

30 July 2021

The Australian Human Rights Commission
Unit 6, 20 Duerdin Street
Clayton, Victoria 3186

Dear Commissioners,

Queenslanders with Disability Network (QDN) provides the following response to the opportunity to make comment and feedback in regards to the Commission's request to provide feedback on the external disability access consultant report with regards to the following matters arising from the expert report. QDN is an organisation of, for, and with people with disability. The organisation's motto is "nothing about us without us". QDN operates a state-wide network of over 2,000 members and supporters who provide information, feedback and views from a consumer perspective to inform systemic disability policy and disability advocacy.

QDN provided an initial submission as this is an important issue of members to ensure equal access to public transport in people's community.

Queenslanders with Disability Network provides the following comments:

RE: Assessment 1: DSAPT Part 2.1 'Access paths-unhindered passage' and Premise Standards Part H2.2 (1) Accessways

With regards to the European example to support a 50 mm flange as safe, QDN does not see that this reasoning is appropriate within the Australian context. In European level crossings, access to platforms are supervised by staff however, this is not the case in Australia. Therefore the same application to accept this gap is not done in the same context or same conditions as there are no staff to 'supervise' at Queensland rail stations, thus what happens in Europe that makes this acceptable should not be considered in this report. European Union Commission Regulations around accessibility of the Union's rail system for persons with disability have clear specifications on supervised level track crossings. QDN sees that if level crossings are to be considered to be access paths then Clause 12 refers to infrastructure access paths therefore should be considered relevant to the flange gaps.

Additionally the report outlines that information presented by the ARA illustrates that a gap of 50mm is considered functional and accessible for independent use to negotiate flange gaps however, QDN identifies that the ACRI report cited was limited in that only three mobility aids were involved and does not believe that this provides enough evidence for to support this determination. QDN identifies that more work and time would be required to test this figure and determine safety given that a 40mm gap at boarding requires a person with disability to access a boarding ramp. QDN

Ground Floor, 338 Turbot Street, Spring Hill Qld 4000
phone: 07 3252 8566 local call from landline: 1300 363 783
email: qdn@qdn.org.au web: qdn.org.au

acknowledges the work that has been undertaken in Europe and New Zealand to address these issues and put actions in place to ensure adherence to technical safety provisions in this area highlighting what is possible in other jurisdictions to achieve these outcomes.

QDN does not support a further five years to address this or that a technical relaxation is provided to 50mm as this has been ongoing for a significant time and the impacts are upon the safety and equal access for people with disability.

It is important that conditions put in place are implementable and that the operator who has responsibility to implement this has clear immediate actions that does not enable a year by year report on proposed actions. QDN sees that it is important that actions are put in place that will be monitored and reviewed for compliance.

Re: Assessment 2: DSAPT Part 2.6 "access paths – conveniences"

A full review and assessment of DSAPT requirements is needed to make determinations on this exemption request. QDN identifies it is important to consider the 8.2 and 8.3 of the DSAPT that states that boarding ramps must be deployed to **all** accessible doors (8.2) at the **request of the passenger** (8.3).

It is critical that passengers are afforded their existing rights, particularly in this circumstance that arises because there are no staff in place who are able to/responsible for offering direct assistance. Passengers with disability can not be responsible for the decisions made around staffing that means that there are no staff at particular stations or that there are no guards available to offer assistance. The provisions and systems need to be in place to ensure that the passenger with disability has equal access to the board like all other passengers.

The DSAPT is clear that board points are required at all accessible entrances. If a carriage has accessible features such as wheelchair spaces or accessible toilets these must be connected to an accessible entrance via an access path as per Section 2.8. A passenger has the right to board at any of these accessible entrances.

The proposal to have a single alternative boarding point diminishes the rights of passengers who require boarding assistance. With regards to the current rail stock pertaining to this exemption, the trains that have six carriages have four accessible entrances per side (making eight in total) with each connecting to allocated wheelchair spaces. If this exemption was put in place, it would mean that only half the accessible entrances would be available (two) and therefore only half the allocated wheelchair spaces (six). To uphold the rights of passengers with disability, they should have access to all four doors and all 12 allocated spaces. QDN views this as a denial of rights that arises because of resource decisions that mean there are no staff to offer assistance at boarding, inaccessible platform to carriage gaps or both. People with disability as passengers should not experience disadvantage around their access. Unless staffing and infrastructure issues are addressed, then change and equal access will not occur. If this exemption is made, it will result in at least half of the accessible facilities on each train unavailable to the passengers who require them. This will have ongoing consequences for people with disability who rely on this public transport to get to work, recreation activities, and their social and economic participation in their community.

DSAPT

8.2: When boarding devices must be provided

(1) A manual or power assisted boarding device must be available at any accessible entrance to a conveyance that has:

(a) a vertical rise or gap exceeding 12 mm (**AS/NZS3856.1 (1998) Clause 2.1.7 (f)**); or

(b) a horizontal gap exceeding 40 mm (**AS/NZS3856.1 (1998) Clause 2.1.8 (g)**).

Conveyances

8.3 Use of boarding devices

(1) If a conveyance has a manual or automatic boarding device, it must be available for use at all designated stops.

(2) An available boarding device must be deployed if a passenger requests its use

2.3 Extent of path

(1) An access path must extend from the entrance of a conveyance to the facilities or designated spaces provided for passengers with disabilities.

(2) Up to 50 mm of an adjacent allocated space may be used as part of the access path.

(3) If an access path cannot be provided, the operator must provide equivalent access by direct assistance.

RE: Assessment 3: DSAPT Part 6.4 'Slope of external boarding ramps'

It is important to acknowledge that the reference in the report to AS/NZS3856.1-1998 has been superseded by AS3856.1-2021. The 2021 edition has substituted 1:6 for 1:4 as the steepest allowable gradient. The Exemption application fails to recognise the changed worst case scenario gradient. It is not clear who the Australian Rail Association is seeking clarification around 'physically assisting passengers' from. Given that this is a health and safety issue that may need to be addressed through legal opinion. Assisted access means that the staff will give hands on assistance to manually push passengers in their mobility aid up and down ramps when embarking and disembarking and is an important part of action to ensure safety and well-being of passengers using external board ramps based upon slope.

QDN identifies that passengers with disability using mobility aid do require physical assistance on steep ramps to ensure their safe embark and disembark of the train and does not support the reasoning in the report to justify the exemption. This is an issue of staff training in manual handling in compliance with occupational health and safety laws and can be provided to staff to safely provide physical assistance to passenger. QDN identifies that if this exemption is provided it will impact upon a significant proportion of the national rail network and people with disability who arrive unaccompanied or who have companions not able to offer manual handling will be denied access to travel as they will not be able to climb ramps steeper than 1:8.

6.4 Slope of external boarding ramps

The slope of an external boarding ramp must not exceed:

- (a) 1 in 14 for unassisted access (**AS/NZS3856.1 (1998) Clause 2.1.8 (e)** (including the notes)); and
- (b) 1 in 8 for unassisted access where the ramp length is less than 1520 mm (**AS1428.2 (1992) Clause 8.4.2 (a)** and **AS1428.1 (2001) Figure 8**); and
- (c) 1 in 4 for assisted access (**AS/NZS3856.1 (1998) Clause 2.1.8 (e)**).

It is important to acknowledge that over the past two decades there has been limited progress made to address these critical issues of accessibility and meet standards for public transport for people with disability. QDN does not see that it is acceptable to make people with disability access via a single nominated boarding point as it significantly diminishes DSAPT rights. QDN also does not support that people with disability should experience discrimination about what train they can get on because there are limited there are not accessible paths connecting them to accessible entrances and therefore the total number of accessible spaces on the train carriages can not be used. QDN also sees that it is critical that the safe embarking and disembarking practices and standards are followed on steep gradients which includes a staff member manually assisting/pushing the passenger in these situations.

QDN does not support the exemptions or the key findings in this report that recommends exemptions be given for a period of five years.

Thank you for the opportunity to comment.

Yours Sincerely



Michelle Moss

Acting Chief Executive Officer

Queenslanders with Disability Network