

**Submission
No 81**

**ACCESS TO TRANSPORT FOR SENIORS AND
DISADVANTAGED PEOPLE IN RURAL AND
REGIONAL NSW**

Organisation: The Law Society of NSW

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Position: President

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THE LAW SOCIETY
OF NEW SOUTH WALES

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29 August 2016

Mr Adam Marshall MP
Chair
Legislative Assembly Committee on Community Services
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

By email: communityservices@parliament.nsw.gov.au

Dear Chair,

Inquiry into access to transport for seniors and disadvantaged people in rural and regional NSW

Thank you for the opportunity to provide comments to the inquiry into access to transport for seniors and disadvantaged people in rural and regional NSW ("inquiry").

The Law Society of NSW submission is limited to the issue of transport disadvantage for Aboriginal and Torres Strait Islander people in regional, rural and remote NSW; and in particular, the impact that this can have on their contact with the criminal justice system and their limited access to justice.

The social inequality of travel

In regional, rural and remote NSW, public transport can be limited, expensive and inconvenient; and long distances can make it very difficult for people to access everyday activities and services, such as employment, education and medical services.

For Aboriginal and Torres Strait Islander people living in country areas, the lack of accessible public transport means that peoples' capacity to participate in education, training, paid work, voluntary work, as well as maintaining connections with family and friends, accessing specialist medical or other government services are limited. This can have a particular impact on their livelihood and can further exacerbate the risk of contact with the criminal justice system.

The link between lack of access to adequate public transport and the criminal justice system

In areas with limited public transport options, people are far more reliant on private transport. With this comes the need for affordable cars and easy access to the licensing system and funds to run a car.

The Law Society considers that the licensing system in NSW effectively excludes some marginalised and disadvantaged people in regional, rural and remote NSW, for a number of reasons, including an inability to complete the test due to literacy issues; lack of access to birth certificates to support a license application; or insufficient funds to afford or maintain a car.

The Law Society submits that the issue of transport disadvantage is also directly linked to unauthorised driving offences that have a disproportionate effect on people living in regional, rural and remote NSW, and in particular, Aboriginal and Torres Strait Islander people living in those areas.

In particular, the Law Society understands that there are many Aboriginal and Torres Strait Islander communities in NSW where people face significant barriers to obtaining and maintaining driver licences, which results in people driving unlicensed.

The Law Society notes that existing licence sanctions for unauthorised driving do not take into account the particular circumstances of these communities. Rather, they exacerbate the ongoing disadvantage and do not provide sufficient opportunities for people to obtain their licence.

The NSW Law Reform Commission report on the penalty notice system stated that driver licence sanctions:

“can cause severe problems...for people who live in areas not well served by public transport and who require a driver licence to work or to access essential services.”¹

Disqualification periods can have a significant impact on an individual’s everyday life and may be disproportionate to the offence. The Law Society notes the importance of having a driver licence, particularly in regional, rural and remote areas which may have little, or no, access to public transport. Existing licence sanctions for unauthorised driving have had a significantly disproportionate effect on disadvantaged and vulnerable young people, particularly within the Indigenous community. Some of the highest rates of licence suspensions due to fines include areas with high Aboriginal populations such as Bourke, Brewarrina and Walgett.²

On this issue, we draw your attention to the recent NSW Legislative Assembly Parliamentary Inquiry into driver licence disqualification reform, which handed down its report on 21 November 2013.³ The report provides a clear summary of the legislation and current arrangements in NSW for dealing with unauthorised driving offences and provides recommendations for reform to the current legislative regime.

Other restrictions on travel and access to justice

The Law Society notes that a lack of adequate access to public transport in regional and remote areas can impact on a person’s ability to travel to court. Anecdotally, Law Society members gave the example of the lack of public transport options in Goodooga, which meant that community members who did not have a car or licence

¹ NSW Law Reform Commission, *Report 132: Penalty notices* (February 2012), access at: <http://www.lawreform.justice.nsw.gov.au/Documents/r132.pdf>, para 34, XI.

² Legislative Assembly of New South Wales, Committee on Law and Safety, ‘*Driver Licence Disqualification Reform*’ (21 November 2013) 17 <
<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5254/Drive%20licence%20disqualification%20reform%20report.pdf>>.

³ *Ibid.*

and who were required to attend court in Lightning Ridge had no means of getting there.

Further, the Law Society understands that air and rail travel is being increasingly wound back in regional, rural and remote NSW. For example, practitioners report that the previously regular flights to the largely Aboriginal and Torres Strait Islander communities of Bourke, Brewarrina and Walgett no longer operate.

As such, the lack of or withdrawal of public transport may also have a direct impact on the ability of Aboriginal and Torres Strait Islander people in regional, rural and remote NSW to access affordable solicitors, who may be less able to travel to regional court locations to represent clients.

Lack of access to legal experts in remote areas

The Law Society notes that a related issue is the relative cost to arrange for professionals and experts to travel to regional towns to support clients in court hearings. For example, in many regional and remote communities, psychiatrists may only visit once a month.

The Law Society notes that the prevalence of mental health, drug and alcohol use and comorbidity of conditions, as well as cognitive impairments, means that in many cases, Aboriginal and Torres Strait Islander people with matters before the courts do not have access to the necessary support services or court diversionary options that may address their criminogenic activity.

The result may be that these people miss the opportunity for treatment and rehabilitation, which increases their risk of re-entering the criminal justice system.

Transport for released prisoners

The inquiry may be interested to know that the NSW Legal Assistance Forum ("NLAF") has recently undertaken initial unpublished research on pathways for inmates leaving prison. This research notes that many of the State's correctional centres are in remote NSW. Prisoners may be released from detention with limited funds and provided only with a train ticket to the closest regional town. With limited public transport available to the remote communities where they live, the research found that in particular, Indigenous people are at risk of becoming homeless and as a result, be at a greater risk of re-offending and consequently re-entering the criminal justice system.

The Law Society would be happy to provide further information on these issues, if requested.

Thank you for your consideration of this submission. Questions may be directed to Anastasia Krivenkova, Principal Policy Lawyer, on [REDACTED] or [REDACTED]

Yours sincerely,

[REDACTED]
Gary Ulman
President