



# Australian Government

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Australian Government Response

Third Review of the Disability Standards for Accessible Public  
Transport 2002

March 2022

## Overview

The Australian Government recognises that people with disability have a fundamental right to access public transport. Public transport is a key enabler for participation in the social, economic and cultural aspects of the community.

In 2002 the Australian Government, in consultation with the state and territories, enacted the Disability Standards for Accessible Public Transport 2002 (Transport Standards). Since that time, the Transport Standards have improved disability access across public transport systems as they guide transport providers and operators in meeting their obligations.

The Transport Standards require their efficiency and effectiveness to be reviewed every five years. In undertaking this process the Australian Government seeks to ascertain whether the Transport Standards are doing what they purport to do, and if not, what changes need to be made.

The Australian Government welcomes the findings of the third Transport Standards review, which was publicly released on 2 December 2021.

<https://www.infrastructure.gov.au/sites/default/files/documents/third-review-disability-standards-accessible-public-transport-2002-transport-standards.pdf>

### Effectiveness of the Transport Standards

The Australian Government notes the finding of the third review that state and territory governments have reported progress in implementing the Transport Standards since the second review of the Transport Standards was completed. The review found the Transport Standards have continued to be effective in requiring public transport operators and providers to ensure their public transport systems and operations are increasingly accessible. However, it is recognised that these improvements are occurring at differing rates for different modes and locations.

People with disability, while acknowledging that progress has occurred, have also raised issues that continue to affect their ability to use public transport systems. The Government recognises the impacts of these issues, and will continue its efforts to improve accessibility for people with disability.

### Efficiency of the Transport Standards

The Australian Government recognises that since commencement, the Transport Standards are not efficient in their present form. The Transport Standards were drafted in the mid-1990s and since then there have been immense advances in public transport technology and design.

The Australian Government also recognises that as providers and operators strive to ensure that their public transport systems and operations are 100 per cent accessible, they require the ability to turn to flexible, innovative options in challenging circumstances. These include situations where legacy infrastructure, differing geographical terrains or unique operational environments, such as the marine environment, pose substantial constraints. Submissions raised that there are significant costs associated with ensuring public transport is accessible and this impacts on the efficiency of the Transport Standards.

## Detailed Australian Government Response to Recommendations

The third Transport Standards review report makes nine recommendations. The Australian Government's detailed response to the report's recommendations is as follows:

### RECOMMENDATION 1 – Reform and modernise the Transport Standards

**That the Australian Government, jointly with state and territory governments, continue the process of reforming and modernising the Transport Standards, ensuring focus on key areas highlighted by the disability community and industry. A number of areas have been identified for specific consideration by the National Accessible Transport Taskforce as part of the modernisation process, including strengthening equivalent access provisions, further innovation in public transport, and motorised mobility restraining devices on buses.**

#### Australian Government Response

##### **Support**

The Australian Government recognises that the Transport Standards need to be modernised to meet the needs of the disability community and the public transport industry. The Australian Government is committed to the current reform and modernisation process being undertaken by the National Accessible Transport Taskforce (Taskforce). The work program of the Taskforce was endorsed by the former COAG Transport and Infrastructure Council in August 2019.

A Consultation Regulation Impact Statement (RIS) containing a first round of reform proposals was released for public comment in February 2021. The subsequent Decision RIS was agreed by Infrastructure and Transport Ministers on 11 February 2022. A second more extensive round of reform proposals is scheduled to be released for public comment in early-2022. The legislative amendment and adoption processes is expected to be finalised in 2023-24.

### RECOMMENDATION 2 – Increase the involvement of the disability community

**That the Australian Government work with the disability community to establish a national disability advisory body to involve people living with a disability in decisions on the reform, modernisation and implementation of the Transport Standards.**

#### Australian Government Response

##### **Support in principle**

The Australian Government strongly supports the involvement of the disability community in the reform and modernisation of the Transport Standards. The guiding principles for the reform process endorsed by the former COAG Transport and Infrastructure Council in August 2019 place people with disability at the centre of consideration. Accordingly, the Taskforce includes representatives from the disability community. The reform process has, and will continue to, involve close consultation and engagement with the disability community and people with expertise in transport accessibility.

Following the conclusion of the reform process, the Australian Government will, in collaboration with the Taskforce, consider establishing an ongoing national disability advisory group to ensure

people with disability are involved in considerations concerning the accessibility of Australia's public transport system. As part of this process the Australian Government will consider whether the structure and sub-groups of the new Australia's Disability Strategy may be suitable.

### RECOMMENDATION 3 – Foster an environment for innovation

**That the Australian Government seek to create an environment that fosters and supports innovation in improving disability access on all modes of public transport with a particular focus on technological advancements and emerging forms of transport.**

#### Australian Government Response

##### **Support**

The Australian Government recognises substantial changes in technology have occurred since the Transport Standards were first developed and new and emerging technologies are not captured by the Transport Standards, potentially leading to reduced accessibility outcomes. It is important for all governments to foster an environment for innovation.

The Australian Government undertook a project through the iMove Cooperative Research Centre, *Australia's public transport disability standards and automated vehicles*, which examined if and how connected and automated vehicle modes and services can be incorporated into the Transport Standards to deliver better access to our cities and regions for people with disability. The project made several recommendations, including regulatory amendments, the establishment of a platform for industry to work on issues such as transport accessibility and reach agreements, and the development of accessibility guidelines for Connected and Automated Vehicles. The project recommendations will be used to inform future reform work.

The National Policy Framework for Land Transport Technology, agreed by Transport Ministers, also aims to promote innovation and competition through support for compatible and interoperable transport technologies. It provides that new technologies should be implemented in a way that is consumer-centric and consider the diverse needs of travellers, in particular people with a disability and vulnerable road users.

### RECOMMENDATION 4 – Improve coordination and promotion of the Transport Standards

**That the Australian Government improve coordination and promotion of the Transport Standards at all levels of government.**

#### Australian Government Response

##### **Support**

The Australian Government recognises the importance of coordinating and promoting the role of the Transport Standards in improving transport accessibility. Promoting and coordinating transport accessibility is a shared responsibility of all governments. With this in mind, the Australian Government will, as part of the Transport Standards reform and modernisation process, closely

collaborate with state, territory and local governments to ensure that the Transport Standards are promoted at all levels of government.

The Department of Infrastructure, Transport, Regional Development and Communications will update the department's website to facilitate its development into a central, national coordination point for accessible public transport matters.

## RECOMMENDATION 5 – Invest in accessible public transport

**That the Australian Government identify opportunities to invest in accessible public transport or leverage existing initiatives, particularly in key areas of underinvestment such as our regional cities and outer suburban areas.**

### Australian Government Response

#### **Support**

The Australian Government recognises that investment is needed from all levels of government to provide accessible public transport, with key areas of underinvestment in regional and remote Australia. The Transport Standards ensure that all governments consider accessibility as part of any public transport investment programs.

While public transport is primarily a matter for state and territory governments, the Australian Government plays a role investing in the construction of rail and road infrastructure through the Infrastructure Investment Program. Under our \$110 billion, 10 year infrastructure pipeline the Australian Government is already contributing to funding public transport projects, such as:

- Brisbane Metro
- Gold Coast Light Rail – Stage 3
- Sydney Metro – Western Sydney Airport
- Melbourne Airport Rail Link
- METRONET in Perth

The 2021-22 Budget also provided investment for various public transport projects which are required to comply with Transport Standards.

To ensure states, territories and project delivery agencies are aware of their obligations, the Australian Government will work with states and territories to amend the Notes on Administration to the National Partnership Agreement on Land Transport Infrastructure Projects, next time the Notes are open for amendment. This will reiterate the importance of universal design and accessibility for public transport projects funded under the Infrastructure Investment Program, as required by the Transport Standards. It will also improve promotion of the Transport Standards at all levels of government.

## RECOMMENDATION 6 – Improve the quality of accessibility data to identify problems and craft policy/legislative interventions

**That the Australian Government work collaboratively with the states and territories to design a data quality framework for the collection of data and information that provides a more comprehensive understanding of the progress against the 2022 national public transport accessibility targets.**

### Australian Government Response

#### **Support**

The Australian Government recognises that the development of a national framework for data collection and reporting has been raised in previous Transport Standards. In recognition of the importance of this matter, work on a national reporting framework is being undertaken by the Taskforce as part of the Transport Standards reform and modernisation process.

## RECOMMENDATION 7 – Champion accessibility beyond minimum standards, particularly in staff training and universal design

**That the Australian Government, in recognition of how crucial disability awareness training for public transport personnel is in ensuring successful travel by people with disability on public transport, commence work to identify and highlight examples of Australian industry best practice. The Australian Government should seek to identify opportunities for investment in public transport that meet universal design principles.**

### Australian Government Response

#### **Support**

The Australian Government recognises the role of best practice in customer service interactions in improving accessibility outcomes. Some public transport operators and providers have gone to extensive lengths to ensure personnel are provided awareness training to meet the needs of people with disability.

To ensure that disability awareness training is undertaken by all public transport personnel, a proposal to reform training requirements for public transport personnel was agreed by Infrastructure and Transport Ministers on 11 February 2022 as part of the first stage of Transport Standards reforms.

The Australian Government recognises the importance of universal design as an effective way to improve inclusion. As outlined in the previous National Disability Strategy, universal design allows the most number of people, to the greatest extent possible, and regardless of age or disability, to use buildings, transport, products and services without the need for specialised or adapted features.<sup>1</sup>

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<sup>1</sup> <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-disability-strategy-2010-2020>

The Whole Journey Guide, released by the Australian Government in December 2017, was developed to encourage thinking beyond compliance and the physical and governance boundaries of services and infrastructure, and focus instead on people's accessibility needs across their whole journey.<sup>2</sup>

As part of the Transport Standards reform and modernisation process, it has become clear that the Whole of Journey Guide is widely regarded as a valuable reference tool. The Australian Government will further develop and expand the Whole of Journey Guide as part of the Transport Standards reform and modernisation process.

#### RECOMMENDATION 8 – Address uncertainty around the lawfulness of contravening a disability standard

**That the Australian Government seek legal advice as to the interpretation of the *Disability Discrimination Act 1992* (Cth) in relation to what substantiates that a breach of a disability standard is unlawful.**

##### Australian Government Response

##### **Noted**

The Australian Government acknowledges community concerns around the interaction between the *Disability Discrimination Act 1992* (Cth) and the disability standards as a result of the decision in *Haraksin v Murrays Australia Limited* (Haraksin Case)<sup>3</sup>.

The Australian Government notes that section 32 of the *Disability Discrimination Act 1991* (Cth) expressly states that “it is unlawful for a person to contravene a disability standard”.

The Government underlines the importance of education and advice in relation to compliance with the *Disability Discrimination Act 1992* (Cth) and the standards made under that Act, including the important role of the Australian Human Rights Commission plays in this context.

#### RECOMMENDATION 9 – Increase support for individuals to make a complaint under the *Disability Discrimination Act 1992* (Cth)

**That the Australian Government ensure that the Australian Human Rights Commission is tasked to provide greater support for representative complaints on behalf of people with disability, reducing the legal cost and burden on individuals.**

##### Australian Government Response

##### **Noted**

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<sup>2</sup> <https://www.infrastructure.gov.au/transport/disabilities/whole-journey/index.aspx>

<sup>3</sup> Federal Court of Australia. *Haraksin v Murrays Australia Ltd* [2010] FCA 1133. Available <<https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2010/2010fca1133>>

The Australian Government recognises the important role that the Australian Human Rights Commission (the Commission) plays in facilitating compliance with the Transport Standards. The Commission's conciliation process is inclusive and strives to achieve mutually agreeable outcomes. The Commission's complaints process currently allows for a solicitor, advocate or trade union to make a complaint on behalf of a person with disability.

In March 2017, the Australian Parliament enacted the Human Rights Legislation Amendment Act 2017. The Amendment Act improved the complaints handling process of the Commission as part of the most significant reforms to the Commission in almost twenty years.