



6 December 2017

## **RMTU position on Transdev Auckland and Auckland Transport's proposed safety case variation on Driver Door Operation (DDO) and SAFE Projects.**

### **Health and Safety at Work Act 2015**

The Health and Safety at Work Act 2015 sets out the key principles relating to duties, at Section 30 a duty is imposed on the PCBU (Transdev Auckland and Auckland Transport) to eliminate risks to health and safety so far as is reasonably practicable and it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable. The duty to manage risks is a process of continuous improvement, unless the risk has been eliminated. After assessing the extent of the risk and the available ways of eliminating or minimising the risk the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

Transdev Auckland currently manages the risk to passengers and staff by having on-board Train Managers and Ticket inspectors. These workers manage the risk of harm associated with;

- "all clear process"
- emergency evacuation
- public safety including getting on and off the train safely
- assisting disabled people
- Assisting people who are suffering from a medical event such as epileptic seizure
- Eyes and ears for the locomotive engineer
- Independent radio communication with the driver to support passenger safety
- Deterring antisocial behaviour on-board
- Communicating with passengers in the event of an emergency

The likelihood and consequence of these risks are high.

Transdev Auckland are proposing to change the controls by removing on-board staff who are rostered for every train journey. Currently all services are staffed by a Loco engineer and on-board staff. Auckland Transport are proposing to introduce 'Transport Officers' who are 'roving'. They will not be on every service.

The Transport Officer role reduces the level of control (safety mitigation), which increases the likelihood of the hazard occurring and the degree of harm that might result. Transdev have provided no evidence to show that the existing level of control is grossly disproportionate to the risk thereby justifying a reduction in the controls. Auckland Transport have not been able to show that the introduction of Transport officers is a suitable way of eliminating or minimising the risk to passengers. We go into more detail on this proposal at the end of the submission. In summary

- Transport Officers will not be on every service
- They do not have safety critical status
- The number of Transport Officers are unknown

### Approved Railways Safety Case

Transdev Auckland's Approved Railway Safety Case version 3.1 provides for an efficient effective and reliable passenger network service for the Auckland rail network. It acknowledges that there is an integrated framework to manage risk through having competent staff. It cites two safety critical roles: Locomotive Engineers and Train Managers<sup>1</sup>. It secondly assures the safe operation of Transdev trains through coordinated action with rail licence holders including Kiwirail. It acknowledges that there are key operational and safety issues encountered by Transdev as follows:

1. The geography of Auckland and the history of the railways construction has resulted in the rail network having many steep grades, narrow formation and level crossings that would be of a very different design if installed today.
2. Whilst there has been a significant programme of re-signalling there remains no protection between Papakura and Pukekohe.
3. Control of the 90 route kilometres (160 track kms) is undertaken from train control located in Wellington.
4. The increase in the number of rail passenger services and the extension of timetable hours is placing pressure on network resilience, staff, equipment, and on maintenance opportunities.

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<sup>1</sup> TD Auckland approved rail safety case 3.2.2

5. There are many level crossings and the increase in the number of services increases the frequency of trains passing over these level crossings.
6. The railway is not subject to the Fencing Act and much of the network is unfenced and many stations are un-manned and open. Trespassing on the corridor is rife with a poor societal culture towards the risk.
7. The control of the railway is fragmented.

Transdev says that these risks outlined above are managed by safe, reliable and competent staff<sup>2</sup>. Transdev proposes removing one of the two safety critical positions (the Train Managers). This is unrealistic given the current pressures and proposed future rail activities. Transdev is aware that Auckland Transport is currently developing a project for the construction of the city rail link and this project will have an effect on the rail operations. It beggars belief that Transdev could contemplate removing one of two safety critical positions in the face of current and future pressures on operational safety.

The proposal to remove one of two safety critical positions for passenger services is not a minor variation. Transdev acknowledges it is a major change to the scope of its operations and as such is a material variation to the current safety case.

Transdev has prepared a preliminary safety case variation which has been acknowledged (but not approved) by the NZTA. Transdev bravely asserts Driver Door Operation (DDO) and the removal of Train Managers will not lead to an increase in the over-all risk as encompassed by the safety case. The RMTU disagrees.

Transdev has trivialised the removal of on-board staff to manage the risks and the corresponding increase in responsibility accruing to the Loco Engineer.

### **Compliance with the National Rail Safety System**

The consultation with the RMTU and Kiwirail has not occurred around changes to NRSS 7- Interoperability standards, NRSS 3 -Medical Standards and NRSS 4- Risk Management. All of which are impacted by this major change to the rail safety case.

NRSS 7, Clause 7 provides for passenger safety. The operator must take all practicable steps (including those agreed between the parties) to ensure that passengers, voluntary staff and

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<sup>2</sup> TD Auckland approved rail safety case 1.2.5

workers including staff of the access provider are protected from all hazards including without limitation,

- a. Falling from a train including through rear doors and between doors,
- b. Extending heads and limbs outside the clearance envelope
- c. Straying onto track into the paths of locomotives, rolling stock or other rail vehicles
- d. Venturing into areas not safe for pedestrian traffic for example bridges, uneven track formation, electrified areas, railway yards.
- e. Unauthorised climbing on vehicles other railway vehicles and structures
- f. Taking emergency actions in the event of fire, derailment, collision, train parting, stallings, or other break downs on the bridges or in tunnels or in cuttings, or in remote areas, medical emergencies such as heart attacks all with particular reference to the safety of passengers and effective cooperation with the access provider and
- g. Carrying appropriate safety equipment with appropriate checks to ensure it's in useable condition<sup>3</sup>

It should be noted that the introduction of DDO poses an increased risk to passenger safety.

Transdev have not adequately identified the risks to passengers within their risk assessment process.

### **Passenger train safety plans**

Each operator will be responsible for the issue of Safety Plans specifically associated with passenger safety on their trains, at station facilities and other passenger activity. Safety plans involving other passenger activity (such as evacuation of passengers from trains during emergency situations etc) must be developed in conjunction with the access provider (Kiwirail).<sup>4</sup> If consultation has occurred with the access provider it has not been disclosed to the RMTU.

### **Standards and policies<sup>5</sup>**

Operators and access providers are responsible for ensuring that their agents and contractors providing rail personnel have standards and policies in place that are fit for purpose where no satisfactory standards and policies exist the agents and contractors are required to comply with

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<sup>3</sup> Rail operations – Interoperability NRSS 7 - clause 7

<sup>4</sup> Rail operations – Interoperability NRSS 7 11.6

<sup>5</sup> Rail Operating code 13.2

the employing operators standards and policies, or employing access providers standards and policies.

KiwiRail's operating rules section 2, Paragraph 108 which sets out the duties of train crew requires a shared responsibility between the Locomotive Engineer and Train Manager to provide train protection.

On passenger trains the locomotive engineer must not start the train until the Train Manager gives authority to start the train from passenger stops.<sup>6</sup> When a train is timed to stop at a station the train may proceed without stopping on receipt of a verbal advice or clear hand signal from the Train Manager. In cases of accident or delay to a train conveying passengers the train crew must at once ensure their safety and comfort of the passengers. In the event of unusual circumstances the Train Manager on a passenger train has a shared responsibility with the Loco Engineer to provide protection for the train where necessary and assist to resume normal operations.<sup>7</sup>

NRSS 7 does not contemplate a passenger train being operated without a shared responsibility between the Loco Engineer and the Train Manager therefore this proposal by Transdev cannot proceed without also changing NRSS 7.

## SAFE Project

Auckland Transport intends to introduce Transport Officers under the proposed 'SAFE' project.

The RMTU is unable to provide input into the risk assessment for the proposed position for two reasons.

1. The role of the Transport Officer does currently not exist and the RMTU requires clarification regarding the nature of the role.
  - Auckland Transport has not been able to provide specific detail to the RMTU on how Transport Officers will be deployed throughout the network.
  - Auckland Transport has not confirmed to the RMTU whether Transport Officers will be in uniform (identifiable) or available on any given train at any given time.
  - Aside from issuing notices Transport Officers will not have any additional powers. They are not considered safety critical workers.

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<sup>6</sup> " 110

<sup>7</sup> " 104

- Auckland Transport has not provided detail on how Transport Officers will interface with the public.
2. The Union supports the participation of worker representatives in the risk management process. Transport Officers are a proposed new role so currently they don't exist and consequently there are no worker representatives. Without the representation of Transport Officers in the risk management process there is no ability to adequately identify and assess the risks. The RMTU recommends Transdev and Auckland Transport defer the risk assessment of the Transport officer role and invite the RMTU participate in a future risk assessment if and when the role is established.

### **Contractual obligations between Transdev Auckland and the RMTU**

Under the Transdev Auckland Ltd and Rail and Maritime Transport (RMTU) Collective Agreement, Transdev and the RMTU record their commitment to people working together in a spirit of partnership.<sup>8</sup>

Transdev recognises in the CEA that its main resource is its skilled staff and that it is important to sustain and develop the people who work within the company.

Under the heading 'working together', Transdev and the RMTU agreed to develop a cooperative relationship and agreed to reach decisions on projects by consensus. They agree to share any information that is relevant. Transdev acknowledge that ongoing consultation is essential.<sup>9</sup> Despite all of these fine words Transdev has failed to consult with the RMTU on the risk matrix that is being used to assess the level of risk. In addition Transdev has used different risk matrix tools throughout the DDO and SAFE risk assessment process. The most recent risk assessment tool has a higher risk appetite e.g. more tolerant of high risk than the earlier matrix used. Transdev did not inform the RMTU that they were using a different risk matrix tool, the Union noticed the discrepancy whilst reviewing the material.

Transdev purports to consult with the RMTU when it tabled pre-populated risk matrices and asked a group of 29 people at a face to face meeting to provide feedback. Out of the 29 people present on 9 people were worker representatives. This process was unhelpful and rushed, RMTU representatives were not released from duties to review the material in advance of the 15th November risk assessment meeting. Worker representatives were criticised for asking questions and were accused of "slowing down the process" by a Transdev manager. Transdev have not provided specific training in risk management to worker representatives.

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<sup>8</sup> CEA clause 2.1

<sup>9</sup> CEA 13.1

The RMTU provided the following feedback in relation to one of the risk workshops:

- The risk rating is wrong
- Transdev is overly relying on administrative controls to mitigate the risks
- Many of the controls that Transdev are relying on are unwritten and not yet developed and therefore cannot be accurately assessed.
- Transdev are overly optimistic about the proposed administrative controls. The RMTU does not agree that the proposed administrative controls will reduce the risk to an acceptable level.
- Transdev has no basis for assuring itself that the risks are controlled as so far is as reasonably practicable (SFARP).
- The risk assessment shows that Transdev's controls don't mitigate the risks let alone the future risks with increased services and strain on the network.
- The pressure on the Loco Engineer when the Train Manager is taken away has in no way been understood by Transdev.
- The people that carry out the task of operating the trains (the Loco Engineers) do not believe that DDO is a safe and reliable method of operation.

The critical issues for the Loco Engineers have not been adequately dealt with in the Transdev risk assessment, the risks include:

- Driver distraction
- Split attention
- Increased Workload
- Fatigue
- Emergency management
- Medical emergency
- Public safety
- Lone working
- Stress/mental health

The critical risks for public safety if Train Managers are removed also include:

- Violence- The presence of Train Managers dissuade violence and antisocial behaviour on the network.
- Medical emergency- Train Managers are first aid trained and able to attend ill or injured person(s). They can act as the first responder.

- Managing sick people who need to be escorted away from other members of the public.
- Assisting people who are disabled who require additional assistance.
- Crowd management- Keeping the passengers calm during an incident such as the well-publicised tagging incident. In addition Train Manager's intervene when passengers try and alight the train when it's not positioned on the platform.
- Passenger emergency management including keeping in regular contact with the LE regarding on-board activity.
- Train Managers perform the all clear check and assist people who have fallen between the platform and the train.
- Some platforms are curved and/or do not have a clear field of vision alongside the platform/train interface and require the Train Manager to be positioned correctly on the platform to provide adequate field of vision for the 'all clear check'. Without the Train Manager the Loco Engineer would have an inadequate level of vision.
- Train Managers monitor and intervene if prohibited items such as dogs, alcohol, petrol generated equipment and weapons are brought on-board the train.