

14 January 2018

Australian Human Rights Commission
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to whom it may concern

As a regular traveller on the train network in Brisbane this is my response to the Australian Human Rights Commission relating to the Application for Temporary Exemption for the NGR trains by the State of Queensland and Queensland Rail.

Multiple sclerosis has affected my life and mobility and I use a motorised wheelchair for mobility to participate in work, community access, to attend medical appointments and participate in other activities of daily life. When I choose to travel on the CityTrain network I require assistance boarding and disembarking due to the transition space between platform and train being of variable height and distance.

Currently, with the existing on-board guard being located mid-train and aligned with the long-established assistance point on platforms throughout the south-east Queensland suburban and inter-urban rail network, I can use the train service at any time on any day with confidence, reliability and in safety.

I have significant concerns regarding the New Generation Rollingstock (NGR) relocation of the guard from the centre of a six-car train to the rear of the train, some 70 meters distant from the assistance point. This is exaggerated by the fact that many stations I use are unstaffed for significant times during the daily service and will therefore not be available for the provision of appropriate and reliable assisted boarding and disembarking. These concerns of unreliability and lack of safety may make it impossible for me to continue to travel by train as increasing numbers of non-compliant NGR trains are put into service.

Other commuters not requiring assistance will not experience similar unreliability and lack of confidence when travelling by train.

Thank you for the opportunity to respond.

Yours faithfully



Wendy Lovelace

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A submission in response to an Application for temporary exemptions for the New Generation Rollingstock trains (NGR).

The following submission to the Australian Human Rights Commission relates to the Application for Temporary Exemptions for three years for the NGR trains by the State of Queensland (through the Department of Transport & Main Roads) and Queensland Rail :

- A completely new product should not be eligible for a Temporary Exemption and none should be granted. The NGR should be brought to a complete state of accessibility and compliance before it goes into service.
- A Temporary Exemption for the NGR only rewards poor procurement practice and a deplorable refusal to consult with the disability sector pre-procurement.
- The procurement process, and the product procured, are inconsistent with the Objects of the Disability Discrimination Act (DDA).
- The Queensland Government's disregard, over a two-year period, of legitimate concerns regarding the discriminatory design of the NGR disqualifies it from any credible argument that the NGR's design was an oversight or unfortunate accident, or that there was insufficient time to be rectified prior to going in to revenue service.
- Material supplied by the Department of Transport & Main Roads (TMR) to the Australian Human Rights Commission (AHRC) confirms that the more discriminatory aspects of the NGR's design, such as the single toilet and guard in car 6, resulted from directions to the Project by the Queensland Cabinet.
- No evidence can be located to indicate that TMR advised the Queensland Cabinet or the Transport Minister that the Cabinet direction would result in an unlawful product.

Access to Toilets

- The allocated spaces in the MA car are not connected to the accessible toilet in the MB car by an accessible path of travel. The path provided between these two cars is only +/-650 mm in places. Most wheelchair users in the MA car will not be able to travel between car to the toilet in the MB car. In order to use the toilet then, travelers are required to disembark from the accessible (MA) car and re-board the alternate accessible (MB) car. Other travelers who can use the on-board access passageway are not required to disembark and re-board simply to use the toilet.

Toilet Design

- The distance from the centreline of the pan to the far wall falls short of the 1150 mm required for compliance (DSAPT Clause 15.4(3) refers to AS1428.1 (2001) Figure 22). This is due to the curved shape of the door. Significantly, most wheelchair users will find it difficult to position a wheelchair in a suitable relationship to the toilet pan in order to perform a safe side transfer onto the pan with the current door design and pan location as their wheelchairs will not fit easily into the available space diminished by the curved wall and door.

Disability Standards for Accessible Public Transport 2002

Clause 15.4 Requirements for accessible toilets — ferries and accessible rail cars

(1) An accessible toilet must:

(a) comply with the requirements set out in this section; and

(b) allow passengers in wheelchairs or mobility aids to enter, position their aids and exit.

(2) The minimum dimension from the centre line of the pan to the near-side wall must be 450 mm (**AS1428.1 (2001) Figure 22**).

(3) The minimum dimension from the centre line of the pan to the far-side wall must be 1150 mm (AS1428.1 (2001) Figure 22).

(4) The minimum dimension from the back wall to the front edge of the pan must be 800 mm (**AS1428.1 (2001) Figure 22**).

(5) The toilet seat must be between 460 mm and 480 mm above the floor (**AS1428.1 (2001) Figure 18**).

(6) Hand washing facilities must be provided either inside or outside the toilet (**AS1428.1 (2001) Clause 10.2.1 (b), Water closets**).

Guard Cab

- Rather than being located mid train as is currently the case with six car City Trains, the NGR guard cab is in the last car of the train (car 6), putting guards +/- 70 m from customers waiting for boarding assistance at the long established mid platform assisted boarding point. Note: the CityTrain Network comprises over 150 stations and the assisted boarding point has been purposefully located mid platform at every station, creating a predictable, reliable point of interface between staff and customers. This established mid platform assisted boarding point is one of the features of train travel that provides all commuters a sense of safety, predictability and confidence in train travel, but particularly so for those who need assistance to board and disembark.
- Because the NGR's middle cars (MA and MB) are the accessible cars, as per the current City Train fleet, making moving the assisted boarding point to the end of the platform nearer the guard is not feasible, particularly as the two different trains will be in the fleet concurrently for a transition of many years.
- Guards in car 6 will rely on carriage mounted closed circuit video systems to survey the platform and particularly to view who is waiting for boarding assistance. Electronic equipment of this type is prone to failure and damage, which would render customers waiting for assistance invisible to the guard. Further, at peak hours when crowding occurs, a customer in a wheelchair is unlikely to be visible when surrounded by standing patrons, those with invisible disabilities impossible to identify.
- At 70 m distance, communication with customers, or with platform staff who may have assisted the customer to board, is all but impossible. Information on customer destination will not be conveyed to the guard.

Platform Assistance Proposal

- Platform staff assistance has been offered as the solution to the dilemma of the NGR guard's remoteness from the assisted boarding point. Currently, many Queensland Rail (QR) stations are staffed only for a few hours per day. Only a small minority are staffed 24/7. Others are never staffed. Therefore, staffing all 150+ stations throughout operational hours will require the hiring and rostering of a considerable body of people.
- Over the expected 30+ year service life of the NGR the wages bill for these extra staff is likely to be astronomical, and therefore susceptible to cutting. It is doubtful that future governments will fund these extra positions in the long term.

What will be the impact on individuals?

- In seeking the exemptions, people with disability are being asked to put their lives aside; to put a hold on employment opportunities, on education and training, recreation, access to daily living and health services. To put a hold on their choice and control – which is clearly treating people with disability unfavourably.
- The relative reliability provided by the current mid-train on-board staff (even still not totally fail-safe) has allowed people who need assistance boarding and disembarking to travel with a degree of confidence.
- People make long-term life choices, such as where to live, study or work, based on reliable public transport options. Should travelling on trains become less reliable and travelers feel more vulnerable, previous life decisions about location may need to be reviewed, potentially resulting in the need to move, an expensive and disruptive event in anybody's life but particularly so for those with disability who are at a disadvantage in finding suitable accessible homes and workplaces.

The AHRC asks what is your view regarding the applicant's submission that the post-rectified trains will have accessible improvements that will exceed the requirements of the DDA?

As this matter relates to transport, the specific requirements are set out in the Disability Standard Accessible Public Transport 2002 (DSAPT). This Standard was written in 1994, had its Regulation Impact Statement in 1995 and was not passed in Parliament until October 2002. In that time the technology leap alone between 1995 and 2002 meant it was a weak Standard when it commenced, and it is unfortunate that successive governments have taken so long to commence the DSAPT modernisation. The struggle has been that although making a service compliant with DSAPT, does not necessarily make it functional – and people can lodge complaint if a service is not functional. The equitable access recommendations made by the Queensland Rail Access Reference Group, which the State of Queensland has accepted to complete, were made to ensure both compliance and improved functionality were secured in order that every customer could receive a service which in turn would minimise risk of potential complaint against the State of Queensland – and would maximise the social and economic performance of the service and the region it serves.

Past and future

When viewed politically, it seems that the Newman government created the NGR design debacle which the incoming Palaszczuk government had to address. During that term, the government tried to introduce a Human Rights Act for Queensland which would have required more responsible thinking and action to develop an equitable, integrated Queensland. However, the Nicholls Opposition refused to support it.

Now, with a fresh election (25 November 2017) comes fresh hope that every parliamentarian in the new Queensland Legislative Assembly will act to ensure Queensland is not shamed because of the State of Queensland and Queensland Rail pre-election applying to knowingly and deliberately deny people with disability and other populations to access services, to participate in their community and be a customer. This new Parliament should ask TMR and QR for a timetable to be released that shows dedicated commitment to fixing the 21 trains that are built and in Brisbane. The public needs this show of good faith – an indication that this new Parliament will act for the electorate, not expediency.

Running non-compliant revenue services

I am shocked and appalled that the State of Queensland and Queensland Rail has commenced operating non-compliant NGR trains for revenue services whilst this matter is before the Australian Human Rights Commission. This disrespect shows the Applicants in the poorest light possible. I don't believe any exemption should be granted. All NGR trains must be made compliant, and reliable customer service for on-board mid-train assisted boarding and disembarking provided before entering revenue service .