

The Allen Consulting Group

**Review of the *Disability Standards for Accessible Public Transport 2002***

Issues Paper

May 2007

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# The Allen Consulting Group

The Allen Consulting Group Pty Ltd

ACN 007 061 930

## Melbourne

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Level 9, 60 Collins St

Melbourne VIC 3000

Telephone: (61-3) 8650 6000

Facsimile: (61-3) 9654 6363

## Sydney

---

Level 12, 210 George St

Sydney NSW 2000

Telephone: (61-2) 9247 2466

Facsimile: (61-2) 9247 2455

## Canberra

---

Empire Chambers

Level 2, 1 - 13 University Ave

Canberra ACT 2600

GPO Box 418, Canberra ACT 2601

Telephone: (61-2) 6204 6500

Facsimile: (61-2) 6230 0149

## Perth

---

Level 21, 44 St George's Tce

Perth WA 6000

Telephone: (61-8) 9221 9911

Facsimile: (61-8) 9221 9922

## Brisbane

---

Level 9, 379 Queen St

Brisbane QLD 4000

Telephone: (61-7) 3016 3500

Facsimile: (61-7) 3221 7255

## Online

---

Email: [info@allenconsult.com.au](mailto:info@allenconsult.com.au)

Website: [www.allenconsult.com.au](http://www.allenconsult.com.au)

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## Chapter 1

# Information for review participants

The Allen Consulting Group has been commissioned by the Australian Government to conduct the first five-year review of the *Disability Standards for Accessible Public Transport 2002* (the Transport Standards).

This issues paper is intended to assist those individuals and organisations who wish to provide a submission to the review. The paper sets out the scope of the review, provides a brief discussion of the key issues for the review, and highlights those areas where the review team is keen to receive feedback from stakeholders.

### 1.1 How to make a submission

Submissions are the primary means of providing information to the project review team.

There is no set format for submissions to the review. Submissions may cover one or many areas of interest to the review. To assist stakeholders in framing their submissions, some key questions seeking information of interest to the review team are presented throughout Chapter 4 of this paper. Stakeholders are welcome to answer these questions directly in their submissions if they wish.

Where possible, submissions should be lodged as a text or Microsoft Word document (.txt, .rft, .doc) to ensure screen readers can read them. Please remove any drafting notes, track changes or other hidden text, as well as any internal links, large logos and decorative graphics. Submissions may also be sent by mail, fax or audio file.

Submissions should be provided to the review team no later than **5pm Friday August 24 2007**.

Submissions can be lodged:

By email (preferred): [dstransport@allenconsult.com.au](mailto:dstransport@allenconsult.com.au)

By mail:           Allen Consulting Group  
                          Level 12, 210 George St  
                          Sydney NSW 2000

By Fax:            02 9247 2455

All submissions will be treated as public documents and made available on the review website unless the documents are clearly marked on the coversheet as being provided 'IN CONFIDENCE'. Copies of all submissions will be provided to the Department of Transport and Regional Services and the Attorney-General's Department.

## **1.2 Public hearings**

In addition to seeking submissions from stakeholders, the review team will be conducting public hearings in 15 locations nationwide during July and August 2007. These hearings will provide interested individuals and organisations with the opportunity to speak directly with members of the review team. Details of locations and dates of hearings are available at the review website, **<http://www.ddatransportreview.com.au>**.

## Chapter 2

# Review background and context

### 2.1 The need for accessible public transport

Access to public transport is important for the quality of life of people with disability. Such access provides people with disability with a means to participate in the community (e.g. to undertake employment, attend cultural or sporting events, to visit friends or family, or to go out to restaurants).

The Australian Bureau of Statistics (ABS) estimated that in 2003, there were around 4 million Australians with a disability — some with more than one — and of these 4 million, approximately:

- 875 700 required assistance from a carer in relation to transport; and
- 512 400 used an assistive device or aid for their mobility needs.<sup>1</sup>

The Regulation Impact Statement (RIS) for the Draft Transport Standards found that people with disability are less likely to share in the recreational and social life of the communities in which they live.<sup>2</sup> While not the only reason for this trend, the lack of sufficient accessible public transport is a contributing factor. People with disability are more likely to have to rely extensively on more expensive modes of transport, such as special bus services, taxis and private car travel as a passenger. This reliance is due to people with disability being much less likely to have a driver's licence than people without disability, and difficulties in accessing public transport.<sup>3</sup> A reliance on more expensive modes of transport limits the opportunity to travel — a higher average cost per trip will mean that people with disability will tend to limit themselves to essential travel.

In addition to issues concerning the physical accessibility of modes of transport (such as being able to get on and off a bus or train), accessibility also relates to:

- physical accessibility to train stations and bus, tram or ferry stops;
- accessibility of timetable information, public address announcements and other signs, alarms or alerts;
- prioritisation of booking requests, such as for accessible taxis; and
- the ability to transport and store mobility aids such as wheelchairs, crutches, canes, and guide dogs.

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<sup>1</sup> Australian Bureau of Statistics 2004, *Disability, Ageing and Carers: Summary of Findings, Australia, 2003*, cat. no. 4430.0, AusInfo, Canberra.

<sup>2</sup> Attorney-General's Department, *Regulation Impact Statement on Draft Disability Standards for Accessible Public Transport*, Canberra, January 1999, p. 11.

<sup>3</sup> Ibid.

## 2.2 The Disability Discrimination Act and the Disability Standards for Accessible Public Transport

The objects of the *Disability Discrimination Act* (the DDA) (see Box 2.1) are to eliminate discrimination on the grounds of disability, and promote understanding and acceptance of the rights of people with disability. The Human Rights and Equal Opportunity Commission (HREOC) plays a key role in the protection and promotion of human rights in Australia. HREOC is responsible for investigation and attempting to conciliate complaints of discrimination at the Federal level. A person alleging unlawful discrimination can lodge a complaint with HREOC. If conciliation is not possible, the complainant may institute proceedings alleging unlawful discrimination in the Federal Court or Federal Magistrates Court. HREOC also considers applications for exemptions from the DDA and the Transport Standards, which it is able to grant for a period of up to five years.

Box 2.1

### DISABILITY DISCRIMINATION ACT 1992

**Section 3** defines the DDA's objects as being:

- 'to eliminate, as far as possible, discrimination against persons on the ground of disability in the areas of:
  - work, accommodation, education, access to premises, clubs and sport; and
  - the provision of goods, facilities, services and land; and
  - existing laws; and
  - the administration of Commonwealth laws and programs; and
- to ensure, as far as practicable, that persons with disability have the same rights to equality before the law as the rest of the community; and
- to promote recognition and acceptance within the community of the principle that persons with disability have the same fundamental rights as the rest of the community'.

While the DDA makes discrimination on the grounds of disability unlawful:

- the DDA does not specify ways in which compliance can be tested, or means by which parties can be assured that they are compliant with the DDA; and
- clarity on specific matters relating to the requirements under the DDA is only achieved where an exemption is provided by HREOC, or there is a determination in court — processes which can take considerable time.

Recognising these issues, the Australian Government has sought to develop Disability Standards under the DDA in the areas of education, access to premises, public transport and employment. The *Disability Standards for Accessible Public Transport* (the Transport Standards) were developed in the late 1990s, and became effective from 23 October 2002.

The Transport Standards set out the requirements for public transport providers that apply to the following modes of transport or 'conveyances':

- aircraft;
- buses or coaches;
- ferries;
- taxis;
- trains, trams, light rail, monorails, rack railways; and
- any other rolling stock, vehicle or vessel classified as public transport within its jurisdiction by regulation or administrative action of any Government in Australia.

In addition to the accessibility of the conveyances themselves, the Transport Standards also apply to access paths, manoeuvring areas, passing areas, resting points, ramps, waiting areas, boarding points and devices, allocated spaces, surfaces, hand and grab rails, doorways and doors, lifts, stairs, toilets, symbols, signs, tactile ground surface indicators, alarms, lighting, controls, furniture and fittings, street furniture, gateways, payment of fares, hearing augmentation-listening systems, information provision, booked services, food and drink services, belongings, and priority arrangements.

### ***Exemptions under the Transport Standards***

As noted above, HREOC may grant appropriate temporary exemptions from the DDA and the Transport Standards. In considering an application for exemption, HREOC is required to take into account advice from the Accessible Public Transport Jurisdictional Committee (APTJC) which is the prescribed body for this purpose in accordance with s 132(1A) and s 55(1C) of the DDA. The APTJC is comprised of representatives of the Australian Government and State and Territory transport or equivalent departments. HREOC may also consult any other body or person about the exemption.

Exemptions may be granted for a specified period not exceeding five years and are subject to terms and conditions as specified in the exemption instrument. HREOC's decision about whether to grant an exemption from the Transport Standards is reviewable by the Administrative Appeals Tribunal.

In addition to the process for providing temporary exemptions, some permanent exemptions were granted when the Transport Standards were introduced. This was in response to recommendations on initial drafts of the Transport Standards by the Australian Transport Council, and recommendations made in the RIS. These permanent exemptions apply to the following areas.

### ***Limousines, hire cars and charter boats***

Limousines, hire cars and charter boats have been exempted from the operation of the Transport Standards (refer s 1.12). This decision was based on the view that these are pre-booked and unique services and, at least in some cases, it is unlikely that the service they provide is a 'public transport service' for the purposes of the Transport Standards (as defined in s 1.23).

***Dedicated school bus services***

A dedicated school bus service is defined in s 1.13 of the Transport Standards to mean ‘a service that operates to transport primary or secondary students to or from school or for other school purposes’. The decision to grant this exemption was based on concerns about difficult terrain, poor infrastructure and unjustifiable cost of compliance that were raised during the RIS process.

***Small aircraft***

This exemption at s 1.24 of the Transport Standards relates to small aircraft with fewer than 30 seats. It is considered that there are many technical problems associated with making a small aircraft accessible, such as the restricted confines of the aircraft cabin, insufficient luggage space and the limited weight carrying capacity of some aircraft.

***Airports that do not accept regular public transport services***

Many small airports do not have full-time staff and are mostly used by non-commercial or charter flights. Many are not licensed to accommodate regular public transport services. Also, a large proportion of small airports do not generate the volume of revenue necessary for capital improvements (s 10 of the Transport Standards refers).

***Unjustifiable hardship***

Aside from the specific exemptions above, operators and providers of public transport may claim ‘unjustifiable hardship’ as a defence against a claim of unlawful discrimination. The Transport Standards provide that compliance is required to the maximum extent not involving unjustifiable hardship.

The Transport Standards outline a range of issues to be taken into account when considering whether unjustifiable hardship exists in particular cases. These include issues such as costs; exceptional operational, technical or geographic factors; resources reasonably available; likely benefits or detriment of compliance; action plans developed; consultations involving people with disability; and good faith efforts to comply.

***Compliance timetable***

The Transport Standards include a compliance timetable that allows between five and 30 years for facilities to be made compliant, with the first target date for compliance being 31 December 2007. Table 2.1 shows the level of compliance required by operators, providers, radio networks and co-operatives in relation to different aspects of the Transport Standards, by the first compliance target date. Appendix B provides the full schedule of obligations over the 30 year period.

Table 2.1

**COMPLIANCE REQUIREMENTS FOR 31 DECEMBER 2007**

Responsibility	100 % Compliance	25 % Compliance
• Operators	• Waiting areas	• Access paths

Responsibility	100 % Compliance	25 % Compliance
<ul style="list-style-type: none"> <li>Providers (excluding bus stops)</li> </ul>	<ul style="list-style-type: none"> <li>Hearing augmentation</li> <li>Symbols</li> <li>Information</li> <li>Signs</li> <li>Booked services</li> <li>Alarms</li> <li>Food and drink services</li> <li>Lighting</li> <li>Belongings</li> <li>Furniture and fittings</li> <li>Priority</li> </ul>	<ul style="list-style-type: none"> <li>Doorways and doors</li> <li>Manoeuvring areas</li> <li>Lifts</li> <li>Passing areas</li> <li>Stairs</li> <li>Resting points</li> <li>Toilets</li> <li>Ramps</li> <li>Tactile ground surface indicators</li> <li>Boarding</li> <li>Controls</li> <li>Allocated space</li> <li>Street furniture</li> </ul>
<ul style="list-style-type: none"> <li>Radio networks</li> <li>Cooperatives</li> </ul>	<ul style="list-style-type: none"> <li>Response times for accessible vehicles are to be the same as for other taxis.</li> </ul>	
<ul style="list-style-type: none"> <li>Providers (bus stops)</li> </ul>		<ul style="list-style-type: none"> <li>Access paths</li> <li>Handrails and grabrails</li> <li>Manoeuvring areas</li> <li>Stairs</li> <li>Passing areas</li> <li>Symbols</li> <li>Ramps</li> <li>Signs</li> <li>Waiting areas</li> <li>Tactile ground surface indicators</li> <li>Boarding</li> <li>Lighting</li> <li>Allocated space</li> <li>Street furniture</li> <li>Surfaces</li> <li>Information</li> </ul>

### 2.3 Implementation of the Transport Standards

The Australian Transport Council Ministers have agreed that jurisdictions will publicly release information on compliance with the Transport Standards on their respective websites and that this information, or links to this information, will be forwarded to HREOC for inclusion on its website. These compliance reports can be accessed from [http://www.hreoc.gov.au/disability\\_rights/transport/transport.html](http://www.hreoc.gov.au/disability_rights/transport/transport.html).

## Chapter 3

# This review

### 3.1 Review scope

The Transport Standards are required to be reviewed every five years. This review is the first scheduled review, intended to assess the first five years of implementation of the Transport Standards. The review terms of reference issued by the Australian Government are set out in Appendix A.

In setting out the scope for this review, it is important to note the following points.

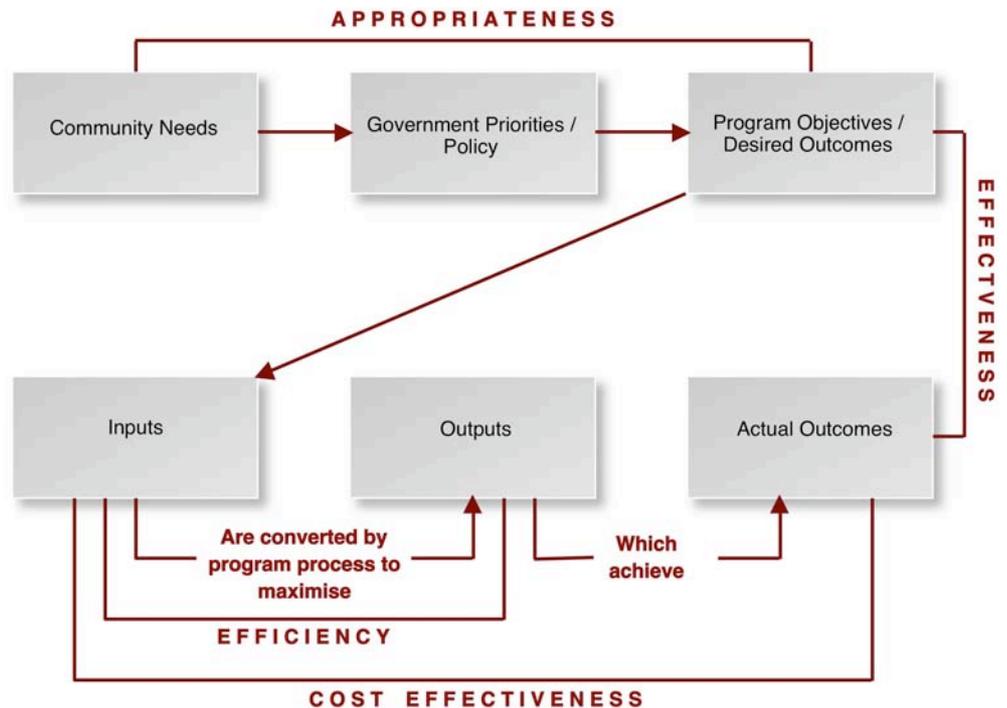
- The review will assess the impact of the Transport Standards as they are currently drafted.
- It will focus on progress to date, though it will consider how experience from this first stage may impact on later stages in the compliance timetable.
- It is not intended to be an exercise in developing new Transport Standards, or ‘starting from scratch’ in assessing whether or not there should be Transport Standards.
- While it is not an exercise in *fully* costing the impact of the Transport Standards to date, cost data will be used to assess the efficiency of the Transport Standards at this stage in their implementation, and consideration of full costs and benefits will be an important element in the assessment of any proposed amendment to the Transport Standards.
- It is not a detailed technical assessment of the Transport Standards or specifications in the relevant Australian Standards.
- It will consider changes to the Standards where they are supported by stakeholders and the evidence indicates that such changes are necessary.
- The review will be a report to the Australian Government for consideration by the Minister for Transport and Regional Services, in consultation with the Attorney-General, who may use the recommendations from the review to support any future policy decisions in relation to the Transport Standards.

### 3.2 Review framework

In broad terms, we have been asked to assess the effectiveness and efficiency of the Transport Standards.

To make this judgment, an evaluation framework based on the Productivity Commission’s performance measurement framework for government services will be employed (see Figure 3.1, next page). This Figure shows the relationship between effectiveness and efficiency in a standard evaluation framework. It highlights the importance of considering both outcomes from a government initiative, and the inputs required.

Figure 3.1

**EVALUATION FRAMEWORK**

Source: Adapted from Steering Committee for the Review of Government Service Provision 2007, *Report on Government Services 2007*, Productivity Commission, Melbourne, chapter 1

The following sections provide an overview as to the effectiveness and efficiency analysis. The next chapter identifies a range of key review issues that will need to be addressed in undertaking the effectiveness and efficiency analysis described below.

**Effectiveness analysis**

Essentially, analysis of the effectiveness of any government initiative involves testing whether that initiative is meeting its objective — is it actually leading to the outcomes that were intended when it was introduced?

In the case of the Transport Standards, the overarching goal is the removal of discrimination from public transport services. In testing whether this has been achieved (at least at this early stage of their implementation), this review will consider:

- The extent to which adjustments have been made since the introduction of the Transport Standards, by assessing information on:
  - the introduction of accessible modes of transport for people with disability (number/proportion of total fleet);
  - provision of information in a range of accessible formats; and
  - access to transport infrastructure such as terminals, stops and facilities within terminals (e.g. ramps and disabled toilets).

- The extent to which these adjustments have increased patronage of public transport for people with disability. While increased patronage in itself is not the goal of the Transport Standards, it is one indicator of accessibility.

It is likely that the effectiveness of the Transport Standards to date will be uneven across different regions and different types of adjustment — for instance some operators and providers may have invested more in new infrastructure than others, and some adjustments may prove easier than others. The result may be that some people with disability may not have seen much, if any, change in their own circumstances, while others may have already benefited considerably. This review will take account of these variations, while also maintaining focus on the Transport Standards as a whole.

An additional issue that will be tested is whether the current specifications in the Transport Standards are actually able to reduce discrimination and improve accessibility for people with disability. That is, even in cases where compliance with the Transport Standards has been achieved, has accessibility improved? Such an assessment will help determine whether the Transport Standards are appropriate, or whether amendments to the Transport Standards should be considered.

### ***Efficiency analysis***

While effectiveness analysis relates to whether the Transport Standards are meeting their objective, efficiency analysis considers these outcomes against the costs to the community.

While it may appear rather abstract, efficiency is important because it puts into context the outcomes achieved against the costs to the community.

In considering the efficiency of the Transport Standards, this review will assess information on:

- costs to transport operators and providers of compliance with the Transport Standards to date;
- any costs of adjustments that may have been passed to consumers (where this can be identified); and
- costs to government of developing and administering the Transport Standards.

## Chapter 4

### Key review issues

While we welcome feedback in submissions on all aspects of the Transport Standards that stakeholders believe are relevant for this review, there are a number of aspects of the implementation of the Transport Standards to date where the review team is particularly interested in receiving information. The following sections provide a brief discussion of these aspects, and a set of questions to help guide responses in submissions, and at public hearings for this review.

#### 4.1 Achievement of public transport accessibility

The accessibility of public transport for people with disability is the primary purpose of the Transport Standards. An assessment of their effectiveness will, therefore, rely critically on the extent to which public transport is made more accessible. As noted earlier, it is important to keep in mind that the Transport Standards have not been fully implemented, and that consideration of the success of the Transport Standards must take this into account. That said, the compliance timeline does require progress to be made in the first five year period, which will be the focus of this review.

The achievement of public transport accessibility relates not just to the accessibility of the conveyances, or modes of transport, but also to the accessibility of infrastructure, such as stations, airports, individual stops and interchanges, and the accessibility of information relating to public transport, such as maps, timetables and ticketing. The schedule of implementation (see Table 2.1) sets out the level of compliance that is expected of operators and providers in the first stage of implementation.

A key challenge of assessing accessibility is data availability. As noted in chapter 2, each State and Territory reports on its own website its progress towards compliance, and this information is also made available to HREOC. However, there does not appear to be a consistent approach to reporting compliance, or a central database of levels of accessibility or compliance. Also, there is no formalised compliance reporting obligation on private sector service providers.

#### Questions for All Stakeholders

1. *Has the accessibility of public transport improved since the introduction of the Transport Standards?*

- *How has accessibility to conveyances (eg, trains, buses, trams, ferries, taxis, aircraft, etc) changed? Can you provide examples?*
- *How has accessibility of information (eg, maps, timetables, announcements, etc) changed? Can you provide examples?*

- *How has accessibility of infrastructure (eg, access to stations, stops, ports, piers, airports, interchanges, etc, as well as access to co-located facilities such as toilets, waiting rooms, and food and drink, etc) changed? Can you provide examples?*
2. *Have these changes matched your expectations of the implementation and uptake of the Transport Standards?*
- *Do you consider that the changes have matched (1) the compliance requirements and (2) your expectations?*
  - *If the changes have fallen short of your expectations, can you provide examples?*
3. *Do you consider that the level of compliance required at the end of the first five year period is sufficient to have had an impact on accessibility?*
4. *To what extent do you consider current data on accessibility are reliable? Can you provide examples of problems with data that you are aware of?*
5. *How could reporting of accessibility data be improved for future stages of the implementation of the Transport Standards?*
6. *Are you aware of examples where improved accessibility of public transport has led to increased patronage?*

#### 4.2 Clarification of rights and obligations

As discussed in chapter 2, compliance with the DDA is not enforced unless a complaint is brought to HREOC and conciliation processes and/or the commencement of court proceedings takes place. The onus on the complainant to demonstrate that they have been discriminated against by an operator or provider. For operators and providers of public transport, the DDA itself does not give any guidance on how to make public transport accessible to people with disability. In the absence of guidance provided by the Transport Standards, operators and providers would be faced with greater risk of legal proceedings as a result of a complaint being lodged with HREOC.

The intention of the Transport Standards is to clarify the rights of people with disability and the obligations of operators and providers by defining the minimum acceptable standard that people with disability can expect and that operators and providers must offer. Compliance with the Transport Standards is deemed to be compliance with the DDA in all areas addressed by the former. HREOC advises that Section 34 of the DDA provides that ‘actions that comply with a Disability Standard are protected from being unlawful under the general anti-discrimination provisions of the DDA’.<sup>4</sup>

Following the introduction of the Transport Standards, consumers need only show that a provider has failed to comply with the standard, rather than demonstrating

<sup>4</sup> Human Rights and Equal Opportunity Commission 2007, *Public Transport FAQ*, [http://www.hreoc.gov.au/disability\\_rights/faq/Transfaq/transfaq.html](http://www.hreoc.gov.au/disability_rights/faq/Transfaq/transfaq.html), accessed on 16 May 2007.

that they have been discriminated against, thereby reducing the burden of proof on the part of the consumer. By specifying the outcomes that operators and providers of public transport must achieve in order to comply with the Transport Standards, and by providing suggestions as to how they can meet these outcomes in the Guidelines that accompany the Transport Standards, the obligations of transport operators and providers should be clearer. Additionally, given the thirty-year schedule over which the Transport Standards are to be implemented, the way that the Transport Standards are set out means that consumers have an idea of what they can expect to be implemented, and when.

An important task for this review is to assess the extent to which the Transport Standards have been successful in providing the intended clarity and certainty for consumers and providers. This assessment will consider whether, in practice, the Transport Standards have provided the necessary guidance on compliance. Further, it will examine whether in the early stages of implementation, any areas of ambiguity have been identified.

#### **Questions For Public Transport Users**

*7. Has the introduction of the Transport Standards helped you better understand your rights as a public transport user? If yes, in what ways has it done this?*

*8. Are the Transport Standards and the accompanying Disability Standards for Accessible Public Transport Guidelines 2004 (No.3)(the Guidelines) a sufficient source of information on your rights as a user of public transport, or have you needed to consult other sources? What other sources have you consulted? How did you find out about these sources?*

*9. Are you aware of other users of public transport who appear to be unaware of their rights or obligations? How could this lack of awareness be addressed?*

#### **Questions for Public Transport Operators and Providers**

*10. Has the introduction of the Transport Standards clarified your obligations as a public transport operator or provider? If yes, in what ways has it done this?*

*11. Are the Transport Standards sufficient, or have you needed to consult other sources? What other sources have you consulted? How did you find out about these sources?*

*12. Are you aware of other operators or providers of public transport, who appear to be unaware of their obligations? Can you provide examples? How could this lack of awareness be addressed?*

#### **Questions for All Stakeholders**

*13. Are there areas of the Transport Standards that you consider unclear in terms of the adjustments operators and providers need to make? Please specify.*

*14. Have the exemptions allowed under the Transport Standards (as specified in the previous chapter), reduced the clarity of obligations under the Transport Standards?*

### **4.3 Flexibility of approach**

The clarification of rights and obligations must be weighed against the flexibility afforded operators and providers of public transport by the Transport Standards. Clarity can come at the cost of overly prescriptive standards that leave operators with limited flexibility as to how they achieve the overarching outcome of eliminating discrimination against public transport users with disability. In some cases, the Transport Standards are prescriptive — for example, where they refer to specific Australian Standards. This occurs in the case of ‘minimum size for allocated space’, which specifies that the ‘minimum allocated space for a single wheelchair or similar mobility aid is 800mm by 1300mm’, referencing Australian Standard 1428.2.

By and large, however, the Transport Standards are outcome oriented. That is, they specify the desired outcome — for example, ‘handrails must be placed along an access path wherever passengers are likely to require additional support or passive guidance’ — while providing suggestions on how the outcomes are to be achieved in the accompanying Guidelines: ‘The Disability Standards require handrails to be provided to assist passengers to cope with changes of level, ramps, a narrowing or a change of direction of an access path.’

The Transport Standards afford operators and providers of public transport with flexibility in the following three ways:

- Many of the requirements in the Transport Standards are performance-based, rather than design-based, which allows for a number of solutions.
- Public transport operators and providers have the option of following the specifications set out in the Transport Standards and the accompanying Guidelines, or by providing an alternative means for ‘equivalent access’ (including direct passenger assistance).
- There are provisions for non-compliance on the basis of unjustifiable hardship.

This review will assess the extent to which operators and providers are afforded flexibility in how they are able to demonstrate compliance with the Transport Standards. This needs to be balanced against the need for a consistent level of compliance that meets the expectations of people with disability wishing to access public transport.

#### **Questions for All Stakeholders**

*15. To what extent do the Transport Standards allow operators and providers a choice of ways in which they can demonstrate compliance?*

*16. Where Australian Standards or other technical requirements are specified, are these appropriate? Please provide examples where you believe the use of Australian Standards is not appropriate.*

*17. Are there requirements that have proven to be impractical or difficult to implement? If so, please specify.*

*18. As a public transport user, are there areas of the Transport Standards where you consider that a more specific requirement for compliance would improve accessibility?*

#### **4.4 Consistency of approach**

A consistent application of the Transport Standards, and thus public transport accessibility, is important in a number of ways.

First, it provides the best possible range of choice for users of public transport. In most cities, the different modes of transport — trains, ferries, trams, taxis and buses — complement one another, meaning that duplication is minimised, and different modes of transport are necessary to reach different parts of a city. That is, two modes of transport — say buses and trains — are unlikely to follow the same route. Instead, there are parts of the city that are quicker to get to by train than by bus, and vice versa due to these different routes. As a result, it is important that the Transport Standards are applied across each of the modes of transport in a consistent manner so that people with disability have the same choice over modes of transport as public transport users more generally.

Second, consistency within the requirements of the Transport Standards is very important in the market for public transport. Where there are inconsistencies in how requirements of the Transport Standards are applied, there may also be competitive distortions — that is, some operators or providers may have a cost advantage if their requirements for accessibility are different from other modes.

This second issue is particularly important given:

- the staged implementation of compliance requirements, which are unevenly applied across different modes;
- the exemptions granted to particular segments of the market when the Transport Standards were introduced; and
- the potential for the unjustifiable hardship condition to be claimed by some types of providers, but not others.

This review will need to consider how the Transport Standards apply across the entire public transport sector, and whether there are aspects of the Transport Standards that limit accessibility (due to inconsistency) or unevenly impose costs across operators and providers.

#### **Questions for All Stakeholders**

*19. Do you consider that the requirements in the Transport Standards have been applied consistently across different modes of public transport?*

*20. Will any current areas of inconsistency be addressed through the future stages of implementation of the Transport Standards? (see Appendix B)*

21. Do you consider that the current exemptions granted are appropriate? Should these exemptions be reduced over time?

22. In implementation of the Transport Standards, have the requirements led to a relatively consistent standard of compliance across all modes of public transport? If not, where are the major differences in approach?

#### 4.5 Compatibility of approach

The compatibility of the measures implemented under the Transport Standards relates to the extent to which they fit together, and provide an appropriate level of accessibility for people with disability. Assessing compatibility recognises that there are a number of different aspects of accessibility, which are interrelated. For example, there may be sufficient space allocated for a wheelchair to manoeuvre within a train carriage, but if the only way to get into the train carriage is by steps, then accessibility has not been achieved.

Compatibility relates not just to the internal consistency of the Transport Standards, but also to the extent to which the measures specified in the Transport Standards are compatible with building codes, manufacturer's specifications, Australian Standards, regulatory requirements for transport safety and occupational health and safety and the mobility aids — such as wheelchairs, hearing aids, companion animals, and so on — used by people with disability.

In this context, it is important to note that the Transport Standards are only in the first stage of their implementation, with operators and providers of public transport facing different compliance requirements at different points in time. For example, as shown in Table 2.1, the obligations for bus stops, as well as the timing of the obligations, differ from all other obligations. As a result, it is currently possible that a bus may be accessible to someone with a disability, while that person's nearest bus stop is not. These issues should be addressed as the compliance requirements increase according to the 30 year compliance timeline.

In considering these issues, it is also necessary for this review to distinguish between any lack of compatibility that may be due to a failure on the part of an operator or provider, as opposed to a lack of compatibility that is due to a problem within the specifications of the Transport Standards themselves.

#### Questions for All Stakeholders

23. To what extent do the requirements in the Transport Standards address all of the accessibility requirements for people with disability? Are there gaps in the coverage of requirements?

24. Does the compliance timetable provide for a gradual improvement of accessibility over the 30 year implementation period? Are there aspects of this timetable that present compatibility problems? How could these requirements be improved?

25. Are providers meeting their obligations across all aspects of accessibility, which ensures compatibility?

*26. Do the requirements of the Transport Standards need to more explicitly recognise the potential other regulatory constraints that impede the capacity of transport providers to deliver the objects of the Transport Standards?*

#### **4.6 Certainty of process**

The certainty of outcomes relates to the extent to which people — both users and operators and providers — feel satisfied with the established administrative and complaints processes. When the Transport Standards were being considered, one of the areas of uncertainty among operators and providers was in relation to applications for exemption from complying with the Transport Standards on the grounds of unjustifiable hardship.

##### **Questions for All Stakeholders**

*27. How well are the current arrangements for making complaints about accessibility understood by the public?*

*28. Are the current processes sufficiently responsive to complaints, or requests for information or advice on the Transport Standards?*

## Appendix A

### Review Terms of Reference

The *Disability Discrimination Act 1992* (the DDA) seeks to eliminate discrimination, as far as possible, against people with disability. Section 31 of the DDA states that the Minister may formulate standards in relation to specified activities, including the provision of public transport services and facilities.

Division 1.2 of the *Disability Standards for Accessible Public Transport 2002* (the Transport Standards), which took effect on 23 October 2002, states that their purpose is to enable public transport operators and providers to remove discrimination from public transport services. Part 34 requires the Minister for Transport and Regional Services, in consultation with the Attorney-General, to review the efficiency and effectiveness of the Transport Standards within five years of their taking effect, with subsequent reviews every five years.

- This review (the Review) will be undertaken by a consultant engaged by the Department of Transport and Regional Services. It will be oversighted by a Steering Committee comprising officers of the Department of Transport and Regional Services and the Attorney-General's Department. The consultant will provide a final written report by 14 December 2007 for consideration by the Minister for Transport and Regional Services in consultation with the Attorney-General.
- The Review will review the efficiency and effectiveness of the Transport Standards and will:
  - Assess whether discrimination has been removed, as far as possible, according to the requirements for compliance set out in Schedule 1 of the Transport Standards.
  - Assess the need for any amendments to the Transport Standards.
  - Make recommendations for any necessary amendments to the Transport Standards.
- The Review will be consistent with the Australian Government's Regulation Impact Statement (RIS) framework as outlined in the *Best Practice Regulation Handbook*.
- In reviewing the efficiency and effectiveness of the Transport Standards, the Review will, among other things:
  - Consider the adequacy of the current structure and processes as well as the suitability of other approaches (such as outcomes-based regulation, co-regulatory approaches, action plans and compliance reporting) in achieving the purpose of the Transport Standards.
  - Assess the impact of the current incorporation of references to the Australian Standards, the Australian/New Zealand Standards and the Australian Design Rules in the Transport Standards.
  - Provide an assessment for each Part of the Transport Standards.

- Assess the extent to which unjustifiable hardship or equivalent access provisions are being utilised by service providers and/or operators.
  - Take into account the issues of promoting national consistency, efficient regulatory administration and compliance.
- In assessing whether discrimination has been removed as far as possible, the Review will, among other things:
  - Concentrate on compliance requirements at the initial 31 December 2007 target date for compliance (Schedule 1 Part 1 of the Transport Standards).
  - Collect and analyse the available data and other information on compliance.
  - Assess the scope and value of current compliance information and consider any implications for the assessment of whether discrimination has been removed.
- In assessing and recommending necessary amendments to the Transport Standards, the Review will, among other things:
  - Identify amendments for each Part of the Transport Standards.
  - Identify costs and benefits to stakeholders.
  - Take into account the issues of promoting national consistency, efficient regulatory administration and compliance.
- As the *Disability Standards for Accessible Public Transport Guidelines 2004 (No.3)* (the Guidelines) have been designed to accompany the Transport Standards as a tool for interpreting the content of the Standards, the Review will include appropriate recommendations for amendments to the Guidelines.
- In undertaking the Review, the consultant will:
  - Advertise nationally and consult with all levels of government and affected parties (in particular people with disability and their representatives, community interest groups and industry).
  - Invite submissions from stakeholders and make submissions publicly available as they are received by the consultant.
  - Facilitate participation by people with disability by ensuring that any meeting for the purpose of the Review is held at an accessible venue and that documentation and information distributed during the Review are available in alternative formats.
  - Prepare a list of stakeholders consulted, for inclusion in the final written report.
- The Review will draw on any relevant background material, including:
  - Disability Discrimination Act 1992;
  - Disability Standards for Accessible Public Transport 2002;
  - Technical Review on Disability Standards for Accessible Public Transport 2002;

- Productivity Commission Inquiry Report No 30, Review of the Disability Discrimination Act 1992 and the Australian Government response;
- Applications for temporary exemptions under the Transport Standards and responses by the Human Rights and Equal Opportunity Commission, the Accessible Public Transport Jurisdictional Committee and other relevant parties;
- Web sites operated by the Attorney-General's Department ([http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination\\_DisabilityStandardsforAccessiblePublicTransport](http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_DisabilityStandardsforAccessiblePublicTransport)) and the Human Rights and Equal Opportunity Commission ([http://www.hreoc.gov.au/disability\\_rights/index.html#information](http://www.hreoc.gov.au/disability_rights/index.html#information));
- Web site operated by the Office of Best Practice Regulation (<http://www.pc.gov.au/orr/index.html>); and
- Public transport operator and provider compliance information.

*Appendix B*

## Timetable for compliance

Table B.1

**KEY COMPLIANCE DATES AND ASSOCIATED DETAILS**

Target Date	Section	Responsibility	Requirement	Application
31 December 2007	1.1	<ul style="list-style-type: none"> <li>• Operators</li> <li>• Providers</li> </ul>	Full compliance with the relevant Standards in relation to: <ul style="list-style-type: none"> <li>• Waiting areas</li> <li>• Hearing augmentation</li> <li>• Symbols</li> <li>• Information</li> <li>• Signs</li> <li>• Booked services</li> <li>• Alarms</li> <li>• Food and drink services</li> <li>• Lighting</li> <li>• Belongings</li> <li>• Furniture and fittings</li> <li>• Priority</li> </ul>	Excludes bus stops
	1.2	<ul style="list-style-type: none"> <li>• Radio networks</li> <li>• Co-operatives</li> </ul>	Response times for accessible vehicles are to be the same as for other taxis.	<ul style="list-style-type: none"> <li>• Taxis</li> <li>• Dial-a-ride services</li> </ul>
	1.3	<ul style="list-style-type: none"> <li>• Operators</li> </ul>	Compliance with the relevant Standards by 25% of each type of service in relation to:	Excludes bus stops

Target Date	Section	Responsibility	Requirement	Application
		<ul style="list-style-type: none"> <li>• Providers</li> </ul>	<ul style="list-style-type: none"> <li>• Access paths</li> <li>• Doorways and doors</li> <li>• Manoeuvring areas</li> <li>• Lifts</li> <li>• Passing areas</li> <li>• Stairs</li> <li>• Resting points</li> <li>• Toilets</li> <li>• Ramps</li> <li>• Tactile ground surface indicators</li> <li>• Boarding</li> <li>• Controls</li> <li>• Allocated space</li> <li>• Street furniture</li> </ul>	
	1.4	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	<p>Compliance with the relevant Standards by 25% of bus stops in relation to:</p> <ul style="list-style-type: none"> <li>• Access paths</li> <li>• Handrails and grabrails</li> <li>• Manoeuvring areas</li> <li>• Stairs</li> <li>• Passing areas</li> <li>• Symbols</li> <li>• Ramps</li> <li>• Signs</li> <li>• Waiting areas</li> </ul>	Bus stops

Target Date	Section	Responsibility	Requirement	Application
31 December 2012	2.1	<ul style="list-style-type: none"> <li>• Operators</li> <li>• Providers</li> </ul>	<ul style="list-style-type: none"> <li>• Tactile ground surface indicators</li> <li>• Boarding</li> <li>• Lighting</li> <li>• Allocated space</li> <li>• Street furniture</li> <li>• Surfaces</li> <li>• Information</li> </ul> <p>Full compliance with the relevant Standards in relation to:</p> <ul style="list-style-type: none"> <li>• Surfaces</li> <li>• Gateways</li> <li>• Handrails and grabrails</li> <li>• Vending machines</li> </ul>	Excludes bus stops
	2.2	<ul style="list-style-type: none"> <li>• Operators</li> </ul>	<p>Full compliance with the relevant Standards in relation to 1500 mm minimum head room and vertical door opening</p>	Accessible taxis
	2.3	<ul style="list-style-type: none"> <li>• Operators</li> <li>• Providers</li> </ul>	<p>Compliance with the relevant Standards by 55% of each type of service in relation to:</p> <ul style="list-style-type: none"> <li>• Access paths</li> <li>• Doorways and doors</li> <li>• Manoeuvring areas</li> <li>• Lifts</li> <li>• Passing areas</li> <li>• Stairs</li> <li>• Resting points</li> <li>• Toilets</li> <li>• Ramps</li> <li>• Tactile ground surface indicators</li> </ul>	Excludes bus stops

Target Date	Section	Responsibility	Requirement	Application
	2.4	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	<ul style="list-style-type: none"> <li>• Boarding</li> <li>• Controls</li> <li>• Allocated space</li> <li>• Street furniture</li> </ul> <p>Compliance with the relevant Standards by 55% of bus stops in relation to:</p> <ul style="list-style-type: none"> <li>• Access paths</li> <li>• Handrails and grabrails</li> <li>• Manoeuvring areas</li> <li>• Stairs</li> <li>• Passing areas</li> <li>• Symbols</li> <li>• Ramps</li> <li>• Signs</li> <li>• Waiting areas</li> <li>• Tactile ground surface indicators</li> <li>• Boarding</li> <li>• Lighting</li> <li>• Allocated space</li> <li>• Street furniture</li> <li>• Surfaces</li> <li>• Information</li> </ul>	Bus stops
31 December 2017	3.1	<ul style="list-style-type: none"> <li>• Operators</li> <li>• Providers</li> </ul>	<p>Compliance with the relevant Standards by 90% of each type of service in relation to:</p> <ul style="list-style-type: none"> <li>• Access paths</li> <li>• Doorways and doors</li> </ul>	Except buses and bus stops

Target Date	Section	Responsibility	Requirement	Application
			<ul style="list-style-type: none"> <li>• Manoeuvring areas</li> <li>• Lifts</li> <li>• Passing areas</li> <li>• Stairs</li> <li>• Resting points</li> <li>• Toilets</li> <li>• Ramps</li> <li>• Tactile ground surface indicators</li> <li>• Boarding Controls</li> <li>• Allocated space</li> <li>• Street furniture</li> </ul>	
	3.2	<ul style="list-style-type: none"> <li>• Operators</li> <li>• Providers</li> </ul>	<p>Compliance with the relevant Standards by 80% of each type of service in relation to:</p> <ul style="list-style-type: none"> <li>• Access paths</li> <li>• Doorways and doors</li> <li>• Manoeuvring areas</li> <li>• Lifts</li> <li>• Passing areas</li> <li>• Stairs</li> <li>• Resting points</li> <li>• Toilets</li> <li>• Ramps</li> <li>• Tactile ground surface indicators</li> <li>• Boarding Controls</li> <li>• Allocated space</li> </ul>	Buses

Target Date	Section	Responsibility	Requirement	Application
	3.3	<ul style="list-style-type: none"> <li>• Providers</li> </ul>	<ul style="list-style-type: none"> <li>• Street furniture</li> </ul> <p>Compliance with the relevant Standards by 90% of bus stops in relation to:</p> <ul style="list-style-type: none"> <li>• Access paths</li> <li>• Handrails and grabrails</li> <li>• Manoeuvring areas</li> <li>• Stairs</li> <li>• Passing areas</li> <li>• Symbols</li> <li>• Ramps</li> <li>• Signs</li> <li>• Waiting areas</li> <li>• Tactile ground surface indicators</li> <li>• Boarding</li> <li>• Lighting</li> <li>• Allocated space</li> <li>• Street furniture</li> <li>• Surfaces</li> <li>• Information</li> </ul>	Bus stops
31 December 2022	4.1	<ul style="list-style-type: none"> <li>• Operators</li> <li>• Providers</li> </ul>	All public transport services are to fully comply with the relevant Standards	Trains and trams exempted
31 December 2032	5.1	<ul style="list-style-type: none"> <li>• Operators</li> <li>• Providers</li> </ul>	All public transport services are to fully comply with the relevant Standards	Trains and trams