



**Response to the
Review of NSW Passenger Transport
Legislation
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1. ABOUT NCOSS

The Council of Social Service of NSW (NCOSS) is the peak body for the social and community services sector in New South Wales. NCOSS works with its members on behalf of disadvantaged people and communities towards achieving social justice in NSW.

NCOSS provides an independent voice on welfare policy issues and social and economic reforms. It is the major coordinator for non-government social and community services in NSW.

2. ABOUT THIS SUBMISSION

2.1. Why we interested in the legislation

Social and community sector organisations in New South Wales regularly identify transport as a major barrier to access. While transport should be an enabling service, our current system fails to meet the needs of many potential customers, and has become a contributing factor to social exclusion. The transport disadvantage experienced by many vulnerable groups within our society limits opportunities for education and employment, exacerbates poverty and social isolation, and impacts on emotional, mental and physical wellbeing.

Transport disadvantage can occur for a number of reasons: Those most commonly cited are accessibility, availability and affordability. It is more likely to affect some groups – including people with reduced mobility, young people, and people with low incomes; and is concentrated in particular locations – including rural and regional areas, Aboriginal and Torres Strait Islander communities, and low socio-economic areas.

While the Government has acknowledged the role of transport in reducing social disadvantage, it has yet to present a clear strategy for the delivery of transport services that are better able to meet a diversity of needs at the local level. The focus of Government planning, including in this review of the passenger transport legislation, is on mass transit services. The aspiration to develop an integrated and flexible transport system appears to extend only so far as a strategic bus system. This approach overlooks the needs of people who are unable to access strategic corridors, and ignores transport's role in supporting a fair and inclusive society.

Transport services that address the accessibility gap for people who require local transport services, or who cannot access strategic transport corridor, are an essential part of the transport task. The level of need at the local level is likely to increase in the future due to:

- The ageing of the population;
- Moves towards person-centred approaches, particularly in disability policy, which are likely to release latent demand for transport services;

- The straightening out of bus routes in order to offer faster and more frequent (primarily commuter) services¹.

We are therefore interested in ensuring that changes to the legislation will support a system that is better able to address transport disadvantage through the delivery of more flexible services and a fully integrated system that spans all levels of transport.

2.2. The Review Process

As has been discussed with Transport for NSW, NCOSS is disappointed in the short time frame provided for comment on the Review's discussion paper. This is poor consultative practice and did not allow sufficient time for stakeholders to develop an informed understanding of the complex, and potentially very significant, changes being proposed.

The timing of the consultation period for the review fell within the period for comment on the Draft Transport Master Plan, further constraining the ability for customer and community representatives to provide meaningful input.

We recognise that there is some urgency around the legislative changes concerning Safety (Section 4 of the Discussion Paper) and Regulations (Section 5 of the Discussion Paper), but understand that the changes relating to the service delivery are less pressing. Given the importance of these changes they should not be rushed through prematurely. We welcome assurances provided by Transport for NSW that there will be additional opportunities to comment before these changes are put before the parliament.

2.3. Developing this submission

On 17th October NCOSS hosted a workshop to provide an opportunity for representatives from the community services sector to discuss the proposed changes to Passenger Transport Legislation. Professor Corinne Mulley, Chair in Public Transport at the Institute for Transport and Logistics Studies at the University of Sydney provided expert guidance for the workshop, with organisations represented including:

- Cancer Council NSW
- Combined Pensioners and Superannuants Association
- Community Transport Organisation
- Council on the Ageing
- Northern Rivers Social Development Council
- Western Sydney Community Forum

The following representatives from Transport for NSW also attended a question and answer session in the first half of the workshop:

- Barbara Wise
- Phil Bullock
- Jacqueline Stow

¹ Note that we acknowledge the need to deliver faster and more frequent services in order to grow patronage, and do not object to this approach provided that additional services are introduced to address the resulting accessibility gap.

To a large extent this submission has been informed by the workshop discussion, and the issues and concerns raised by representatives from the community services sector.

The workshop focused on the objectives for the Act and on the proposed changes to service delivery, with limited discussion on the changes to revenue protection and passenger conduct regulations.

3. SUMMARY OF RECOMMENDATIONS

1. The Passenger Transport Act should state its intention to provide a system of public transport for the State that:
 - Promotes social inclusion,
 - Supports safety, health and well-being,
 - Promotes the delivery of transport services in an environmentally sustainable manner.
2. The Act's objectives should include the establishment of a statutory body to facilitate effective consultation with business, customer and community stakeholders.
3. The NSW Government should include a clearly defined set of decision-making principles, based on those in the Victorian *Transport Integration Act 2010*, in the revised Passenger Transport Legislation.
4. Efforts should be made to facilitate further discussion, supported by evidence and more developed proposals, prior to introducing legislative change that will have potentially major consequences for service delivery.
5. The revised definitions should support greater flexibility in service delivery and integration between modes.
6. The definition of community transport should support integrating community transport services into the passenger transport system.
7. In removing the requirement to hold a contract, the Government should ensure decisions in relation to new services focus on achieving a balance between contracted and commercial services, based on evidence available from the experiences of other jurisdictions. Changes should be piloted in a trial area, with outcomes measured against a clear evaluation framework.
8. Should the legislation be amended to remove the requirement to hold a contract, opportunities for the provision of more flexible and responsive transport services should not be limited to particular modes or particular vehicle types.
9. Should reference to service levels and performance standards be removed from the legislation, consultation with business, customers and the community to inform the development of service guidelines and performance indicators/standards should be mandated, with generic versions of all contracts made publically available via the Transport for NSW website.

10. The collection and reporting of data on taxi services and taxi network performance should be improved to allow for improved decision-making and a better understanding of access to taxis by particular user groups and across geographic areas.
11. Changes that would put downwards pressure on the cost of taxi services and allow for more innovative service delivery, including voluntary network membership for booking services, should be supported.
12. The development of independent booking services should be facilitated: All booking services should be accountable for meeting certain service levels.
13. The accreditation framework for community transport should allow for the expansion of community transport services, enabling it to take a more active role in addressing transport disadvantage.
14. The NSW Government should consider additional changes to the legislation to facilitate the implementation of an integrated fare structure.
15. The NSW Government should develop a clear and integrated concessions policy framework to support a fairer and more consistent approach to determining eligibility for concessions.
16. In developing relevant business rules, terms and conditions of use and systems for the operation of the electronic ticketing system, Transport for NSW should seek input from customer and community stakeholders.
17. The legislation should provide for reduced penalties for fare evasion for low-income earners (based on eligibility for a health care card).

4. OBJECTIVES OF PASSENGER TRANSPORT LEGISLATION

The Discussion Paper proposes amending the objectives in the revised passenger transport legislation to be mode-neutral and to support greater levels of integration and flexibility in how Government delivers passenger transport services for each mode.

We support amendments that will foster integration and flexibility across *all* modes of transport in order to allow for the development of a more responsive transport system that is able to better accommodate a wide range of transport needs. Comments in Section 4 of this submission focus on ensuring this intention is carried through into the body of the legislation.

The objects of the legislation should also focus on transport's role in supporting a fairer and more inclusive society. In addition to the potential objectives listed on page 20 of the discussion paper, the Act should state its intention to provide a system of public transport for the State that:

- Promotes social inclusion,
- Supports safety, health and well-being,
- Promotes the delivery of transport services in an environmentally sustainable manner.

The addition of these objectives would also result in greater consistency with the *Transport Administration Act 1988*.

The Passenger Transport Act should state its intention to provide a system of public transport for the State that:

- Promotes social inclusion
- Supports safety, health and well-being
- Promotes the delivery of transport services in an environmentally sustainable manner

4.1. Consultation

In the draft Long-Term Transport Master Plan the Government has stated a commitment to extensive community engagement and customer consultation. In translating this commitment into practice it will be necessary to ensure there are clear and consistent pathways that allow community members to have meaningful input into decision-making processes. Currently, this is not the case.

We believe that the intention to deliver services in consultation with the community should be embedded in the Act, including in the Act's objectives. This is in line the NSW Better Regulation Office's *Guide to Better Regulation*, which states that: "consultation with business and the community should inform regulatory development".

We recommend the establishment of a statutory body to facilitate effective consultation with stakeholders, and support the development of a more meaningful relationship between customers, purchasers and operators. The following should therefore be included as an object within the Act:

"To provide a statutory body to consult with business, customers and the community throughout the development of regulatory change and implementation."

The Act's objectives should include the establishment of a statutory body to facilitate effective consultation with business, customer and community stakeholders.

Currently, there appears to be some confusion within Government about the role of stakeholder engagement and community consultation, and the role of market-research based approaches. While we welcome Transport for NSW's new focus on the customer experience, supported by the use of customer surveys and customer value propositions, this work should not be viewed as a substitute for engagement and consultation.

The Victorian *Transport Integration Act 2010* clearly differentiates between the transport system user perspective and stakeholder engagement and community participation. Both are embedded in the Act as important principles that inform decision-making for transport planning and service delivery.

We recommend that the NSW Government adopts a similar approach, and includes a clearly defined set of decision-making principles in the revised Passenger Transport legislation. The principles included in the Victorian Act are:

- Principle of integrated decision-making
- Principle of triple bottom line assessment
- Principle of equity
- Principle of the transport system user perspective
- Precautionary principle
- Principle of stakeholder engagement and community participation
- Principle of transparency

The NSW Government should include a clearly defined set of decision-making principles, based on those in the Victorian *Transport Integration Act 2010*, in the revised Passenger Transport Legislation.

5. SERVICE DELIVERY

The review puts forward some potentially major changes to current contracting arrangements. The discussion paper suggests that the purpose of these changes would be to bring legislation into line with the objectives and priorities set by Government including:

- Putting the customer first;
- Developing an integrated, coherent transport system across all modes;
- Establishing a strong purchaser-operator model for service delivery.

The proposed changes, however, focus primarily on the purchaser-operator relationship and supply side issues. There is very little information, research or analysis provided on how the proposed changes might impact customers, including those people who are currently excluded from our transport system.

Efforts should be made to facilitate further discussion, supported by evidence and more developed proposals, to allow for feedback from the community on reasonable terms. This should occur prior to introducing legislative change that will have potentially major consequences for service delivery.

Efforts should be made to facilitate further discussion, supported by evidence and more developed proposals, prior to introducing legislative change that will have potentially major consequences for service delivery.

5.1. Definitions

We support reviewing the definitions in the Passenger Transport Act to facilitate a stronger focus on the customer, and on meeting transport demand at all levels.

The definitions should not create modal silos whereby a type of vehicle is linked with a particular type of service provision. Rather, the definitions should support the intent to provide greater flexibility and integration between modes.

The revised definitions should support greater flexibility in service delivery and integration between modes.

The discussion paper appears to use the term flexibility in relation to the way in which the Government is able to purchase transport services. Flexibility in the *delivery* of services, however, should be a major focus of this review process. For example, in some cases transport demand may be best met by a bus that is able deviate from a fixed route in order to pick-up or drop-off at a passenger's home. In its current form, however, the Passenger Transport Act inhibits the delivery of flexible and innovative services such as this. This issue is discussed in more detail under contract arrangements below, and a paper on overcoming barriers to implementing flexible transport services is attached for further reference².

While the Government has indicated that Community Transport will be accredited under the Act, no definition of community transport has been put forward. The definition used should support the integration of community transport into the passenger transport system. Community transport operators provides service to members of the public: they should not be treated differently simply because the subsidies for this type of transport service are the responsibility of one Government agency rather than another.

The definition of community transport should support integrating community transport services into the passenger transport system.

5.2. Contract arrangements

The proposed changes to contracting represent a significant departure from current arrangements for the purchase of passenger transport services. Evidence from around the world demonstrates that making changes to the purchaser-operator relationship can have major impacts – either positive or negative on customer service quality.

The current proposal would vest enormous power in the Director General, Transport for NSW, in making these decisions. Yet the community should always have an opportunity to participate in the decision-making processes that will affect them: Conducting customer satisfaction surveys once changes have already been made is too late. The delegation of power to the Director General should therefore be balanced by ensuring clear, consistent and accessible processes are in place to support the inclusion of community input into this new landscape (see section 3.1 above).

Need to purchase services via contract

Removing the requirement to hold a contract with the Director General in order to deliver a public passenger service should allow for greater flexibility in the purchasing and delivery of transport services. While the changes to the legislation would enable significant changes, it is not clear how Transport for NSW would use this enabling power and the kinds of services it would support.

We encourage changes that would allow for the development of new services, such as flexible or demand-responsive services, to meet transport needs that are not

² Daniels, R and Mulley, C (2012) Overcoming barriers to implementing Flexible Transport Services in NSW. *Australasian Transport Research Forum 2010 Proceedings*. Retrieved 19 October, 2012, from <http://www.patrec.org/atrf.aspx>

currently being addressed. The example provided in the discussion paper, however, focuses on enabling unsubsidised services to run on commercially viable routes. While the paper states that these services are run “on a cost-neutral basis without Government funding”, we note that they do incur costs in terms of foregone revenue. Current contracting arrangements mean that some services are cross-subsidised by route and by time of day. If this arrangement is to change, it should not result in a reduction in service levels where mass transit services are not commercially viable.

In removing the requirement to hold a contract, the Government should ensure decisions in relation to new services focus on achieving a balance between contracted and commercial services, and are based on the evidence available from the experiences of other jurisdictions. We also recommended that changes are piloted in a trial area, with outcomes measured against a clear evaluation framework.

In removing the requirement to hold a contract, the Government should ensure decisions in relation to new services focus on achieving a balance between contracted and commercial services, based on evidence available from the experiences of other jurisdictions. Changes should be piloted in a trial area, with outcomes measured against a clear evaluation framework.

Furthermore, should the legislation be amended to remove the requirement to hold a contract, opportunities for the provision of more flexible and responsive transport services should not be limited to particular modes or particular vehicle types.

Should the legislation be amended to remove the requirement to hold a contract, opportunities for the provision of more flexible and responsive transport services should not be limited to particular modes or particular vehicle types.

[Service levels and performance standards](#)

The discussion paper proposes removing reference to service levels and performance standards in the legislation. We are concerned that this will mean the processes used to develop and monitor services levels and standards become less transparent, particularly when combined with a move towards commercial tendering for contracts.

This concern around a lack of transparency has been borne out in current tender process for the Metropolitan bus contracts. Customer and community stakeholders were not given any opportunity to provide input into the contracts, and a generic version of the contract has still not been made publically available.

Should reference to service levels and performance standards be removed from the legislation, mandatory consultation with business, customers and the community to inform the development of service guidelines and performance indicators/standards should be required. Generic versions of all contracts should also be made publically available via the Transport for NSW website.

Should reference to service levels and performance standards be removed from the legislation, consultation with business, customers and the community to inform the development of service guidelines and performance indicators/standards should be mandated, with generic versions of all contracts made publically available via the Transport for NSW website.

5.3. Taxi Networks

Network Coverage

The discussion paper suggests removing the requirement that metropolitan networks provide communication services across the entire licensed area and/or at all times of day.

It is difficult to understand these changes will impact taxi costumers. We note, however, that at present coverage is only nominally universal, and that some customers already have difficulty accessing taxi services. The proposed changes do not appear to address this issue. While the paper states that removing the requirement for mandatory network coverage could promote the establishment of smaller, more customer-oriented networks in specific geographic locations, it is not clear how this would impact vulnerable customers, particularly those who live in areas that are less attractive to networks from a commercial perspective.

Performance reporting

We support improvements to the collection and reporting of data on taxi service and taxi network performance. In particular, the reporting of data should allow for a better understanding of:

- Geographic locations in which there is poor service coverage;
- Wait times for short-trips versus longer trips;
- The number of short-trip fare refusals (including hailed taxis);
- The experiences of WAT taxi users.

To this end we support publishing disaggregated performance data on the basis of geographic area and time of day. We also support the introduction of a set of key performance indicators for regional and rural networks. Measures of the availability of WAT taxis, disaggregated by place and by time of day should be included in these indicators.

We also note that there is a need to improve the quality of data collection to inform decisions such as the number of licences to be released in each annual review.

The collection and reporting of data on taxi services and taxi network performance should be improved to allow for improved decision-making and a better understanding of access to taxis by particular user groups and across geographic areas.

Mandatory Network Membership

While taxis provide a valuable service for many people experiencing transport disadvantage, the cost of taxi services is often prohibitive. We therefore support changes that would put downwards pressure on the cost of taxi services, provided service delivery is not compromised. Voluntary network membership for booking services would also facilitate innovation, and the development of services that are better able to meet specific transport needs (see below for more information).

Changes that would put downwards pressure on the cost of taxi services and allow for more innovative service delivery, including voluntary network membership for booking services, should be supported.

New Booking Facilities

New booking facilities have the potential to address the needs of particular groups of taxi users. For example, customers with hearing impairments may find booking apps more accessible than phone-based services. In addition, many vulnerable customers benefit from the ability for customers to access real-time information on wait times for taxis. This is particularly important for people who typically experience long wait times (such as WAT taxi users) or unreliable services.

New approaches to booking services also have the potential to facilitate improved service delivery and more innovative use of taxi services. For example, booking apps could make it simpler and easier for people to reduce the costs associated with taxi services through multi-hire taxi arrangements, particularly in locations where there is a high demand for taxi services. The ability for new booking services to reward certain driver behaviours (such as picking up short fares) could also lead to improved outcomes for some disadvantaged groups. We therefore believe the development of independent apps should be facilitated. All booking services, however, should be accountable for meeting certain service levels.

The development of independent booking services should be facilitated: All booking services should be accountable for meeting certain service levels.

5.4. Community Transport

We support the accreditation of community transport under the Act. The accreditation framework should allow for the expansion of community transport services beyond delivering transport services for specific target groups defined by narrow eligibility criteria.

As noted in Section 4.2. of this submission, opportunities for the provision of more flexible and responsive transport services resulting from amendments to the legislation should not be limited to particular modes or particular vehicle types.

With their strong connections to the community, many community transport operators are well placed to address transport disadvantage more broadly. This role should be facilitated. The proposed approach, however, is for accreditation based on the level of funding received, with requirements for accreditation specified in the contracts. Furthermore, this approach would simply place a set of standards around the services that community transport already provides. To provide additional services outside 'traditional' community transport work, community transport providers would need full bus operator accreditation.

An alternative, more integrated approach could offer levels of accreditation based on an organisation's status as either a non-profit or profit-making organisation. This is the approach used in the UK, and is considered to provide for the greatest flexibility in enabling non-profit organisations to take a more active role in addressing transport disadvantage.

The accreditation framework for community transport should allow for the expansion of community transport services, enabling it to take a more active role in addressing transport disadvantage.

5.5. Powers to set and review fares

In recommending maximum fares for public transport IPART provides important and independent information – including on the efficient costs of delivering a service, and on the value of the external benefits associated with a particular service.

We note that IPART could provide additional information to Government, including on fare elasticity, and on the social inclusion impacts of changes to maximum fares as part of its recommendations. The final decisions on fares, however, should continue to be a policy decision. We consider that the NSW Government should be setting fares at a level that will encourage people to switch modes.

We therefore agree that this dual role be maintained, and that all provisions governing the setting of maximum fares be consolidated into the revised passenger transport legislation.

The introduction of an integrated ticketing system presents an ideal opportunity to introduce integrated fares. We recommend that the NSW Government consider additional changes to the legislation to facilitate the implementation of an integrated fare structure.

The NSW Government should consider additional changes to the legislation to facilitate the implementation of an integrated fare structure.

5.6. Powers for determining eligibility for concessions

We similarly agree with placing all provisions for determining eligibility for transport concessions in the revised passenger transport legislation. We further recommend that the NSW Government develop a clear and integrated concessions policy framework to support a fairer and more consistent approach to determining eligibility for concessions.

The NSW Government should develop a clear and integrated concessions policy framework to support a fairer and more consistent approach to determining eligibility for concessions.

6. TICKETING, REVENUE PROTECTION AND PASSENGER CONDUCT REGULATIONS

6.1. Ticketing

We support consistency of ticketing arrangements across modes. However, the legislation will provide scope for the Director General to approve the relevant business rules, terms and conditions of use and systems for the operation of the electronic ticketing system. Again, there is a need for customer and community participation in this process to ensure that no customers are unfairly disadvantaged as a result of changes to the ticketing system.

In developing relevant business rules, terms and conditions of use and systems for the operation of the electronic ticketing system, Transport for NSW should seek input from customer and community stakeholders.

6.2. Penalties

We similarly support a more consistent approach to penalties across modes. However, we are concerned about adopting higher penalties for failing to produce a ticket during an inspection. While some people intentionally avoid buying a ticket, others simply cannot afford to pay. High fines do not act as a disincentive for this group of people as they do not have any option other than to fare evade, or to miss important appointments. We therefore support an approach to fines that is based on capacity to pay. Countries including Germany, Sweden, Finland, Denmark, France, Portugal and Greece already use this concept for some transport-related offences.

The approach proposed by Transport for NSW already offers a two-tiered system with those under the age of 18 receiving a lesser fine than adults. We recommend that an additional, intermediate tier be introduced, providing for a reduced penalty for low-income earners (based on eligibility for a health care card).

The legislation should provide for reduced penalties for fare evasion for low-income earners (based on eligibility for a health care card).