport (DSAPT) since 2002. QDN believes that as the Act and Standard have been in operation for over 15 years this disqualifies the State and QR from being considered for any temporary exemption in relation to the NGR.

QDN has a representative on the QR Access Reference Group, providing feedback on the design non-compliances at each possible opportunity. Through the QR Access Reference Group, the QDN representative has actively sought action of the Queensland Government to fix the discriminatory aspects of the NGR for the past two years.

The State and QR's early introduction of two NGR trains before the outcome of the temporary exemption had been determined is of great concern to QDN members. QDN believes that should any exemption be granted, that safeguards and timeframes need to be put in place to ensure compliance of the NGR stock is a priority for QR and the State.

Below outlines QDN's concerns about the NGR stock and the impact on Queenslanders with disability in relation to the non-compliances identified on the NGR trains:

### **Accessing the accessible toilet**

- The NGR have two accessible cars, MA car and MB car both located in the middle of the train. The new trains have been built with only one accessible toilet in carriage MB. The two cars (MA and MB) are linked by a very narrow corridor. This corridor is too narrow for most wheelchairs to navigate. QDN members who use mobility aids and board at MA carriage may not be able to reach the toilet in the MB car due to the

narrowness of the corridor connecting the two carriages. With this current design people with disability would either have to only travel in carriage MB or they would need to disembark at the next station and reboard at carriage MB if they would like to use the bathroom on board. This has implications for delays in train travel for all passengers and is problematic for the person with disability.

- The width of the access path past the accessible toilet and adjacent to the allocated spaces in the two accessible cars is not compliant. People with disability wanting to use these access paths would be restricted which would affect their ability to freely manoeuvre around the carriage.

### Accessible toilet design

- The current dimensions and design of the new accessible toilets with the curved edge and doorway is problematic for easy transfer for people in wheelchairs. People with disability using mobility devices such as power wheel chairs or scooters will not be able to carry out a fully parallel side transfer to the pan due to the circulation space between the toilet and the curved door. The rectangular shaped toilets allow for more circulation room so people can easily transfer to the pan. If people are not able to safely transfer to the toilet, this poses risk of injury and some people will be unable to use the toilet. On long journeys such as Brisbane Airports to the Gold Coast a person with a mobility device would need to leave the train to use the toilet at the station, if it is open, and then re-embark when the next train going to their destination arrives. This could mean waits of up to half an hour depending on when trains are scheduled to run as well as additional disadvantage and discrimination to people with disability in terms of being able to exercise a basic human need to go to the bathroom.

### Location of the Guard

- The accessible MA and MB cars are both located in the middle of the train. The accessible carriages and the guard are located in the middle of the train to align with the assisted boarding point on the station platforms. This position in the middle of the train allows the guard to have an unobstructed view of the assisted boarding point on the platform. The guard also can have easy interaction with people who are waiting only a small distance away from the guard cab at the assisted boarding point.
- On the NGR trains the guard is positioned at the back of the train 70 metres from two accessible carriages with limited view of where people with disability board the train. Communication with people with disability who require assistance will be very difficult from the new location of the guard. This is particularly important for QDN members who are vision impaired or who have hidden disabilities. Without easy interaction, a guard may not know that these people require boarding assistance.
- There has been numerous instances with the current trains where people with disability have been left on trains. With the guard having no view of the two accessible carriages and the assisted boarding point on the platform, QDN is concerned that this may increase the occurrence of people being left on trains or on the platform.

## NGR Signage and Alert Buttons

- The inadequate braille signs and close proximity of the alert buttons has been raised as a concern by QDN members. This leaves people without access to appropriate signage and alert systems to navigate their way around the train or request assistance from QR staff. This could lead to people becoming distressed on the train as they either are not able to read the braille signs or they are not able to ascertain how to get timely assistance from QR staff.

## Additional QR Personnel

- QDN views the introduction of an additional two QR personnel at each station to assist people to board the NGR trains may not be a viable long-term solution to overcome the new position of the guard at the end of the train. Employing additional staff to counteract the poor design will significantly increase the costs of running the trains. Over the service life of the NGR, estimated at 30 years, Rail Back on Track estimates that the cost of the extra staff will be \$15 million per year. This would increase the cost to \$450 million over a 30 year period.
- This additional cost will be difficult to maintain indefinitely with these positions potentially being the first to be cut when there are budget constraints or a change in policy. It is also a concern to QDN that after the Commonwealth and Paralympic Games the additional staff will be cut back in line with the temporary increased demand subsiding. Without the assistance of these extra staff or the guard, people with disability will need to plan in advance to travel on the trains to ensure they are boarding and departing on a well-staffed platform. This will impact upon people with disability having the same rights and travel experience as other QR customers to board trains when, where and how they choose with no preplanning.

## Exemption

QDN acknowledges QR and the States requirement to expedite the introduction of the new NGR trains to meet the mass public transport needs created by the 2018 Gold Coast Commonwealth and Paralympic Games. The Commonwealth and Paralympics games will include a significant number of QR passengers with disability who will be traveling both as supporters and athletes competing at the games. It is critical that everyone is able to travel using the stock of trains available.

QDN opposes this exemption on the basis of the grounds outlined in this submission.

## Conclusion

QDN appreciates the opportunity to provide a submission in relation to the State and QR's application for temporary exemptions from the *Disability Standards for Accessible Public Transport 2002* (DSAPT) and *Disability Discrimination Act 1992 (Cth)* by the State of Queensland.

QDN believes that the best course of action for people with disability to be able to access the Queensland rail system would be for all rectification work to be completed on the NGR trains before they are introduced into operation. Compliant trains would ensure that people with disability can catch any train they choose without being disadvantaged by non-compliant trains. It would also ensure that the NGR trains would be appropriately refurbished in a timely manner and the timeframes would not keep getting extended for this important work.