



public interest
ADVOCACY CENTRE

**Submission re Transport for NSW Disability
Inclusion Action Plan 2017-2021**

1 September 2017

Introduction

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact on disadvantaged and marginalised people. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training.

Our work addresses issues such as:

- homelessness;
- access for people with disability to basic services like public transport, education and online services;
- Indigenous disadvantage;
- discrimination against people with mental health conditions;
- access to energy and water for low-income and vulnerable consumers;
- the exercise of police power;
- the rights of people in detention, including the right to proper medical care; and
- government accountability, including freedom of information.

PIAC is funded from a variety of sources. Core funding is provided by the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from the NSW Government for its Energy and Water Consumers Advocacy Program and from private law firm Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, donations and recovery of costs in legal actions.

PIAC's work on disability inclusion on NSW public transport

PIAC has undertaken a range of work on improving the accessibility of NSW public transport services for people with a disability.

This includes successfully running a number of test cases to improve the accessibility of trains and buses, including *Graeme Innes v Railcorp*¹ and *Julia Haraksin v Murrays Australia Ltd.*² These cases highlight some of the challenges faced by people with disabilities using public transport. They have paved the way for lasting change to improve accessibility for people with disabilities.

PIAC has also consulted with organisations that represent people with a disability in preparing this submission, including People With Disability Australia (PWDA), Vision Australia, Blind Citizens NSW and Guide Dogs NSW/ACT.

¹ *Innes v Rail Corporation of NSW (No 2)* [2013] FMCA 36 (1 February 2013).

² *Haraksin v Murrays Australia Limited (No 2)* [2013] FCA 217.

Summary of Recommendations

Recommendation 1

The action items included on pages 20 to 31 should be clearer about exactly what will be delivered, by when, to ensure there is accountability for implementation.

Recommendation 2

The indicators included on pages 33 and 34 must be specific, and measureable, so that the implementation of the Action Plan can be appropriately assessed.

Recommendation 3

Greater focus should be given to meeting the requirements under the Disability Standards for Accessible Public Transport, including those where 100% compliance is required by 2022.

Recommendation 4

Transport for NSW should publicly release implementation reports under the Action Plan at least every six months.

Recommendation 5

The Consultation Draft should use clear language around the use of the term 'accessible', ensuring that readers know which types of accessibility are being described in each area.

Recommendation 6

Audible announcements on Sydney Trains should be subject to regular independent audit reports, with the results of these audits publicly released.

Recommendation 7

Action items under 1.2 on page 20 should be amended to include specific commitments to ensure automated audible announcements are added to all regional NSW Trains.

Recommendation 8

Action items under 1.3 on page 21 should be amended to include specific commitments to ensure automated audible announcements are added across all Sydney buses, and that where they exist they are utilised.

1. Introduction

In this submission, we will make a number of general observations about the overall Transport for NSW Disability Inclusion Action Plan 2017-2021 Consultation Draft, before making specific comments on the issue of audible announcements on trains and buses (which relate to our previous work in that area). We will then conclude with further comments about additional issues in the Consultation Draft identified by ourselves, our clients and by organisations that represent people with disabilities in NSW.

2. General Comments

PIAC welcomes the ongoing commitment by Transport for NSW to improving the accessibility and inclusiveness of public transport services, as demonstrated by the release of the Consultation Draft.

Commitments that new public transport infrastructure, including the Sydney Metro (Northwest, Metro City and Southwest) and the CBD and Eastern Suburbs light rail, will be 'built to the very highest standards of accessibility' (Ministers' foreword, page 3), are also positive.

However, PIAC has some general concerns about the overall Consultation Draft, and suggests that these issues need to be rectified in order for Transport for NSW to meet the ambitions set out in the document. These include:

2.1 Action items need to be more specific

The action items set out in the Consultation Draft on pages 20 to 31 are, in many cases, too general or vague to be clearly understood, or to ensure accountability for implementation. These concerns are particularly applicable to the action items with respect to 'Liveable communities' (pages 21 to 23).

For example, there are a number of actions which begin with 'progressively' without setting out the baseline, or the proportion of improvement that is expected to be achieved by 2021. There are similar concerns about actions which commit to 'continue to' without being explicit about the current work being undertaken in these respective areas, as well as with actions to 'explore options' without setting out a clear goal for what will be delivered over the next five years.

Recommendation 1

The action items included on pages 20 to 31 should be clearer about exactly what will be delivered, by when, to ensure there is accountability for implementation.

2.2 Indicators need to be more specific

The above concerns, in relation to action items, are even more acute with respect to the proposed indicators which are set out on pages 33 and 34.

There are at least five indicators that are based on 'improvement' and another four based on 'consistent improvement' without setting out either the baseline, or the proportion of improvement that is necessary to be considered successful. Improvement or consistent improvement that is only minor or small, especially where it is from an existing low base, is unlikely to be sufficient to

satisfy the legitimate expectations of people with disability in NSW who want a fully accessible and inclusive public transport system.

The lack of specificity here is a particular problem because whether these indicators are met will be the primary basis on which the success or otherwise of the Action Plan will ultimately be judged.

This issue can already be seen in some of the analysis of actions under the existing Disability Inclusion Action Plan and whether they have been implemented or not in Appendix 4 (pages 45 to 55). It is unclear how people outside Transport for NSW are in a position to judge the implementation status of items like 2.3 ('Consider the potential to incorporate Transport Standards requirements when planned maintenance or minor works are undertaken at stations').

Recommendation 2

The indicators included on pages 33 and 34 must be specific, and measureable, so that the implementation of the Action Plan can be appropriately assessed.

2.3 Greater focus on meeting Disability Standards for Accessible Public Transport

As its name suggests, the Transport for NSW Disability Inclusion Action Plan is intended to run for the period 2017 to 2021.

As noted in Appendix 3, the Disability Standards for Accessible Public Transport requires 100% compliance in the vast majority of areas (outside of the physical accessibility of trains) by 2022. Given the proximity of this impending deadline, it is perhaps disappointing that the actions and indicators included in the Consultation Draft are not more ambitious.

Indeed, in many areas the proposed action items appear to leave Transport for NSW falling significantly short of what is required under the Disability Standards, thus leaving its agencies at risk of disability discrimination complaints for not fulfilling its obligations.

Recommendation 3

Greater focus should be given to meeting the requirements under the Disability Standards for Accessible Public Transport, including those where 100% compliance is required by 2022.

2.4 Regular reports on progress need to be published

Another key weakness of the Consultation Draft as it currently stands are the limited plans to publish progress reports on implementation. On page 32 the Draft states that:

Reports on overall implementation will be provided to the Accessible Transport Advisory Committee, which will have an ongoing role in identifying barriers for people with disability and where implementation might be improved. Progress on implementation will also be reviewed annually and publically reported in the Transport for NSW Annual Report.

PIAC notes that the most recent Transport for NSW Annual Report (2015-16), features very little information about progress against the existing Disability Inclusion Action Plan, with a very brief discussion of the Transport Access Program on page 36 only.³

PIAC suggests that, in order for Transport for NSW to be appropriately accountable for its progress in implementing the Action Plan, implementation reports should be stand-alone, and publicly released at least every six months (if not every quarter).

Recommendation 4

Transport for NSW should publicly release implementation reports under the Action Plan at least every six months.

2.5 Clarity of language

A general problem with the Consultation Draft which has been identified by disability organisations with whom we have consulted is the need for the document to be clear and specific in its use of certain terms, and provide additional information in some circumstances.

These concerns particularly relate to the use of terms like ‘accessible’ – where it is not immediately apparent, the document should specify the type of accessibility that is being discussed (for example, mobility accessibility or blind and low vision accessibility or hearing accessibility or accessibility for people with cognitive disability or all four).

Recommendation 5

The Consultation Draft should use clear language around the use of the term ‘accessible’, ensuring that readers know which types of accessibility are being described in each area.

3. Audible Announcements

As indicated earlier, a primary focus of PIAC’s work in the area of access for people with a disability to public transport in NSW has been achieving audible announcements on trains and buses. Such announcements are important to allow people who are blind or have low vision to travel independently.

As a result of our litigation, and especially in the case of Graeme Innes, there has been some improvement in the level of audible announcements, in some areas. However, based on the feedback from the representative organisations of people with a disability (including PWDA, Vision Australia, Blind Citizens NSW and Guide Dogs NSW/ACT), there remain significant improvements to be made, with substantial barriers left to overcome. Issues include:

3.1 Independent audit reports for Sydney Trains

While PIAC acknowledges that improvements have been made with respect to audible announcements on Sydney Trains, there remains a need for regular independent audits to ensure that the improvements that have been made to date are sustained – and that further improvements continue to occur (because of continued gaps in coverage).

³ Transport for NSW Annual Report 2015-16, available at <https://www.transport.nsw.gov.au/sites/default/files/media/documents/2017/tfnsw-annual-report-2015-16.pdf>

These independent audit reports should be released publicly, both to drive ongoing improvements, and to ensure they receive scrutiny by the people with a disability who use these services (including to assess whether these reports match their lived experience).

Recommendation 6

Audible announcements on Sydney Trains should be subject to regular independent audit reports, with the results of these audits publicly released.

3.2 Improvements in NSW Trains

While there have been improvements on Sydney Trains, there does not appear to have been corresponding increases in audible announcements on train services across regional NSW.

The experience of our clients, as well as the feedback received from organisations that represent people with a disability, is that much greater focus is required to introduce and expand audible announcements on NSW Trains services. The primary focus should be on automated services (rather than voice training) so that accessibility is more reliable, and less dependent on individual drivers.

This is essential to increase the independence of people who are blind or have low vision in regional areas, and could be achieved by adding specific commitments to audible announcements on NSW Trains under 1.2 on page 20 of the Consultation Draft.

Recommendation 7

Action items under 1.2 on page 20 should be amended to include specific commitments to ensure automated audible announcements are added to all regional NSW Trains.

3.3 Improvements in Sydney Buses

Audible announcements on Sydney Buses are infrequent, and in many cases non-existent. Even on some buses which have the technical capability to run automated audible announcements (including Metrobuses), the experience of passengers has been that these announcements are rarely being made (this is contrary to the claim on page 10 that ‘State Transit currently provides an audible and visible “next stop announcement” on Metrobus services’).

The lack of such announcements is a major barrier to the independence of people who are blind or have low vision across metropolitan Sydney. Unfortunately, the action items contained in the Consultation Draft do not appear to indicate that this situation will be significantly different by the end of the Action Plan (for example, under item 1.4 on page 21, ‘Prioritise the provision of accessible services across the network in service planning’ – which does not specify the type of accessibility to which it refers – and ‘Continue to develop practical means of improving visual and audio passenger information on the bus fleet’ – which does not contain specific targets).

Noting that the Disability Standards for Accessible Public Transport require buses to be 100% compliant, these action items need to be amended, and significantly enhanced, to help meet these goals.

Recommendation 8

Action items under 1.3 on page 21 should be amended to include specific commitments to ensure automated audible announcements are added across all Sydney buses, and that where they exist they are utilised.

4. Other Comments

The following are an additional 11 issues that have been identified by PIAC, our clients and/or the organisations representing people with disabilities in NSW with whom we consulted in preparing this submission. We suggest that each needs to be addressed to ensure the Transport for NSW Disability Inclusion Action Plan better meets the transport needs of people with disability.

4.1 Apps are not a substitute for other accessibility measures

On page 9 of the Action Plan it states that '[a]ccessibility apps are enabling people with disability to confidently use public transport'. This is followed on page 10 by the comment that:

In conjunction with Transport for NSW, State Transit is investigating options to help passengers determine their location during a public transport journey. This includes developing real time accessibility applications to assist passengers with vision, mobility, cognitive and hearing impairment.

While apps are welcome, and many people with disabilities are confident users of mobile telephone and internet-based apps, they are not a solution for all people with a disability, including those who do not have access to or confidence in using the same technology. There are also potential reliability issues with apps (including reception black spots and/or slow download speeds).

For these reasons, apps are not, and should not be considered as, a substitute for physical changes to transport infrastructure. For example, simply because it may be possible to look up a timetable online, does not mean that bus stops and interchanges should not all be accessible through either braille or talking text. Similarly, apps on phones that announce locations should not be a substitute for audible announcements being made on trains and buses.

4.2 Bus stop design and accessibility

Similarly, organisations representing people with low vision identified a number of concerns about the design and accessibility of Sydney metropolitan bus stops, especially in relation to people who are blind or have low vision.

This includes a need for the further installation of tactile signage at bus stops, that this signage is placed close to the pick-up/drop-off zone (so that people are able to be seen by and hear the bus drivers in order to announce the destination of the bus) and also that bus drivers actually stop near the tactile signage (rather than a long distance away, where people with a disability may not be seen and may not be able to hear any announcements).

These organisations also expressed the need for the guidelines discussed under action item 1.3 on page 20 ('Issue guidelines on bus stop design standards for accessibility and the reduction of

barriers’) to be accessible across different types of disability, and that they be implemented consistently across different local government areas.

4.3 Train station upgrades

The program to improve accessibility at existing train stations, by progressively upgrading stations and introducing lifts, is welcome. However, disability organisations cited the need for greater transparency in how the sites for these upgrades are chosen (under action item 1.1 on page 20: ‘Continue the roll out of the Transport Access Program across NSW to improve access to stations on the basis of prioritised need’). They also called for an increase in consultation with both their organisations, and people with a disability in general, to ensure that these choices reflect the actual needs of the community.

A particular issue was raised about the delays in upgrading Redfern station, especially given the increase in patronage, its proximity to services (including organisations which serve people with a disability) and proposed major developments in the surrounding areas.

4.4 Clarity around provision of ‘equivalent access’

There is acknowledgement by organisations representing people with a disability in NSW that physical limitations, including tidal variations at commuter ferry wharves and major problems with some existing rail infrastructure, may mean that full compliance with the Disability Transport Standards is not practicable in the immediate future. This is reflected in the discussion of ‘direct assistance’ and especially ‘equivalent access’ on page 17 of the Consultation Draft.

However, there is a desire for greater information to be provided by what is meant by ‘equivalent access’ in these circumstances so that, as the Action Plan suggests, ‘the dignity and rights of people with disability are respected’.

4.5 Cycling infrastructure and walking access

The commitments to improve cycling infrastructure, under action items 1.91 on page 22 of the Consultation Draft, are welcome. However, there is a concern that some physical cycling infrastructure, including the installation of bike racks on footpaths and other public spaces, may compromise the ability of people with disability to safely traverse these spaces. Therefore, the further installation of cycling infrastructure, including bike racks, should be cognisant of the needs of people with disability.

4.6 Taxi access to Sydney Airport

The Consultation Draft includes a positive focus on the importance of intermodal transport, including ensuring that not only are individual types of transport accessible, but that people with disability are able to transfer, as seamlessly as possible, between different modes of transport.

One particular issue that has been raised by people with disability in preparing this submission is transfer between taxis and flights at Sydney Airport for people who are blind or have low vision, or who have hearing disability, and especially for those who are deaf-blind. This includes specific concerns that taxi drivers are not permitted to park, or take passengers into the building either to the check-in point or to meet support people inside the terminal.

There are further issues in terms of flights and accessibility, which are beyond the scope of the Consultation Draft, however, the current interaction between taxis and Sydney Airport itself is a significant barrier that means some people with disability face challenges in flying at all.

4.7 Point-to-point safety

The increase in point-to-point private transport services (including 'ride-share' platforms such as Uber) is ongoing. While there is already an identified need to ensure more of these services include accessible options (such as publicly-subsidised, wheelchair-accessible Uber cars), disability organisations have also identified a need for increased safety in terms of pick-up and set-down spaces for people using point-to-point schemes. The Consultation Draft could therefore be updated to include an action item for Transport for NSW to work with local councils to improve the safety of point-to-point services, especially in relation to pick-up and set-down zones.

4.8 In-person training

The commitments under 'Inclusive customer service and feedback' (in action items on page 29) are welcome. This includes a commitment to 'Provide disability and age awareness training to all customer service staff (under 4.1).

Representatives from disability organisations were keen to ensure that this training remains people-focused. Therefore, while online delivery may hold benefits in terms of efficiency (action item 'Progressively introduce audio-visual materials featuring people with a range of disabilities, to support disability awareness training **and its move to online delivery**' (emphasis added)), this should not be at the expense of training which include direct in-person engagement with people with a disability.

4.9 Specific employment targets

The inclusion of the indicator 'Increase in the proportion of employees who identify as having a disability' is also welcome. However, in line with comments expressed earlier in this submission, this indicator should be more specific, including the current baseline as well as setting out ambitious targets (beyond simply an increase) between 2017 and the end of the Action Plan.

Based on feedback from organisations representing people with a disability, this target should also be supplemented by sub-indicators which reflect employment of people with different kinds of disabilities, to ensure that employment is being provided to a broad cross-section of the community.

4.10 Implementation plans for transport service providers should also be transparent

The commitment on page 24 to 'Ensure that disability action plans are a requirement of contracts with transport service providers' (under action item 2.3) is an essential component of an increasingly deregulated and/or privatised public transport market (and especially in relation to privatised metropolitan bus services).

However, there is a need to ensure that these disability action plans are, like this overall Action Plan, public and enforceable (with private transport providers held to account in their implementation). They also must be developed through genuine consultation with organisations representing people with disability in NSW, as well as the broader community.

4.11 Ongoing public consultation with people with disability

This leads to a broader final point, that in finalising the Transport for NSW Disability Inclusion Action Plan 2017-2021, and throughout its five-year implementation period, there is a need for sustained consultation with disability representative organisations, and people with disability in NSW directly.

This includes ensuring that people with disability are fully included in customer satisfaction surveys ('Continue to include accessibility among customer indicators in the Transport Customer Satisfaction Survey', action item 3.6 on page 27).

And it extends to ensuring that the Accessible Transport Advisory Committee is provided with all information relating to complaints about accessibility of public transport services, including how those complaints are handled and whether they are successfully resolved to the satisfaction of the complainant (under action item 4.2 on page 29).