



National Inclusive Transport Advocacy Network

To the Australian Human Rights Commission,

Further submission post Preliminary View (2021) on the application by the Australasian Railway Association (ARA) for temporary exemptions from the Disability Standards for Accessible Public Transport (DSAPT)

Who are we?

The National Inclusive Transport Advocacy Network (NITAN), born from a discussion on transport issues jointly led by the Australian Federation of Disabled Organisations (AFDO) and the Australian Human Rights Commission, was subsequently established by AFDO and has worked during its formation with a core working group of members from the following organisations:

- All Aboard Network
- Australian Federation of Disability Organisations
- Council for Intellectual Disability
- Disability Justice Australia.
- Disability Resources Centre
- First Peoples Disability Network
- Inclusion Moves
- National Ethnic Disability Alliance
- People with Disability Australia
- Physical Disability Council of NSW
- Victorian Legal Aid,

Along with other state-based advocacy organisations and individuals with expertise in legal, transport and disability rights.

We aim to be the voice of people with disability on transport matters, however, we recognise the disability community is made up of a diverse range of people with a differing needs and priorities. We understand that to be effective, we need to engage with experts in their field. We are open to ideas on how this can occur and look forward to shaping our voice with the disabled communities' assistance.

Our Purpose

The National Inclusive Transport Advocacy Network seeks to represent a national voice of people with disability advocating for accessible and inclusive public transport systems across Australia.

Our Objectives

1. Community Inclusion

Promote the ethos that full, equal community integration of people with a disability is not possible without a completely accessible 'whole of journey' public transport system Australia wide and advocate this position to all governments, industry and community stakeholders.

2. Influence

Ensure that the voices of people with disability are heard in the design and shaping of public transport systems across Australia, and in their day to day operations.

Support others with requisite experience and qualifications as they advocate on public transport issues encompassing a "nothing about us without us" approach.

3. Alliances

Build a strong network of allies and rally the many voices of people with disability to speak as one national voice.

In order to achieve its purpose and objectives NITAN will:

- Align itself fully with the goals of the National Disability Strategy.
- Develop a national strategic disability transport plan and discussion paper on national disability transport issues.
- Provide a national voice and connection for people with disability and associated organisations who conduct transport advocacy.
- Educate people with disability and advocates on their transport rights as well as national/international best practice for public transport services.
- Ensure that state and territory based transport advocacy groups can feed into a national advocacy network that is independent and non-partisan.
- Share ideas between transport advocates across states and territories and between disability transport advocates and the Federal government.
- Use traditional and emerging media to raise public awareness of public transport issues facing people with disability
- Act as a collection and distribution point for the stories of people with disability which can be used by transport advocates and others to consider possible legal test cases.
- Raise to public prominence individual issues and cases concerning public transport via digital petitions and other mediums

- Provide advice or training to members on how to effectively engage on transport issues with Ministers and shadow/cross bench parliamentary members of all levels of government.
- Enable information exchange between NITAN and state based transport advocacy groups.
- Lend its expertise to collegiate organisations who are advocating for goals that are in alignment with NITAN.
- Act as a repository of transport related information that can be freely accessed and shared with disability advocates.
- Source best practice examples of services, practices and designs from Australia and internationally to use as benchmarks in advocacy/negotiations with governments and/or public transport providers.
- Encourage members of NITAN to become members of local, state and national accessibility reference groups. Seek members on these groups to ensure that, as much as possible, they are created and operating in a user focused, co-design framework.

Opening statement:

This short submission should be read in conjunction with and in addendum to past submissions on this matter by NITAN.

NITAN being an unfunded collective means its ability to respond to a matter of this significance is limited. Especially when compared to that of an organisation such as the Australasian Railway Association and indeed the Australian Human Rights Commission who themselves employed a consultant to provide a view on the matter.

This power imbalance and the continuing of exemptions being a critical factor in the lessening of the effectiveness of the DSAPT were both issues spoken to in the recent Third Review of the Disability Standards for Accessible Public Transport prepared by the Department of Infrastructure.

NITAN is taking the time to respond to the preliminary decision however notes its full weight of resources is behind furthering work to examine the policy landscape of which transport legislation is formulated with the lens of whether institutional neglect is at play.

Specific comment regarding the Preliminary View

2.2 Noting the wording in question infers the advice of the consultant has been taken without view or concern to the disabled community input. Appreciating this may not be the intended function of this statement however with the overwhelming comment from the disabled community being of the negative this is a troubling statement.

4.1 Work should be done to separate 'rail' into its forms as they are distinct modes. To combine them does a disservice to the process and allows for ambiguity. Take for example the issue of flange gaps. They exist across multiple modes however are implemented differently. To not work to separate these matters leaves gaps in understanding.

6.3 NITAN again notes that an instrument must be implemented where investigation of whether the exemptions made prior have been mitigated. NITAN understands the AHRC may not have this function however this does not mean the matter is not of concern and work should be progressed to close this loophole.

10.19 Referencing statements in 2.2 NITAN respectfully asks how the view of the community has been listened to throughout the determination process.

11.5 NITAN questions the relevance of the issue of funding being raised by the ARA.

11.6 NITAN is dismayed that we will never know whether the ARA would indeed hold a valid unjustifiable hardship reason whilst temporary exemptions are allowed indefinitely.

11.8 NITANs position is that clearly the ARA as an industry body is not in a position to be adding references to arbitrary Australian Standards in the DSAPT.

11.10 The situation we find ourselves in with regard to research and approval is one that the ARA is able and should be influencing. NITAN disagrees that appropriate resources have been devoted to this endeavor and that whilst an exemption is in effect sufficient resources or push ever will.

11.14 NITAN is of the view 'accessible doorway' should and must be defined during the work of the modernised DSAPT.

11.15 There is a distinction that the ARA conveniently ignores between an accessible boarding point of a train and that on a platform. The platform may have a designated assistance point but this should not mean a single access and entry point to the train is all that is provided. These are distinctly different concepts.

11.17 NITAN challenges the ARA to produce the audited reports showing this data. Especially in relation to heritage constraints whose influence over decision making has historically been overinflated by transport providers.

11.18 The inference that free travel for a carer or companion is all that is necessary to alleviate this issue is laughable. The notion of independent travel is and should be the goal of the DDA and the DSAPT. Failure to achieve this should be seen as a failing of the objects of the act.

11.23 NITAN emphasizes these points.

11.28 NITAN holds concern the conditions proposed will not hold the ARA to proper account. The conditions proposed may ensure timeframes are given but would place little to no pressure on the ARA for these timeframes to be expedient

11.43 NITAN is unsure how Ms Shiels has made her 'reasonable measures' determination and seeks proper transparency of this decision. NITAN disagrees with their assessment.

11.47 NITAN is exacerbated over this issue. Surely if a transport provider provides a mechanism for access that is unusable by the disabled community it must be for them to remedy this situation through assisted access. Provision of an inaccessible mechanism of access should not be seen as assisted in any way shape nor form. To reduce the effectiveness of 'assisted access' as a term removed a key tenant of standards.

11.74 NITAN notes the same concerns here as in 11.28 that the conditions may well elicit a response from the ARA but they may not elicit one that furthers the inclusion of disabled people with expedience. This must be the goal of the act and its standards.

11.80 NITAN holds great concern on the experts testimony that without a clear requirement for access at all doors then this will not be the case. NITAN wonders what other diversity groups must be seen to have their rights encoded in standards in order for them to be pushed. 'Doors must be available for us by any and all genders' does not need to be written in order to be understood clearly and enacted.

11.85 Without a clear understanding and definition of 'accessible rail cars' etc this discussion is meaningless. It is this definition work that must be progressed before any agreement will be reached on the matter.

11.92 Boarding point on a platform and boarding point on a train must be delinked in order to progress this matter. The commission and the expert have failed to do this.

11.112 All these matters are ones that the ARA members are in direct responsibility for.

11.114 This is simply not the reality as reported by the disabled community. Disabled people are shepherded to the entrance of the choice of the transport provider.

NITAN notes and applauds the insertion of the condition of reporting the dollar figure spent on implementing these measures. NITAN respectfully asks that this be presented also as a percentage figure of total operating budget. This would allow the disabled community to judge the full worth of their patronage and the trust cost of inclusion of the disabled community in an inclusive community.

As noted above NITAN holds concern that whilst a timeline may be established through the conditions process there is no mechanism to push for this to be one acceptable to the disabled community. A mechanism for discussion and reflection of these timelines must be determined for them to hold true worth.

Conclusion

NITAN thanks the AHRC for their time, thanks the expert for their time and looks forward to the further development of mechanisms that alleviate the institutional neglect of the transport policy space. A conversation NITAN will be leading in 2022.