



AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

Comments on

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

March 2008

## **Australian Local Government Association comments on the draft report of the Review of the Disability Standards for Accessible Public Transport**

### **General Comment**

The Australian Local Government Association (ALGA) welcomes the opportunity to comment on the draft report of the Review of the Disability Standards for Accessible Public Transport.

Local Government as the sphere of government closest to the community is acutely aware of community expectations in those areas that affect people's everyday lives including those with disabilities. It is pleased to note the finding in the draft Report that there have been improvements in the removal of discrimination for people with disability.

Local Government considers that the good intentions of the *Disability Discrimination Act* have not been fulfilled due to the lack of resources to properly implement the requirements of the legislation and a properly structured administration process. Resources have been lacking to allow the development of clear and practical standards able to be used in the field (resulting in uncertainty), for necessary infrastructure upgrades and for the development of tools to measure progress.

Uncertainty about standards is compounded by a lack of agreement on the division of responsibilities between state agencies and local government in some jurisdictions. For example in South Australia there is currently no agreement on what are the responsibilities of Local Government in relation to State Government operated passenger transport services.

The Draft Report does not suggest a coherent model for the administration of the legislation or solutions to the identified lack of resources. The Draft Report's strong focus on using the Australia Public Transport Jurisdictional Committee (APTJC) and the Australia Public Transport National Advisory Committee (APTNAAC) does not recognize the limited capabilities of these bodies and their lack of resources to undertake some of the work proposed.

Of particular concern to ALGA is the draft recommendation that Human Rights and Equal Opportunity Commission (HREOC) being given the power to refer cases of alleged breaches of the Transport Standards directly to the Federal Court. Local Government considers that the current arrangements are already too legalistic. A preferable approach would be the establishment of processes that minimize the confrontational approach of legal proceedings and instead promote a conciliatory approach to finding solutions.

The current environment creates high levels of uncertainty for providers of infrastructure services as there are no mechanisms for seeking and obtaining permanent exemptions. Providers of infrastructure have to rely on being able to argue that they are not able to

provide compliant infrastructure on “hardship” grounds when challenged through legal processes.

It is also disappointing that the Review has not looked at the legislation and any issues that have emerged with the legislation in its current form.

From a Local Government perspective, state governments and the Australia government s have not abided by the Inter Governmental Agreement on cost shifting signed by all spheres of government on 12 April 2006\* and have not provided local government with the support or the financial resources to implement Federal requirements during a time when many councils are, as shown by the recent Productivity Commission Report on Assessing Local Government Revenue Raising Capacity, struggling to raise additional revenue.

Local Government is also disappointed that the draft report makes no mention of parking infrastructure for the disabled in view of the aging population.

### **Comments on the draft recommendations**

*Recommendation 1: APTJC to establish a technical experts group to review technical amendments proposed by the Review and consider certain issues related to current exemptions and safety requirements.*

#### Comment:

Local Government agrees that there is a need to develop accurate and, in some cases, possibly prescriptive standards on a mode specific basis to remove uncertainty about standards. In Local Government’s view those standards would be best housed within Standards Australia rather than as separate standards attached to the *Disability Discrimination Act*.

Having the Disability Standards housed with Standards Australia would make it easier for transport infrastructure providers to find standards and avoid the need to reference two different sources of standards when planning projects. Having all standards in one location would mean that the requirements of the *Disability Discrimination Act* are less likely to be overlooked.

Local Government does not support APTJC being the oversight body for the development of standards. APTJC representation is limited to state governments with no representation of local government, private operators or users. A more appropriate body may be the Australia Public Transport National Advisory Committee but this Committee would need to be supported by an appropriate level of resourcing.

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\* The Inter-governmental Agreement Establishing Principles Guiding Inter-Governmental Relations on Local government.

Local government is also concerned that under this recommendation APTJC continues to have a direct operational role in the consideration of exemptions. Local Government's view is that APTJC is not properly resourced to undertake that role.

*Recommendation 2: Remove exclusions for dedicated school buses, and include school bus services in the Transport Standards on a delayed compliance timeline.*

Comment:

No comment on school buses.

*Recommendation 3: Amend the exclusion for community bus services to include in the Transport Standards those community services whose purpose is to service people with disability or older people.*

Comment:

Community buses are sometimes operated by councils. Generally councils utilize volunteer operators to reduce cost and there is a danger that these additional requirements may be so costly that it will lead to the closure of some community bus services. On that basis extending the Transport Standards provisions to these vehicles could be counter productive and is not supported.

New vehicles however should be built to standards to meet the DDA requirements so that overtime as buses so that they would meet DAA standards.

*Recommendation 4: APTJC to appoint modal sub-committees to develop (in consultation with APTNAC) Guidelines under the Transport Standards by mode of public transport.*

Comment:

The interrelationship between Recommendation 1 and Recommendation 4 is not clear.

As a general principle local government considers that the development of standards or guidelines should involve all providers (state, local government and private sector) and users.

*Recommendation 5: APTJC sub-committee to develop a national approach to labelling mobility aids that are fit for use on public transport and establish a clearinghouse of best-practice examples of accessible public transport.*

Comment:

No specific comment. There is a question of whether APTJC is resourced to undertake this task.

*Recommendation 6: HREOC to be provided with powers to refer cases of breaches of the Transport Standards directly to the Federal Court.*

Comment:

The recommendation to provide HREOC with the power to refer cases of alleged breaches is not supported.

In ALGA's view the lack of an administrative process to hear complaints, provide advice, and manage standards has meant there is an undue reliance on the legal processes. This recommendation would encourage continuation and expansion of a legalistic approach to the administration of the legislation.

*Recommendation 7: APTJC to develop a mandatory reporting framework for Commonwealth, State and Territory governments and implement the framework by end-2008.*

Comment:

Mandatory reporting is only supported if it forms part of an administrative process and does not require the establishment of additional data collection.

*Recommendation 8: ABS to include a question on public transport patronage in surveys of people with disability.*

Comment:

No comment

*Recommendation 9: APTNAC and APTJC to agree a new consultative framework with additional responsibilities for both committees.*

Comment:

This recommendation needs to be strengthened by specifying the consulting framework, including draft terms of reference. The recommendation should make clear that these committees can only undertake the tasks being asked of them if they are adequately resourced.