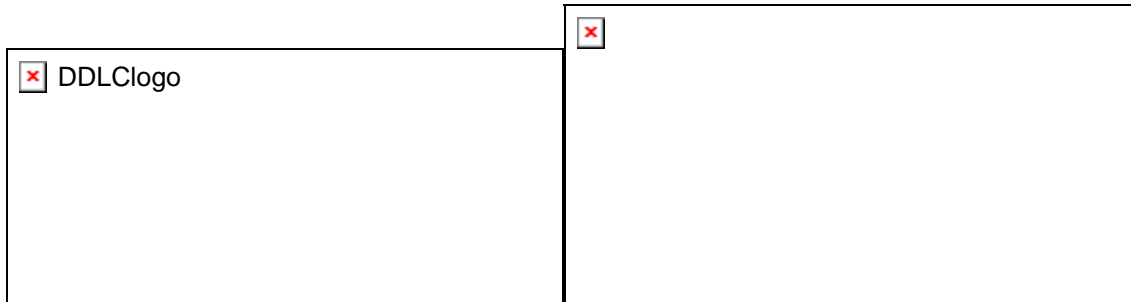


INQUIRY INTO NSW TAXI INDUSTRY

Organisation: NSW Disability Discrimination Legal Centre Inc and Physical
Disability Council of NSW

Name: Ms Fiona Given

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NSW Disability Discrimination Legal Centre Inc.
PO Box 989
Strawberry Hills NSW 2012
Voice: (02) 9310 7722
Toll Free: 1800 800 708
TTY: (02) 9310 4320
TTY Toll Free: 1800 644 419
Fax: (02) 9310 7788
Email: info@ddlcnsw.org.au

Physical Disability Council of NSW
St. Helen's Community Centre
3/184 Glebe Point Road
Glebe NSW 2037
Ph: (02) 9552 1606
Toll free: 1800 688 831
Fax: (02) 9552 4644
E-mail: admin@pdcnsw.org.au

Contact for this submission:

Fiona Given

Policy Officer

NSW Disability Discrimination Legal Centre

fgiven@ddlcnsw.org.au

Jordana Goodman

Policy Officer

Physical Disability Council of NSW

Jordana.goodman@pdcnsw.org.au

About DDLC

The NSW DDLC was set up in 1994 to help people with disability to use disability discrimination laws. Our role is to provide accurate and easy to comprehend advice to people with disability in NSW who want to make a complaint of disability discrimination. We give free legal advice, run disability discrimination cases and represent people with cases of disability discrimination.

The NSW DDLC aims for a society where people will be able to participate in all aspects of life through the:

- removal of barriers;
- elimination of discrimination;
- empowerment of people with disabilities;
- promotion of awareness; and
- ability to exercise rights.

DDLC's objectives are:

- To promote community awareness of the potential to use discrimination laws to advance the rights of people with disabilities;
- To provide legal services for people with disabilities, their associates and representative organisations, who have been discriminated against;
- To ensure the effective participation of people with disabilities in the management and operation of the Centre;
- To reform laws and change policies, practices and community attitudes that discriminate against people with disabilities;
- To develop and be involved in appropriate networks; and
- To maintain the necessary infrastructures and administration systems in order to further the Centre's aims and objectives.

About PDCN

The Physical Disability Council of NSW is the peak organisation representing people with physical disabilities across New South Wales.

The Objectives of the Physical Disability Council NSW (PDCN) as defined in its Constitution are:

- To educate, inform and assist people with physical disabilities in NSW regarding the range of services, structures and programs available that enable their full participation, equality of opportunity and equality of citizenship.
- To develop the capacity of people with physical disability in NSW to advocate for themselves.

- To educate and inform stakeholders about the needs of people with physical disabilities so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

The activity PDCN involves itself in to meet its constitutional objectives includes:

- Promoting the rights of people with physical disability;
- Representation to government, non-government and commercial organisations;
- Providing a forum for the discussion of ideas;
- Disseminating information to PDCN members and the public;
- Producing regular newsletters, electronic bulletins and other information;
- Consultations with people living across NSW;
- Participation in coalitions of disability groups on specific actions and issues.

Introduction

The NSW Disability Discrimination Legal Centre Inc (DDLC) and the Physical Disability Council of NSW (PDCN) welcome the opportunity to make a submission to this Inquiry. This submission will answer the following terms of reference:

- the adequacy of government reporting standards and regulation of the industry and the impact of this on the provision of quality taxi services for commuters, including for people using wheelchairs
- the performance of the wheelchair-accessible taxi fleet, with special regard to Federal disability discrimination laws and their compliance with the 2002 Disability Standards for Accessible Public Transport
- the effectiveness of the Wheelchair Accessible Transport Taxi Driver Incentive scheme in providing better taxi services for people in wheelchairs

The NSW Taxi Industry is of key importance to the clients and members of our respective organisations. Access to transport is a key issue for people with disability, especially people in wheelchairs and motorised scooters. It impacts on most other areas of their life, including the ability to access education, employment, appointments, leisure and cultural events, as well as visiting family and friends. These rights are clearly spelt out in the *United Nations Convention on the Rights of Persons with Disabilities (CRPD)*, which was ratified by Australia in July 2008. Article 9 provides for accessibility, including transport, Article 19 provides for living independently and being included in the community, Article 24 provides for the right

to education, and Article 27 provides for work and employment. This is also a key component of the Commonwealth's social inclusion agenda. "Without access to transport, participation in such critical activities as education and health care is difficult, if not impossible¹.

Section 24 of the *Disability Discrimination Act 1992 (Cth) (DDA)* prohibits discrimination in the provision of goods and services on the grounds of disability.

The most common form of public transport for people with physical disabilities is wheelchair accessible taxis (WATS), due to the limited accessibility of other forms of public transport. Throughout this submission we will be referring to the case studies of "James", "Bill", "Sharon" and "Margaret" to illustrate the difficulties experienced by people with disability using WATs.

The adequacy of government reporting standards and regulation of the industry and the impact of this on the provision of quality taxi services for commuters, including for people using wheelchairs

It appears that government reporting standards and regulations are not having a sufficient positive impact on the quality of taxi services for commuters using wheelchairs.

Section 133 of the *Passenger Transport Regulation 2007 (NSW)* requires WAT drivers to successfully complete a course of training and instruction in the care and transportation of people with physical disability. Despite the existence of this regulation, there are still problems with the quality of driver training, as discussed below.

Section 148 of the *Passenger Transport Regulation 2007 (NSW)* mandates that a driver of a WAT, available for hire, must give preference to a person using a wheelchair. This still applies even if the driver has already accepted a passenger not using a wheelchair, unless one or more of the passengers are already seated in the taxi. However, drivers are not obliged to accept to carry a passenger using a motorised wheelchair or scooter unless the driver deems that it is safe for the driver and the passenger.

In Sydney, the performance of wheelchair accessible taxis (WATs) has been measured by pick up times and response to phone calls in the 2008/2009 financial year². Generally,

¹ National People with Disabilities and Carer Council, Shut Out: The Experience of People with Disabilities and their Families in Australia, National Disability a Strategy Consultation Report (2009), p. 44

² Wheelchair Accessible Transport (WAT) Performance Against Network Standards – Sydney Networks – July 2008 – June 2009 <http://www.transport.nsw.gov.au/taxi/performance-indicators-sydney-wat.html>

these Standards were met or within a 10% margin. The performance was similar in the Newcastle, Wollongong and Central Coast Networks³.

The performance of the wheelchair-accessible taxi fleet, with special regard to Federal disability discrimination laws and their compliance with the 2002 Disability Standards for Accessible Public Transport

The performance of the WAT fleet has a great impact on the lives of people with disability. It was noted by National Disability Services NSW, that access to transport is a major barrier for people with disability in accessing services and the community⁴. This is supported by our case studies.

As mentioned previously, as taxis are a service, they are required to comply with the non-discrimination provision under s. 24 of the DDA. Taxis are also required to comply with the *Disability Standards for Accessible Public Standards 2002 (the Standards)*. Under s. 1.2 the Standards, it states that, “The purpose of these Standards is to enable public transport operators and providers to remove discrimination from public transport services.”

Some people who use WATs are unable to manoeuvre themselves inside the vehicle. Under s. 3.3 of the Standards, drivers are required to provide direct assistance to passengers in these circumstances. Unlike other modes of transport, WAT drivers, are required to push the passenger up a ramp and safely secure the wheelchair to the floor.

Under the Standards, WATs were meant to have the same response times as regular taxis by 31 December 2007. However, the Draft Report on the *Review of the Disability Standards on Accessible Public Transport* found that the response times were not the same as other taxis⁵. Of particular note, people with disability in Sydney, said in public hearings of the review that it was very difficult to access a WAT in some places of Sydney⁶. It was noted that it was difficult to get WATs during school drop-off and pick-up times as they were engaged in the transportation of school children⁷. This is illustrated by the case study below:

³ Wheelchair Accessible Transport (WAT) Performance Against Network Standards – Newcastle – Wollongong – Central Coast Networks – July 2008 June 2009
<http://www.transport.nsw.gov.au/taxi/performance-indicators-region-wat.html>

⁴ NDS NSW, Transport As An Enabler For The Social And Economic Participation Of People With Disability In NSW (June 2009), p. 3

⁵ The Allens Consulting Group, Review of the Disability Standards for Accessible Public Transport, Draft Report, (January 2008) , p. 41

⁶ ibid., p. 41

⁷ ibid., p. 41

Bill

Bill lives alone, independently in Western Sydney, and utilises wheelchair accessible taxis (WAT) more than three times per week. Bill is actively involved as a volunteer on a number of community disability organizations, regularly participates in a range of leisure and recreational activities and at times needs to attend medical appointments.

Due to ongoing contract work, WATS are commonly used to transport children with disabilities to school and back, and as a consequence the availability of WATS becomes significantly less throughout Sydney, before and after school times. These difficulties are known to be worse in Western Sydney. This is particularly more problematic as a number of suburbs in Western Sydney are known to have higher concentrations of people with disabilities.

Our clients and constituent members have also advised that it is more difficult to get a WAT in rural New South Wales, as demonstrated by the following case studies.

Sharon

Sharon is a young adult living in rural NSW. She uses a scooter so that she can easily access resources and facilities in town, including the local TAFE.

Sharon aims to obtain employment in the following year in either the retail or commercial industry, after completing the Diploma of Business. Due to the pressures of study, Sharon needs to manage her time and finances carefully, but sometimes she has needed to wait more than an hour for a WAT.

James

James lives alone in rural NSW, approximately 20 km from the nearest major centre. Due to limited accessible public transport in the country, he relies on the limited availability of WATS. The availability of WATS are even less in the evenings, weekends and public holidays.

James has limited finances and many other expenses associated with his physical disability. These added expenses encroach on his ability to use taxis more frequently. Subsequently James has a limited capacity to travel. At times James gets frustrated because he is limited to visiting his local community once or twice per week, and at times feels isolated and gets very lonely.

Recommendation 1

We recommend that initiatives be used to increase the number of WATs in places in New

South Wales, metropolitan and regional, where it is currently difficult to access a WAT.

Although, the Standards do not require a certain percentage of WATs, it is worth noting that in 2007, WATs accounted for 9.9% of taxis in New South Wales⁸. This percentage should be increased.

The Review also noted that the factors that impact on patronage include WAT design, mobility aid standards, anchor points and safety measures⁹.

The main problem with WAT design is that not all WATs accommodate all wheelchairs. For example, the Standards set a footprint for the specifications of WATs and required entry height but not a three dimensional space. Therefore, a WAT with a curved back door can meet the Standards but not accommodate an average sized wheelchair¹⁰.

The review also raised the issue of the diversification of mobility devices in recent years as some have deviated from the Australian Standards, therefore making it difficult for taxis to carry these mobility devices¹¹. This illustrated by the following case studies

Bill

Due to Bill's medical condition, he needs to sit with his legs permanently elevated, and subsequently needs a larger wheelchair compartment in a WAT. As a consequence Bill can only use Toyota Hiace Commuter Vans and often needs to wait for up to an hour for one of these vehicles.

Sharon

Sharon faces difficulties due to the size of her scooter. In the past WATS have been available to all passengers, regardless of whether travelling in a wheelchair or scooter, but more recently some taxi drivers have ceased transporting passengers using scooters. The size of her scooter impacts on her ability to manipulate the ramp necessary to access WAT vehicles, and her ability to fit into the wheelchair compartment. Due to this restriction, Sharon is further limited in the number of WAT vehicles she can travel in.

⁸ *ibid.*, p. 42

⁹ *ibid.*, pp. 47-48

¹⁰ *ibid.*, p. 48

¹¹ *ibid.*, p. 48

Recommendation 2

We recommend that the New South Wales government lobby the Commonwealth to update the Australian Standards to reflect the changing nature of mobility devices.

Recommendation 3

We recommend that the New South Wales Taxi Industry phase in vehicles that can accommodate these mobility devices.

In addition, we would like to see steps taken towards achieving a universally designed taxi fleet. We envisage that this would be similar to the London taxi fleet . It is our position that this could be achieved by replacing a regular taxi with an accessible taxi once the regular taxis can no longer be driven as a taxi, after ten years. Therefore, if 500 regular taxis were replaced per annum, the entire taxi fleet would be accessible within ten years.

Recommendation 4

We recommend that the NSW Taxi Industry work towards achieving a universally designed taxi fleet.

Customer Service

The following case study highlights issues in regards to customer service delivered by WAT drivers and radio operators.

Margaret

Margaret lives independently in metropolitan Sydney and uses up to ten WATs per week, to attend employment, leisure and recreational activities, and visit friends and family. As it costs Margaret approximately \$300 per week travelling to work and back, she needs to be pretty careful of her weekly budget.

Margaret believes that the customer service provided by both the radio operators and WATS driver could be improved. She frequently experiences complications where incorrect pickup details are provided to the driver, or when ringing up the operator to check up on the arrival time of a previously made booking, it inexplicably gets lost, and consequently arrives late, if at all.

With regard to WAT drivers, Margaret feels that some drivers provide quality service

whereas some drivers exhibit a range of negative behaviours including:

- *Taking an excessive amount of time moving unrelated objects from the wheelchair compartment*
- *Carelessly not securing all parts of the wheelchair to the ground*
- *Not having the equipment necessary to secure the wheelchair to the ground*
- *Ignoring the route provided by the passenger and taking unnecessary longer routes*
- *Taking regular bookings in preference to wheelchair jobs*
- *Dirty vehicles in need of maintenance*
- *Financially abusing the passenger.*

This is supported by previous investigations into the WAT industry.

The lack of driver training significantly undermines the performance of the WAT fleet. In order to qualify as a WAT driver in New South Wales, the driver must be a regular taxi driver and undertake a two day WAT training course¹². Although, the course includes awareness of the passenger's needs, communication with the passengers and others, appropriate customer service, and the DDA, they should also have some basic disability awareness training, preferably delivered by a person with disability.

Recommendation 5

We recommend that in addition to their existing training, WAT drivers should receive some basic disability awareness training, preferably delivered by a person with disability.

Some concern was expressed in the review of the Standards that some drivers rarely take people with disability and consequently were ill-equipped to take people using mobility devices¹³.

Zero200 Wheelchair Accessible Taxis require the booking operator to be told if the passenger is non-verbal¹⁴. Requests for information of this nature is permissible under s. 30 of the DDA, provided that the information is not used to discriminate against the person.

Recommendation 6

We recommend that WAT drivers are reminded that it is unlawful to discriminate against a

¹² The New South Wales Taxi Service, [Wheelchair Accessible Taxis](#),

¹³ Allens Consulting Group, [op.cit.](#), p. 49

¹⁴ Zero200 Wheelchair Accessible Taxis , <http://www.zero200.com.au/bookings.htm>

passenger based on information received about their disability.

The effectiveness of the Wheelchair Accessible Transport Taxi Driver Incentive scheme in providing better taxi services for people in wheelchairs

There are three elements to the WAT Taxi Driver Incentive Scheme in New South Wales.

Firstly, the provision of short term cheaper taxi licences to drivers WATs at the price of \$1000 in urban areas and are free in rural areas, compared to a regular taxi licence potentially costing \$36,000¹⁵.

Secondly, they are granted interest free loans for operators to purchase new or additional WAT vehicles outside the Sydney metropolitan area¹⁶.

Finally, a trial of a WAT driver incentive payment was introduced on 1 December 2008. The trial was originally going to run for six months, however, it has been continued as it was considered to be successful¹⁷. The incentive payment of \$8.47 (including GST) is paid for journey's paid with an M50 Taxi Transport Subsidy Scheme docket and undertaken in a WAT¹⁸.

However, it is apparent that these incentives are less effective in rural areas, according to our case studies.

In 2005, the ACT Government increased its lifting fee to \$10 from \$8.25¹⁹. The Report on ACT Public Transport Accessible Infrastructure and Services²⁰ stated 'the satisfaction with response times for hirings for wheelchair-bound passengers has increased from 28% in 2005 to 57% in 2006. This is now equivalent to that for standards taxis²¹.'

¹⁵ NDS NSW, op.cit., p. 9

¹⁶ Zero200 Wheelchair Accessible Taxis, op.cit.,

¹⁷ NDS NSW, op.cit., p. 9

¹⁸ NSW Department of Transport and Infrastructure, How Will the Wheelchair Taxi Driver Incentive Payment Operate, <http://www.transport.nsw.gov.au/taxi/wheelchair-incentive-trial.html>

¹⁹ Wheelchair Accessible Taxis Reference Group Report' 2005
www.tams.act.gov.au/_data/assets/word_doc/0020/.../watrefgroup.doc p34

²⁰ ACT Wheelchair Accessible Taxi Review
http://www.hreoc.gov.au/disability_rights/transport/transport.html#taxis p2

²¹ Ibid.,

Recommendation 7

We recommend that based on the ACT experience, the WAT driver incentive payment should be increased.

Summary of recommendations**Recommendation 1**

We recommend an increase in the number of WATs in places in New South Wales, metropolitan and regional, where it is difficult to get a WAT.

Recommendation 2

We recommend that the New South Wales government lobby the Commonwealth to update the Australian Standards to reflect the changing nature of mobility devices.

Recommendation 3

We recommend that the New South Wales Taxi Industry phase in vehicles that can accommodate these mobility devices.

Recommendation 4

We recommend that the NSW Taxi Industry work towards achieving a universally designed taxi fleet.

Recommendation 5

We recommend that in addition to their existing training, WAT drivers should receive some basic disability awareness training, preferably delivered by a person with disability.

Recommendation 6

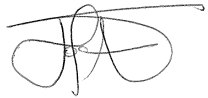
We recommend that WAT drivers are reminded that it is unlawful discriminate against a passenger based on information received about their disability.

Recommendation 7

We recommend that based on the ACT experience, the WAT driver incentive payment should be increased.



Fiona Given
Policy Officer
DDLC



Joanna Shulman
Principal Solicitor
DDLC



Jordana Goodman
Policy Officer
PDCN



Ruth Robinson
Executive Officer
PDCN