

# REVIEW OF DISABILITY STANDARDS FOR ACCESSIBLE PUBLIC TRANSPORT – DRAFT REPORT JANUARY 2008

## NORTHERN TERRITORY GOVERNMENT COMMENTS

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### **1. Do you consider that this draft report has addressed the key issues of importance to the review? If not, what other issues do you consider are important to this review?**

In general, the draft review has not comprehensively addressed some of the key issues associated with the implementation of the Transport Standards. The problems with legal uncertainty, compliance, ambiguity and practicalities, although acknowledged to a certain extent, have not been effectively addressed.

The recommendations made in the draft report are broad and non-specific. Targeted, practical recommendations are needed to address some of the critical uncertainties in implementing the standards. Many of the specific issues raised in the Northern Territory Government's submission to the Review have not been addressed sufficiently by the draft Review recommendations. For example the need to consider alternative compliance measures, the problems associated with mobility aids on buses and the need to recognise the role of drivers in assisting passengers with disabilities and generally the current ambiguities in the Standards.

Section 5.4 identifies a key issue regarding accessibility to bus stops "in most areas there may be footpaths on the way to the bus stop that are not accessible to people with mobility or vision impairment. In this instance even if a compliant bus stop is provided, a person with a mobility or vision impairment may still not be able to access the bus service". This issue is again highlighted in section 9.6 "Surrounding built infrastructure". This was a major issue highlighted in the submission from the Northern Territory Government. Beyond mentioning this issue however, the review does not address this critical issue further. It is a key factor regarding accessibility of infrastructure and recommendations regarding accessibility beyond bus stops and compliance with the Standards should be made. Possible options include allowing prioritising mechanisms to progressively ensure compliance rather than requiring compliant bus stops in inaccessible locations.

The discussion leading to draft Recommendation 1 acknowledges the problems in referencing the Australian Standards in the Transport Standards. However, the recommended preferred option (to create a technical subcommittee) does not seem to fully address this issue. Further details on how the proposed Committee would operate and be resourced are needed. APTJC would have very limited capacity to appropriately resource a technical subcommittee and reviewing and amending the Standards would be a resource intensive task. Alternative options, need to be considered.

Chapter 9 concludes that there is significant uncertainty around the use of the unjustifiable hardship and equivalent access provisions of the Standards. However, there appears to be no specific recommendations to address the concerns and issues raised in the review regarding these provisions.

Section 10.4, page 132 notes that “the lack of an advisory body in relation to the requirements in the Transport Standards has meant that State and Territory Governments have sought to fill this advisory role” and “While it not entirely inappropriate for State and Territory governments to be providing assistance to providers, they are also making their own interpretations, which limit the consistency of accessibility between jurisdictions”. However, this issue is not addressed further in the reviews recommendations (unless the technical sub-committee is also expected to fulfil this role?) and further consideration is required.

Section 10.4 page 133 ‘Recognising compliance with the Transport Standards’ indicates ‘State and Territory Governments reported many practical challenges when implementing the Transport Standards.....Compliance is determined on a case-by-case basis in response to a complaint made by an aggrieved person.....The lack of any form of certification or approval process for compliance was raised both the Queensland Department of Transport and Victorian Department of Infrastructure....they recommend “some form of referral and determination process in relation to the standards, similar to Building Referees panels in building permit processes.....The current approach creates a very litigious environment around the implementation of the Transport Standards, where ambiguities and areas of confusion can only be conclusively dealt with in the Federal Court.” The report has recognised this significant problem in implementing the standards, but the recommendations in the draft report do not appear to address any of the issues with determining compliance sufficiently. The Review also needs to recognise the urgency of this issue. Major investment in upgrading infrastructure is currently occurring, without any certainty that compliance will be achieved.

Section 10.5 page 135 indicates “....This is a further example where reliable information would greatly assist providers in having certainty about their compliance. Currently, while HREOC can provide some advice, providers are acutely aware that until there are some legal precedents, there is little certainty over what they need to do to meet the compliance timetable”. This is a critical issue which has not been sufficiently addressed in the draft report recommendations.

**2. Are there options to address these problems that the review has not considered? If so, please provide details on these options and your assessment of the costs and benefits (including supporting evidence).**

Draft Recommendation 2 proposes removing the current exclusion for dedicated school buses. This recommendation has been proposed in order to address potential accessibility issues for students with disabilities. However,

alternative options to address this issue have not been considered in the draft Report. For example, in the Northern Territory, specialised bus services provide a personalised service for students with disabilities. These buses have at least one carer on board in addition to the driver and are fitted with seating to cater for a range of disabilities including students in wheelchairs, students with mental disabilities and those with severe motor coordination impairment. This is a door-to-door service. In some regional areas, this service is provided by taxis. In smaller and remote jurisdictions, such as the Northern Territory, such specialised public transport options may be more appropriate and cost effective than requiring all school buses to comply with the transport standards.

Draft Recommendation 6 proposes that HREOC be provided with powers to refer cases directly to the Federal Court. The draft report does not provide adequate justification for this proposed recommendation. This recommendation reinforces the overly litigious nature of the Transport Standards noted elsewhere in the report. A more effective mediation process could be investigated as an additional option in attempt to try and avoid the economic and social costs of legal action. The complaints process appears to be the subject of extensive comment as part of the Review and further analysis of the options to improve the process (other than simply direct referral to the Federal Court) appears to be justified.

Draft Recommendation 9 proposes a new consultative framework for APTNAC and APTJC, including additional meetings and the formation of new sub-committees. Many of the draft recommendations require additional responsibilities from APTNAC and APTJC. However, these committees have limited resources and capabilities to implement many of the recommendations made. It will almost be impossible for a small jurisdiction such as the Northern Territory to provide the resources required to adequately service the expanded roles of APTNAC and APTJC proposed in the review. It is suggested that alternative options such as a new technical advisory panel or body, funding models and leadership issues need to be considered.

The draft Review acknowledges the value and potential of action plans in implementing the outcomes of the Transport Standards, page 8 notes that “several government agencies mentioned that they found action plans to be useful, and were keen for the development and registration of action plans to play a greater role in ensuring compliance with the Transport Standards”. In several later sections, the Review comments on the difficulties on determining compliance and the lack of reporting mechanisms. However, the Review does not investigate the potential role of action plans in implementing the Transport Standards further. The development and registration of action plans as a compliance tool should be further analysed as part of this review.

Draft recommendation 5 proposes development of a national scheme for labelling mobility aids by APTJC. Development, implementation and maintenance of such a scheme is likely to require significant costs and resources. An alternative option which should be investigated could require manufactures and/or retailers of mobility devices to be required to

demonstrate that mobility devices do/do not comply with the specifications in Transport Standards.

- 3. Do you have evidence to either support or refute the assessment of options in Chapter 13 of this report? Evidence may include information on the relative magnitude of the impacts between options.**

No comment.

- 4. Do you consider that implementing the draft recommendations will involve costs to government or non-government organisations? If so, please provide any estimates of these costs.**

The potential costs to government of the draft recommendations could be extensive. The report should include an analysis of the potential costs as part of the review process. Also time and resources required to implement some of the recommendations could be significant.

The inclusion of school buses and school bus services in the Transport Standards will have very significant cost implications to government. The review needs to provide detailed costings to support this recommendation and consider alternative options as discussed above.

Development of technical guidelines by a subcommittee (draft recommendation 4). The costs of developing and implementing these guidelines could be very significant and are not considered at all in the review.

The expanded role and responsibilities of APTJC and APTNAC proposed in the review are considerable and will potentially involve significant costs to government and non-government organisations. The capacity of APTJC to resource and fund these recommendations is questionable and needs further analysis and consideration of alternatives in the review.

Draft recommendation 7 proposes a mandatory reporting process be in place by the end of 2008. It is proposed that State and Territory governments be responsible for collecting data. Depending on the reporting framework, collection of this data could involve considerable resources and costs to government organisations, which have not been considered in the review. Development of a mandatory reporting framework by the end of 2008 is also considered ambitious.

- 5. Do you consider that the criteria used in the qualitative assessment of options are appropriate? Do you have suggested changes to these criteria?**

No comment

**6. Do you consider that the proposed framework is the best approach to implementing the recommendations from this review? If not, how could it be improved?**

The proposed framework relies on expanding APTJC and APNAC. APTJC, in its current form, has very limited capacity to take on these expanded roles. The review needs to consider the implications for APTJC and possible alternatives such as the need for potential new organisations to undertake technical and advisory roles.

**Other comments**

The structure of the report does not effectively link the issues raised in various Chapters with the proposed recommendations. The chapters raise a number of issues and present conclusions, but there are no recommendations linked to each chapter. The conclusions and recommendations in part D do not comprehensively deal with all issues raised in previous chapters. It would be useful for recommendations to be developed for each of the Chapters to clearly deal with the issues raised.

Justification for some of the recommendations are not well developed in the draft report. The relationship of some of the recommendations to the issues raised are not clear in some cases.

Draft recommendation 1 includes (third dot point) 'consider the feasibility of incorporating safety requirements into the Transport Standards'. It is not clear what this recommendation is referring to, or where the discussion supporting this recommendation appears in the review.