

Response to the application for DSAPT exemption by the Australasian Rail Association (ARA)

QDN

QUEENSLANDERS WITH DISABILITY NETWORK
NOTHING ABOUT US WITHOUT US

Contents

About Queenslanders with Disability Network (QDN)	3
Value Statement on People with Disability	3
Overview	4
Issues with the Current Exemption Application	4
Conclusion.....	5

About Queenslanders with Disability Network (QDN)

QDN is an organisation of, for, and with people with disability and the organisation's motto is "nothing about us without us." QDN operates a state-wide network of members who provide information, feedback and 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.

QDN has over 700 members across Queensland. All of QDN's voting members are people with disability.

Value Statement on People with Disability

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.
- Culturally and historically, people with disability are not afforded the same value, opportunities or access to community life.
- Any inclusion in community for people with disability is conditional and vulnerable to withdrawal.
- Many people with disability in Queensland are excluded from the most basic experiences of ordinary lives.
- Current exclusionary practices are unacceptable and must be challenged.
- 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.

OVERVIEW

QDN is represented on the Queensland Rail Disability Discrimination Act (DDA) Reference Group and is conscious of the current developments in the rail industry.

QDN commends the industry for its innovations, which often provide excellent alternative solutions to otherwise intractable problems of noncompliance with Disability Standards for Accessible Public Transport (DSAPT).

QDN believes in, and has advocated for, accessible rail networks taking precedence over fully compliant networks. If people with disability can travel by rail on an equal basis with any other passenger, despite the noncompliance of some elements of infrastructure, conveyances and premises, then people with disability are being well served by the rail industry.

However, this does not mean QDN is supportive of lessening of the DSAPT. Essential components of the network must be functional for passengers to travel freely. Any barrier to fully meeting the requirements the DSAPT must not make travel less accessible for people with disability. A clear pathway needs to be in place for the system to be brought to compliance later than the DSAPT's Schedule of Compliance demands.

QDN urges the ARA to find solutions using the equivalent access and unjustifiable hardship provisions of the DSAPT rather than applying for indefinite exemptions. The ARA has been seeking exemptions from DSAPT since 2007 and has indicated that it intends to continue to do so, potentially past 2022 when 100% compliance with DSAPT is required.

QDN notes that ARA member Queensland Rail is currently providing a good model for ARA members to follow by using equivalent access and unjustifiable hardship provisions of the DSAPT effectively. QDN commends Queensland Rail for this approach which has developed through consultation and engagement. A similar approach is required nationally. Equivalent access solutions are as good as or better than the solutions in the DSAPT text and the current unjustifiable hardship solutions are pragmatic given the circumstances.

To be consistent the national approach should include a second edition of the Accessible Rail Code of Practice. ARA members, disability sector representatives, AHRC, state transport department and other stakeholders should sit on the Code's development committee. QDN would be supportive of the updating of the Code being a condition for allowing the ARA a new exemption from DSAPT.

ISSUES WITH THE CURRENT EXEMPTION APPLICATION

The current ARA Exemption application takes network accessibility as priority approach and therefore can mostly be supported in principle.

However, QDN recommends that the reporting arrangements of the current exemption be maintained and not dropped. The exemption should be reinstated to ensure oversight and ongoing improvements to the system are monitored effectively.

Another component of the current exemption removed in many places is direct assistance. All references to direct assistance must be reinstated for the exemption to be supported. Good staff practices will often be the deciding factor in whether a non-compliant feature can be made functional for a passenger with a disability.

The tone of the exemption in many places is that a minimum of access will be provided. While a stated minimum provides certainty, it does not guarantee an accessible network.

A preferable scenario would be that the exemption is amended to read that the maximum level of access will be provided whenever practicable.

For example the single entrance to, and access path through, a station may be temporarily blocked, denying access for the duration of the blockage. A pragmatic solution could be to provide additional entrances and access paths. Similarly, single accessible boarding points on platforms deny access to allocated spaces or priority seats in carriages that are not in the vicinity of the boarding point.

This reduces the capacity of the train to transport people who require boarding assistance to only those few allocated spaces and priority seats connected by access path to the single boarding point.

To demonstrate a strong commitment to accessibility the exemption could be amended to committing wherever practicable to multiple options for station entrances, access paths and boarding points.

CONCLUSION

In summary, QDN is not opposed to the exemptions in principle. However, QDN strongly encourages changes including:

- The reporting provisions of the current exemption are reinstated.
- The direct assistance provisions of the current exemption are reinstated.
- The provision of single or minimized access options changes to maximum provision of options practicable.
- ARA no longer uses exemptions as a means of avoiding DSAPT obligations after this exemption.
- A second edition of the Accessible Rail Code of Practice is produced with a nationally consistent approach to equivalent access and unjustifiable hardship being the goal.

For the sake of consistency of accessibility standards, a national approach is preferable to the current situation where each state develops different solutions to the same problem.

A central body would be best placed to oversee and coordinate the developmental work undertaken across states and territories. This body should include the Australian Human Rights Commission (AHRC), disability sector representatives and the Accessible Public Transport National Advisory Committee (APTNAC). It could potentially be auspiced by ARA to fill the vacuum left by the termination of the Accessible Rail Code of Practice Development Group.

Queenslanders with Disability Network – 13 July 2015.